

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
World Trade Centre, Centre No. 1, 13th floor, Cuffe Parade, Mumbai 400 005.  
Tel. No. 022 22163964/ 65/ 69; Fax 022 22163976  
E-mail: [mercindia@mercindia.org.in](mailto:mercindia@mercindia.org.in)  
Website: [www.mercindia.org.in](http://www.mercindia.org.in)

**Case No. 163 of 2011**

**IN THE MATTER OF**

**Petition filed by Reliance Infrastructure Limited for its generation business  
(RInfra-G) for approval of Aggregate Revenue Requirement (ARR) for FY 2011-12**

**Shri V. P. Raja, Chairman**

**Shri Vijay L. Sonavane, Member**

Reliance Infrastructure Limited

.....Petitioner

**Dated: May 16, 2012**

**ORDER**

In accordance with the Tariff Regulations notified by the Maharashtra Electricity Regulatory Commission (hereinafter referred to as “MERC” or “the Commission”), Reliance Infrastructure Limited’s generation business (RInfra-G) submitted its application for determination of Aggregate Revenue Requirement (ARR) for FY 2011-12 on November 29, 2011. Thereafter, in response to the data gaps identified by the Commission, RInfra-G modified its Petition and submitted an amended Petition on February 7, 2012. 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-G, all the objections and comments of the public, responses of RInfra-G, issues raised during the public hearing, and all other relevant material, gives approval for Aggregate Revenue Requirement for FY 2011-12 in this Order.

## Abbreviations

A&G	Administrative and General
APR	Annual Performance Review
ARR	Aggregate Revenue Requirement
ATE	Appellate Tribunal for Electricity
Commission/ MERC	Maharashtra Electricity Regulatory Commission
CPI	Consumer Price Index
CWIP	Capital Work In Progress
DPR	Detailed Project Report
DTPS	Dahanu Thermal Power Station
EA 2003	Electricity Act, 2003
FGD	Flue Gas Desulphurisation
GCV	Gross Calorific Value
GFA	Gross Fixed Assets
IDC	Interest During Construction
IT	Income Tax
kCal	Kilocalories
kW	Kilo Watt
LDO	Light Diesel Oil
MAT	Minimum Alternate Tax
MT	Metric Tonne
MU	Million Units
MW	Mega Watt
MYT	Multi Year Tariff
O&M	Operation & Maintenance
PLF	Plant Load Factor
PLR	Prime Lending Rate
R&M	Repair & Maintenance
REC	Rate of Energy Charge

---

REL	Reliance Energy Limited
RInfra	Reliance Infrastructure Limited
RoE	Return on Equity
SBI	State Bank of India
SHR	Station Heat Rate
SLDC	State Load Despatch Centre
TVS	Technical Validation Session
WPI	Wholesale Price Index

## Contents

<b>1. BACKGROUND.....</b>	<b>7</b>
1.1. Background and salient features of the Order .....	7
1.2. Technical Validation Session (TVS).....	9
1.3. Admission of the Petition and public process .....	10
1.4. Organisation of the Order.....	11
 <b>2. SUGGESTIONS/ OBJECTIONS RECEIVED, RINFRA-G'S RESPONSE AND COMMISSION'S RULING.....</b>	 <b>12</b>
2.1. Change in methodology for determination of ARR .....	12
2.2. Mismatch in coal quality and price .....	14
 <b>3. DETERMINATION OF ANNUAL FIXED COST AND FUEL COST OF RINFRA-G FOR FY 2011-12.....</b>	 <b>17</b>
3.1. RInfra-G's Petition for ARR for FY 2011-12 .....	17
3.2. Availability and gross generation.....	17
3.3. Auxiliary energy consumption and net generation .....	18
3.4. Station heat rate.....	19
3.5. Secondary fuel oil consumption.....	19
3.6. Transit loss .....	19
3.7. Blending of coal, fuel price, and fuel calorific value .....	21
3.8. Fuel cost .....	23
3.9. Operation & maintenance expenses .....	23
3.10. Capital expenditure and capitalisation for FY 2011-12.....	25
3.11. Interest on long-term debt for FY 2011-12 .....	28
3.12. Depreciation for FY 2011-12 .....	32
3.13. Interest on working capital for FY 2011-12 .....	33
3.14. Return on equity for FY 2011-12 .....	34
3.15. Income tax for FY 2011-12 .....	35
3.16. Non-tariff income .....	37

3.17. Summary of annual fixed charges for DTPS for FY 2011-12..... 38

**4. INCOME TAX RELATING TO FY 2009-10 AND FY 2010-11 ..... 39**

4.1. Additional submissions by RInfra-G relating to Case No. 122 of 2011 ..... 39

4.2. Income tax for FY 2009-10..... 39

4.3. Income tax for FY 2010-11 ..... 44

**5. AGGREGATE REVENUE REQUIREMENT OF RINFRA-G FOR  
FY 2011-12 ..... 50**

5.2. Applicability of Order ..... 51

---

## List of Tables

Table 1: Availability and gross generation for FY 2011-12 .....	18
Table 2: Auxiliary energy consumption and net generation for FY 2011-12.....	18
Table 3: Station heat rate for FY 2011-12 .....	19
Table 4: Secondary fuel oil consumption for FY 2011-12 .....	19
Table 5: Price and calorific value for primary fuel for FY 2011-12.....	22
Table 6: Price and calorific value for secondary fuel oil for FY 2011-12.....	22
Table 7: Fuel cost for FY 2011-12.....	23
Table 8: Operation & maintenance expenses for FY 2011-12 .....	25
Table 9: Capitalisation for FY 2011-12 as submitted by RInfra-G .....	26
Table 10: Capitalisation for FY 2011-12 .....	27
Table 11: Interest on long-term debt for FY 2011-12.....	32
Table 12: Depreciation for FY 2011-12.....	32
Table 13: Interest on working capital for FY 2011-12 .....	33
Table 14: Return on equity for FY 2011-12 .....	34
Table 15: Income tax for FY 2011-12 .....	36
Table 16: Non-tariff income for FY 2011-12 .....	37
Table 17: Summary of annual fixed charges for RInfra-G for FY 2011-12.....	38
Table 18: Income tax for FY 2009-10 .....	43
Table 19: Income tax for FY 2010-11 .....	49
Table 20: Summary of Aggregate Revenue Requirement of RInfra-G approved for FY 2011-12.....	50

## **1. BACKGROUND**

### **1.1. Background and salient features of the Order**

- 1.1.1. This Order disposes of the Petition filed by Reliance Infrastructure Limited (RInfra) for its generation business (RInfra-G) for determination of Aggregate Revenue Requirement (ARR) for FY 2011-12. 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. RInfra has a generating plant at Dahanu, Maharashtra (Dahanu Thermal Power Station- DTPS) with an installed capacity of 2 x 250 MW for supply of power to the city of Mumbai in the RInfra Licence area.
- 1.1.2. The Commission, in exercise of the powers conferred by the EA 2003, notified the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005 (hereinafter referred to as the ‘Tariff Regulations, 2005’) on August 26, 2005.
- 1.1.3. ***Commission’s Order on RInfra-G’s Petition for truing up for FY 2008-09, Annual Performance Review for FY 2009-10 and determination of tariff for FY 2010-11:*** RInfra-G submitted its Petition (Case No. 99 of 2009) for truing up for FY 2008-09, APR for FY 2009-10 and determination of tariff for FY 2010-11 for its generation business on December 20, 2009, based on actual audited expenditure for FY 2008-09, actual expenditure for the first half of FY 2009-10, i.e., from April to September 2009, and revised estimated expenses for October 2009 to March 2010, and projections for FY 2010-11. The Commission issued the Order in Case No. 99 of 2009 on September 8, 2010.
- 1.1.4. ***Multi Year Tariff (MYT) Regulations, 2011:*** On February 4, 2011, the Commission notified the MERC (Multi Year Tariff) Regulations, 2011 (hereinafter referred to as the “MYT Regulations, 2011”). These Regulations were to be applicable for determination of tariff in all cases covered under these Regulations from April 1, 2011 and onwards up to FY 2015-16. These Regulations are applicable to all

existing and future generating companies, transmission licensees and distribution licensees. These regulations came into force from April 1, 2011.

- 1.1.5. ***Exemption from MYT Regulations, 2011 (Case No. 45 of 2011):*** RInfra-G submitted a Petition (Case No. 45 of 2011), wherein the company cited various operational difficulties associated with the Commission's MYT Regulations, 2011, and requested the Commission to amend the said Regulations, deferring the applicability of the MYT Regulations, 2011. Exemption was granted to RInfra-G, under Regulation 4.1 of the MYT Regulations, 2011, vide Order dated September 2, 2011 in Case No. 45 of 2011, for a period of one year (till March 31, 2012) from the determination of tariff under the MYT Regulations, 2011, as under.

*“47. In light of the above, the Commission is of the view that it has become necessary to invoke the proviso to Regulation 4.1 of MYT Regulations, 2011 in order to exempt the determination of tariff of RInfra under the Multi-Year Tariff framework till March 31, 2012 (i.e., for a period of 1 year). The said exemption is hereby granted. The Commission is also empowered under Regulation 100 of the MYT Regulations, 2011 to remove any difficulty arising in giving effect to the provisions of MYT Regulations 2011. Accordingly, the Commission hereby directs RInfra to file the petition for determination of tariff for FY 2011-12 within 2 months time, i.e., on or before October 31, 2011. “*

Furthermore, an amendment to the MYT Regulations, 2011 was notified on October 21, 2011, in which the licensees who have been exempted for certain periods from the determination of tariff under the MYT Regulations, 2011, were permitted to continue to file ARR and tariff applications under the Tariff Regulations, 2005.

The Commission accordingly directed RInfra to file a separate Petition for tariff determination for FY 2011-12, under Tariff Regulations, 2005.

- 1.1.6. ***RInfra-G's Petition for final truing up of FY 2009-10 and provisional truing Up of FY 2010-11:*** RInfra-G filed a Petition on August 12, 2011, as per the Commission's letter dated July 7, 2011 (Ref No MERC/ Tariff/ 20112012/ 00946), wherein the Commission directed the licensees in Maharashtra to submit their



petitions for the final truing up of FY 2009-10 and provisional truing up of FY 2010-11. RInfra-G submitted in its amended Petition on November 4, 2011. The Commission issued an Order on final truing up of FY 2009-10 and provisional truing up of FY 2010-11 for RInfra-G in Case No. 122 of 2011 on February 27, 2012.

- 1.1.7. ***RInfra-G's Petition for determination of Aggregate Revenue Requirement for FY 2011-12:*** RInfra-G filed the present Petition on November 29, 2011 for determination of Aggregate Revenue Requirement of FY 2011-12. In reply to the data gaps raised by the Commission and subsequent changes made, RInfra-G submitted its amended Petition on February 7, 2012. RInfra-G, in its Petition, made the following prayers to the Commission:

*“Admit this petition as submitted herewith.*

- 1) Approve the ARR for FY 2011-12, as contained in this Petition;*
- 2) Allow additions/ alterations/ changes/ modifications to the petition at a future date;*
- 3) Allow any other relief, order or direction, which the Hon'ble Commission deems fit to be issued;*
- 4) Condone any inadvertent errors/ inconsistencies/ omissions/ rounding off differences, etc. as may be there in the Petition*
- 5) Provide the working of detailed tariff computation used by the Hon'ble Commission.”*

## **1.2. Technical Validation Session (TVS)**

- 1.2.1. The Commission scheduled a Technical Validation Session (TVS) on RInfra-G's Petition for determination of ARR for FY 2011-12, on December 26, 2011, in the presence of consumer representatives authorised 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 first TVS, is provided in Appendix -1A.

- 1.2.2. The Commission, vide letter dated December 24, 2011 and December 25, 2011 forwarded data gaps and information required from RInfra-G with respect to
-

determination of ARR for FY 2011-12. RInfra-G submitted its reply to the data gaps raised on January 5, 2011.

- 1.2.3. A meeting with RInfra-G was held in the Commission's office on January 17, 2012 where additional queries were raised. RInfra-G responded to the queries on January 19, 2012.
- 1.2.4. On January 20, 2012, a second TVS was held for RInfra-G. The list of individuals, who participated in the second TVS, is provided in Appendix – 1B.

### **1.3. Admission of the Petition and public process**

- 1.3.1. On February 7, 2012, RInfra-G submitted its revised Petition to the Commission after taking into account the changes needed on account of the data gaps identified.
- 1.3.2. The Commission admitted the Petition on February 14, 2012. In accordance with Section 64 of the EA 2003, the Commission directed RInfra-G to publish the Petition in the prescribed abridged form and manner, to ensure public participation. The Commission also directed RInfra-G to reply expeditiously to all the suggestions and objections as received from the public and other stakeholders on its Petition.
- 1.3.3. RInfra-G published the public notice in newspapers inviting suggestions and objections from stakeholders on its Petition. The public notice was published in two daily English newspapers, viz. The Times of India and The Indian Express on February 21, 2012. The public notice was also published in two daily Marathi newspapers, viz. Loksatta on February 21, 2012 and Saamna on February 22, 2012. Copies of the Petition and its summary were made available for inspection/purchase to members of the public at the company's offices and website ([www.rinfra.com](http://www.rinfra.com)). A copy of the public notice and the executive summary of the Petition were also made available on the website of the Commission ([www.mercindia.org.in](http://www.mercindia.org.in)) in a downloadable format. The public notice specified that the suggestions and objections, either in English or Marathi, may be filed in the form of affidavits along with proof of service on RInfra.

- 1.3.4. The Commission received written suggestions and objections expressing concerns on fuel cost and ARR methodology.
- 1.3.5. The public hearing was held on March 22, 2012 in Centrum Hall, Centre 1, World Trade Centre, Cuffe Parade, Mumbai. The list of objectors and persons, 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 meticulously followed at every stage and adequate opportunity was given to all those who wanted to express their opinion in the matter.

#### **1.4. Organisation of the Order**

- 1.4.1. This Order deals with the Aggregate Revenue Requirement for FY 2011-12 of RInfra's generation business. The Order is organised in the following sections:
- a) **Section 1** of the Order provides a brief history of the quasi-judicial regulatory process undertaken by the Commission.
  - b) **Section 2** of the Order lists out the various suggestions and objections raised by the objectors in writing and during the public hearing. The suggestions and objections have been summarized, followed by the response of RInfra-G and the rulings of the Commission on each of them.
  - c) **Section 3** of the Order details the determination of Aggregate Revenue Requirement of RInfra-G for FY 2011-12 and the Commission's analysis of various components of ARR of RInfra-G's Dahanu Thermal Power Station (DTPS) for FY 2011-12.

## **2. SUGGESTIONS/ OBJECTIONS RECEIVED, RINFRA-G'S RESPONSE AND COMMISSION'S RULING**

### **2.1. Change in methodology for determination of ARR**

Thane Belapur Industries Association (TBIA) stated that as per the Hon'ble ATE Judgement, the performance of the utility should be compared with the norms specified in the Tariff Regulations.

TBIA suggested that there are two methods to determine the ARR.

**Method 1:** Assume all the parameters as specified in the norms and arrive at ARR.

**Method 2:** Assume achievable parameters which could be better than specified parameters. However, give all incentives because of superior performance. In this method, the ARR would be closer to the actual performance and the utility will get compensated for superior performance.

TBIA suggested that the Commission may consider method 2 for determination of ARR.

#### ***RInfra-G's response***

RInfra-G responded that the suggestion of the objector goes against the very process of determination of ARR and tariff and the consequent efficiency gains achieved by the generating station when better than normative performance is achieved.

Under the present Tariff Regulations, applicable for the determination of ARR for the year in question, the variable charges are determined considering the normative level of performance as per the norms specified in the Tariff Regulations. At the end of the year, the actual performance, if better than the norms so spelt out in the Regulations, leads to the generating company earning efficiency gains, which it rightfully earns, while passing on a portion of the same

to the consumers. If the objector's suggestion is to be accepted, it would amount to mean that tariff is determined using close to actual performance parameters, leaving little scope, if at all, for efficiency gains. The norms specified in the Tariff Regulations are not specific to any generating station, but represent industry norms or the average level of performance of similar size and vintage power plants in the country as a whole. The whole mechanism of specifying the norms is to provide sufficient scope for efficiency incentives for the generating company, as otherwise there will be little incentive to perform.

While on the subject, RInfra-G highlighted the Judgment of the Hon'ble ATE in Appeal No. 251 of 2006 dated April 4, 2007 in this regard:

*“55. Norms for operation for power stations are determined for the industry based on the technology, industry performance and in order to ensure optimum utilization of machines with efficient and economic operation. Black's Law Dictionary defines norms as : “An actual or set standard determined by the typical or most frequent behaviour of a group”. We are quite intrigued: once the Commission has specified “norms” how the same can be changed for a particular generator merely because it has consistently performed better. One can understand if the entire industry performs at better operational levels, then observing the consistent industry average improve, norms for all can be upgraded. It is against natural justice that an individual station, instead of being rewarded for better performance, is made to meet higher targets of performance and exposed to the risk of not achieving it. Achieving exceptionally high levels of efficiencies requires great deal of effort and expertise and must be incentivised. If Commission wishes to revise norms upward, it may also do so but such a revision has to be applied to all players after watching the industry performance over a period of time*

*56. The Proviso to Regulation 26.2 of MERC does provide leeway to MERC to deviate from the norms where it so deems appropriate having regard to the circumstances of the case. It can be understood if it makes a departure from the norm if a station has met an accident or has inherent deficiencies in design or workmanship and unless the norms are so moderated generator will have no*

*incentive to generate and may have to wind up if the station continually operates at below norms. We are not convinced that MERC can upgrade norms for individual generator even if it performed better year after year. If the entire industry operates at better operating parameters for sufficient number of years, then MERC may consider to revise the norms for all.”*

### **Commission’s ruling**

At the ARR stage, though a generating company has been performing better than the norms over the previous years; the ARR is an estimate of the expenses going forward. Till the time the audited accounts are available, the Commission would not be able to gauge the performance of the utility. The norms specified in the Tariff Regulations, 2005 are to ensure that all generating companies will be evaluated on the basis of a particular set of norms which, the Commission considers as optimal level of performance. The sharing of gains or losses on account of better/under performance of a generating company can only be considered once the year is over and all the audited information is available to the Commission. Hence for determination of ARR in this Order, the Commission has considered the norms as specified in the Tariff Regulations, 2005.

## **2.2. Mismatch in coal quality and price**

TBIA -pointed out that the projection of GCV for FY 2011-12 seemed incorrect as per the following rationale.

<b>Particulars (in kCal/kg)</b>	<b>FY 06</b>	<b>FY 07</b>	<b>FY 08</b>	<b>FY 09</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>
Washed coal	3982	3930	5136	3741	3689	3467	3990
F Grade coal			3380	3505	3104	2860	3212
Imported coal	5137	5223	3496	4846	4739	4544	4739

TBIA pointed out that as the years have passed the calorific value has come down. However, to assume a higher value in FY 2011-12 seems incorrect looking at the recent trend.

Similarly, for prices of imported coal, TBIA pointed out the following:

<b>Particulars (Rs./MT)</b>	<b>FY 06</b>	<b>FY 07</b>	<b>FY 08</b>	<b>FY 09</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>
Imported coal	2349	2288	2788	3938	3819	3420	3687

From FY 2008-09 and FY 2009-10 onwards, the prices of imported coal have come down. It is being said that for FY 2011-12 onwards the price will decrease further. Hence, the price assumed for FY 2011-12 should be lower than Rs. 3,420/MT than the considered amount of Rs. 3,687/ MT.

TBIA suggested that an appropriate correction be made in coal price and calorific value.

### ***RInfra-G's response***

RInfra-G submitted that the methodology for projection of coal parameters has been detailed in section 2.6 on page 44 of the Petition in Case No. 163 of 2011.

RInfra-G mentioned that the projection of GCV of coal was based on average GCV received by DTPS over the last six years. RInfra-G clarified that while it was true that there has been a decline in the GCV in the past three years and RInfra-G could have very well considered a lower value, but by averaging over six years, RInfra-G has attempted to even out the variations and the forecast thus is more in tune with a longer-term trend. In addition to this, RInfra-G submitted that the projected GCV of the coal will permit DTPS to maintain GCV of blended coal within boiler operational limit. RInfra-G submitted that the calorific value of coal as received at the plant is beyond the control of the generating station, even in the presence of a firm fuel supply agreement.

RInfra-G submitted that the price of imported coal is decreasing from FY 2008-09 onwards. However, this should not be seen in isolation with GCV, as the price of imported coal is GCV dependent.

RInfra-G submitted that the prices were decreasing because DTPS was able to maintain the GCV of blended coal being fed into the boiler using washed and raw coal to reduce overall fuel cost. With uncertainty of GCV of coal received from

Coal India Limited (CIL), it is possible that the higher GCV imported coal would be required to maintain the blend and in such scenario, the price rise is inevitable.

RInfra-G further clarified that the forecasted price of imported coal is a conservative estimate considering a 5 year CAGR of historical actual prices of coal, and the same is dependent upon the laws of other nations, as well, from where the fuel is imported.

***Commission's ruling***

RInfra-G has estimated the GCV and price of coal based on historical averages. However, since a major part of FY 2011-12 was completed, the Commission had sought the actual information on the GCV and cost of coal over the eleven month period from April 2011 to February 2012. The Commission noticed that the price of imported coal has gone up substantially and the GCV of domestic coal had reduced in the 11 month period. The Commission has noted the submission of RInfra-G and addressed the issue of determination of fuel costs in section 3.1 through 3.8 of this Order.



### **3. DETERMINATION OF ANNUAL FIXED COST AND FUEL COST OF RINFRA-G FOR FY 2011-12**

#### **3.1. RInfra-G's Petition for ARR for FY 2011-12**

- 3.1.1. As per the directions of the Commission, RInfra-G has filed the Petition for approval of ARR for FY 2011-12 based on the Tariff Regulations, 2005. RInfra-G submitted an amended Petition on February 7, 2012 after the TVS, wherein it included its responses to the data gaps identified by the Commission, and submitted the projected expenditure for FY 2011-12.
- 3.1.2. Accordingly, the Commission in this section has analysed all the elements of projected expenses and revenue for RInfra-G for FY 2011-12 and approved the ARR based on the Commission's analysis of the submission made by RInfra-G and the objections and suggestions raised by stakeholders and replies given by RInfra-G.

#### **3.2. Availability and gross generation**

- 3.2.1. RInfra-G submitted that the historical data pertaining to the outages suggests that the normally 15 days can be allocated to the outages for attending to planned and forced outages during the year, which would result in an availability of around 95.90% and the same has been considered for FY 2011-12. RInfra also submitted that the best O&M practices adopted by DTSPS have historically allowed DTSPS to run at full load (100%) for the period of plant availability during the operation, accordingly the PLF of the station has been projected equal to the availability i.e., 95.90%. Accordingly, RInfra has projected a gross generation of 4211.93 MUs for FY 2011-12.
- 3.2.2. In reply to one of the queries raised by the Commission, RInfra-G submitted that actual availability and PLF for FY 2011-12 for the period April 2011 to February 2012 was 97.25% and 101.07% respectively. MERC, in its previous Orders, has allowed the operating norms as per the Tariff Regulations, 2005 in line with the views expressed by the Hon'ble ATE in its Judgement dated April 4, 2007. In line

with the above, the Commission approves availability and gross generation for FY 2011-12 as 95.9% and 4211.93 MUs respectively.

**Table 1: Availability and gross generation for FY 2011-12**

Particulars	RInfra-G Petition	Approved
Availability	95.90%	95.90%
Gross generation (MU)	4,211.93	4,211.93

### 3.3. Auxiliary energy consumption and net generation

3.3.1. RInfra-G has projected auxiliary energy consumption of 9.85%, which is inclusive of the normative auxiliary energy consumption of 8.5% as per the Tariff Regulations, 2005 and the additional auxiliary energy consumption of 57 MUs for the Flue Gas Desulphurization (FGD) unit installed at DTSP. RInfra-G submitted that since the norm for auxiliary energy consumption for FGD has not been provided in the MERC Tariff Regulations 2005, the auxiliary energy consumption for FGD as approved by the Commission in its APR Order dated September 8, 2010 has been estimated for FY 2011-12.

3.3.2. The Commission observed that RInfra-G's estimate of auxiliary energy consumption for the FGD unit was higher than the actual auxiliary consumption reported by it for FY 2010-11, which was 55.78 MUs. RInfra-G has not provided any reason for estimating a higher consumption, while it has restricted its projection of gross generation at the normative level of generation. Therefore, at this stage of determination of ARR, the Commission approves auxiliary energy consumption of 55.78 MUs for the FGD unit at DTSP. Accordingly, the Commission approves an auxiliary energy consumption of 9.82% and a net generation of 3798.13 MUs for RInfra-G for FY 2011-12.

**Table 2: Auxiliary energy consumption and net generation for FY 2011-12**

Particulars	Unit	RInfra-G Petition	Approved
Gross generation	MU	4,211.93	4,211.93
Auxiliary energy consumption -	%	8.50%	8.50%

Particulars	Unit	RInfra-G Petition	Approved
excluding FGD	MU	358.01	358.01
Auxiliary energy consumption – FGD	MU	57.00	55.78
Total auxiliary energy consumption	MU	415.01	413.79
	%	9.85%	9.82%
Net generation	MU	3,796.91	3,798.13

### 3.4. Station heat rate

- 3.4.1. RInfra-G has submitted that it has considered the gross station heat rate of DTPS as per Regulation 33.1.3 (a) of the Tariff Regulations, 2005, which specifies the SHR for 200/210/250 MW sets as 2500 kCal/kWh. In line with the views expressed by the Hon'ble ATE on operational norms in its Judgement dated April 4, 2007, the Commission approves the SHR of 2500 kCal/kWh for DTPS for FY 2011-12.

**Table 3: Station heat rate for FY 2011-12**

Particulars	RInfra-G Petition	Approved
Station heat rate (kCal/kWh)	2,500	2,500

### 3.5. Secondary fuel oil consumption

- 3.5.1. For FY 2011-12, RInfra-G has projected the secondary fuel oil consumption at 2 ml/kWh in line with the Tariff Regulations, 2005. The Commission approves the secondary fuel oil consumption of 2 ml/kWh for DTPS for FY 2011-12.

**Table 4: Secondary fuel oil consumption for FY 2011-12**

Particulars	RInfra-G Petition	Approved
Secondary fuel oil consumption (ml/kWh)	2.00	2.00

### 3.6. Transit loss

- 3.6.1. RInfra-G has submitted that as DTPS is non-pit-head, transit losses should be permitted for all coal received by DTPS. Accordingly, it has projected the landed cost of fuel by considering the transit loss of 0.8 % on all sources of coal.
- 3.6.2. The Commission has disallowed the transit loss on imported coal in its previous Orders as the Tariff Regulations, 2005 do not provide for any transit loss on imported coal.
- 3.6.3. RInfra-G had preferred an appeal against the stand adopted by the Commission in the Hon'ble ATE on non-applicability of transit loss on imported coal in the Commission's Order dated March 28, 2009. The Hon'ble ATE has passed its Judgment on Appeal No. 148 of 2009 on March 23, 2012. The excerpts of the Judgment are presented below.

*"11. We do not agree with the contention of the Appellant. This Tribunal in the judgment referred to above, dealt with the case where the generator performed better than the norm and in that event the Tribunal directed that the benefit of the norms must be given to such a generator. If the benefit of norm is to be provided to the generator for better performance then the loss of performance below the norm has to be borne by the generator. The present is a case where the generator has performed below the norm. If the generator is given the benefit of not adhering to the norm even though it performed below the norm, it would be a clear case of **eating one's cake and having it too.***

*12. If the rule of law prescribes the supremacy of the Norm over the actual performance, such principle must hold good whether the utility performs better than the norm or not.*

*13. Further it is noticed from the impugned order that the State Commission has clearly observed that other generating Companies in the State of Maharashtra i.e. Maharashtra State Power Generation Company and the Tata Power Company also procured imported coal but they have not reported any transit loss for imported coal. This implies that they procured coal on delivery basis.*

*14. When the State owned generators have been able to procure imported coal on delivery basis, there is no reason as to why private generator is not prudent enough to procure coal on similar terms. **Therefore, the State Commission is correct in not permitting the Appellant the transit loss on imported coal when it is established that other generators including the State owned generators can procure coal on delivery basis. Therefore, the contention of the Appellant on the first point would fail**" (Emphasis Added)*

3.6.4. The Hon'ble ATE has found the stand adopted by the Commission on the non-applicability of transit loss on imported coal was appropriate and has disallowed the appeal by RInfra-G against the same. Accordingly, the Commission has computed the coal cost without considering any transit loss on imported coal and considering a transit loss of 0.8% on washed coal and raw coal.

### **3.7. Blending of coal, fuel price, and fuel calorific value**

3.7.1. RInfra has projected the ratio of consumption of washed coal, raw domestic coal and imported coal for FY 2011-12 as per the actual ratio in FY 2010-11. The Commission asked RInfra-G to submit data of actual consumption of washed coal, raw domestic coal and imported coal for the first 11 months i.e. April 2011-February 2012, as the FY 2011-12 was coming at an end. After obtaining the data from RInfra-G, the Commission observed that the percentage of imported coal in the total mix to be almost the same as estimated by RInfra-G. Hence, the Commission has accepted total coal consumption according to the estimate of RInfra-G.

3.7.2. For projection of fuel prices for FY 2011-12, RInfra-G has considered the CAGR of each of the fuel types, washed coal, raw domestic coal and imported coal, for five years from FY 2005-06 to FY 2010-11 and has projected the fuel prices for FY 2011-12 based on the CAGR with FY 2010-11 as the base year.

3.7.3. As the financial year FY 2011-12 was already over, the Commission had sought the actual data on GCV and landed cost of coal for the period April 2011– February 2012 from RInfra-G. After obtaining the data, the Commission noticed that the reported price of imported coal over the 11 month period was 27.5% higher than that estimated by RInfra-G, whereas the prices of domestic varieties of coal were nearly in line with the estimates of RInfra-G. Since these figures are not audited, and several components comprising the total landed price of coal require further examination for prudence check, the Commission has not considered the same for the purpose of determining the ARR of FY 2011-12. At this stage the Commission has accepted the projection of coal price submitted by RInfra-G in its Petition. However, transit loss on imported coal has not been considered by the Commission

for the same reasons as has been specified in the Commission's Order dated February, 27, 2012, approving truing up of FY 2009-10 and APR of FY 2010-11 in Case No. 122 of 2011. The same view has also been upheld by the Hon'ble ATE in its Judgement in Appeal No.148 of 2009 dated March 23, 2012. The landed cost and GCV of coal as projected by RInfra-G and approved by the Commission are as given in the table below.

**Table 5: Price and calorific value for primary fuel for FY 2011-12**

Particulars	RInfra-G Petition	Approved
A. Fuel price (Rs/MT)		
Imported coal	3,717.69	3,687.95
Washed coal	2,753.41	2,753.41
Raw domestic coal	2,479.51	2,479.51
B. Gross calorific value (kCal/kg)		
Imported coal	4,739.17	4,739.17
Washed coal	3,990.83	3,990.83
Raw domestic coal	3,212.25	3,212.25

3.7.4. RInfra-G reported that the increase in price of secondary fuel oil based on the 5 year CAGR was 15.73%. However, RInfra-G submitted that this increase was very high when compared with the price movement in the past three years. Therefore, RInfra-G proposed to consider the 3 year CAGR of 7.12%. The Commission has accepted RInfra-G's submission and considered the same for approving the price of secondary oil fuel for FY 2011-12. RInfra-G estimated the calorific value of secondary fuel oil for FY 2011-12 based on 5 year average of GCV of secondary fuel oil. The Commission has accepted the same. The price and GCV of secondary fuel oil, as submitted by RInfra-G and approved by the Commission is presented in the table below:

**Table 6: Price and calorific value for secondary fuel oil for FY 2011-12**

Particulars	RInfra-G Petition	Approved
-------------	-------------------	----------

Particulars	RInfra-G Petition	Approved
A. Fuel price (Rs/MT)		
Secondary oil	45,553	45,553
B. Gross calorific value (kCal/kg)		
Secondary oil	10,768	10,768

### 3.8. Fuel cost

- 3.8.1. RInfra-G submitted that the total fuel cost for FY 2011-12 based on the proposed SHR, fuel mix, fuel cost, GCV and generation works out to Rs. 803.59 Crore.
- 3.8.2. Based on the approved performance parameters, fuel prices and fuel calorific value as discussed in the above paragraphs, the total fuel cost approved for FY 2011-12 are summarised in the following table.

**Table 7: Fuel cost for FY 2011-12**

Particulars	RInfra-G Petition	Approved
Primary fuel cost (Rs. Crore)	765.22	763.14
Secondary fuel cost (Rs. Crore)	38.37	38.37
<b>Total fuel cost (Rs. Crore)</b>	<b>803.59</b>	<b>801.51</b>

### 3.9. Operation & maintenance expenses

- 3.9.1. The operation and maintenance (O&M) expenses comprises employee related expenses, administrative and general (A&G) expenses and repair and maintenance (R&M) expenses. RInfra-G's submissions on each of these expenditure heads, and the Commission's ruling on the same are detailed below.
- 3.9.2. To project the O&M expenses for FY 2011-12, RInfra-G considered the actual expenses for each of the expenditure heads – employee, A&G and R&M - for the period FY 2007-08 to FY 2009-10 and determined the average expenses under each head. These expenses, being average, were considered as base expenses, reckoned in FY 2008-09, expenses for FY 2009-10 and FY 2010-11 were projected by

escalating these base expenses with an escalation factor based on the weighted average growth rates of CPI and WPI for these years (6.04% for FY 2009-10 as per tariff Order in Case No. 120 of 2008 dated May 28, 2009 and 7.02% for FY 2010-11 as per tariff Order in Case No. 99 of 2009 dated September 8, 2010).

- 3.9.3. For the purpose of forecast of O&M expenses for FY 2011-12, RInfra-G has relied on the 5-year CAGR of the economic indices, CPI and WPI, for the period April 2006 to March 2011. Further to this, RInfra-G has submitted that the Tariff Regulations, 2005 do not specify the allowance of R&M expenses for FGD. RInfra-G has estimated an amount of Rs. 7.50 Crore for FY 2011-12 on account of R&M expenses for FGD.
- 3.9.4. Given that FY 2011-12 is over, for the purpose of determining the allowable O&M expenses for FY 2011-12, the Commission has considered the CPI and WPI information available till April 2012. Allowable O&M expenses for FY 2011-12 were determined considering the approved O&M expenses for FY 2009-10 as the base. Approved O&M expenses for FY 2009-10 in Case No. 122 of 2011 was Rs. 81.23 Crore, which comprised Rs. 74.28 Crore for O&M expenses and an additional Rs. 6.94 Crore on account of R&M expenses for FGD.
- 3.9.5. The Commission has determined the O&M expenses for FY 2011-12, by escalating the base year O&M expenses with the actual weighted average rate of increase in CPI and WPI. The rate of increase for FY 2010-11 has been computed considering point to point rate of increase in WPI from March 2010 to March 2011, and point to point rate of increase in CPI from March 2010 to March 2011. The rate of increase for FY 2011-12 has been computed considering point to point rate of increase in WPI from March 2011 to March 2012, and point to point rate of increase in CPI from February 2011 to February 2012. A weight of 40% was assigned to CPI and a weight of 60% was assigned to WPI for determining the escalation rates. The escalation rates for FY 2010-11 and FY 2011-12 worked out to 9.34% and 7.16% respectively.
- 3.9.6. Accordingly, the O&M expenses (excluding R&M expenses for FGD) for FY 2011-12 work out to Rs. 87.03 Crore. In addition to this, the Commission has considered



the R&M expenses of FGD at Rs. 6.94 Crore, in line with the actual expenses in FY 2009-10. The Commission will consider the actual R&M expenses towards FGD while truing up for FY 2011-12.

- 3.9.7. The summary of the O&M expenses estimated by RInfra-G and approved for FY 2011-12 is shown in the following table:

**Table 8: Operation & maintenance expenses for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
O&M expense for FY 2011-12	106.16	87.03
Additional R&M expense for FGD	7.50	6.94
<b>Total O&amp;M expenses</b>	<b>113.66</b>	<b>93.97</b>

### 3.10. Capital expenditure and capitalisation for FY 2011-12

- 3.10.1. In its Petition dated November 29, 2011, RInfra-G had estimated the total capital expenditure in FY 2011-12 as Rs. 122.30 Crore and capitalisation as Rs. 128.08 Crore. However, during the TVS held on January 20, 2012, the Commission asked RInfra-G to revise the capital investment plan considering the most realistic scenario for capitalisation of various schemes for FY 2011-12. Accordingly, RInfra-G revised the capitalisation plan for FY 2011-12.
- 3.10.2. RInfra-G submitted that the actual capitalisation during the period of April – November, 2011 had been less than its initial estimate on account of the following factors:
- In-principle approval was awaited from the Commission on submitted DPRs;
  - Delay in clearances and approval from other agencies such as MPCB and DTEPA; and
  - Most of the capitalisation was expected to occur at the end of the financial year.
- 3.10.3. RInfra-G classified the capitalisation for FY 2011-12 across different categories as below:

**Table 9: Capitalisation for FY 2011-12 as submitted by RInfra-G***(Rs. Crore)*

<b>Particulars</b>	<b>Capital expenditure during FY 2011-12</b>	<b>Capitalisation during FY 2011-12</b>
Renovation & modernization	13.27	15.22
Reliability improvement	15.81	17.22
Legal compliance	10.78	13.13
Safety enhancement	3.46	4.49
Energy conservation	0.98	0.98
<b>Total</b>	<b>44.30</b>	<b>51.05</b>

- 3.10.4. In Form 5.4 of the data formats submitted along with the amended Petition, RInfra-G has stated that the entire capitalisation during FY 2011-12 was only due to “expenses” being capitalised. A query was raised as to why there was no estimate of “works capitalised” during FY 2011-12. RInfra-G responded that it was an error in submission and that the capitalisation shown in Form 5.4 of the data formats included both works and expenses capitalised for FY 2011-12. However, RInfra-G submitted that the break-up of capitalisation between expenses, works and interest capitalised cannot be known at the time of making projections and can be known only after the accounts are audited.
- 3.10.5. Details of various DPR schemes for FY 2011-12 were submitted by RInfra-G. However, many DPR schemes submitted are under scrutiny pending in-principle approval. For the purpose of determination of ARR for FY 2011-12, the Commission has not considered any capitalisation of such DPR schemes where in-principle approval of the Commission is yet to be accorded. The Commission is of the view that the proposed benefits of such schemes need to be examined and until it is ascertained that the projected benefits will actually accrue to the consumers, it would not be appropriate to allow such expenses. Accordingly, the Commission has restricted approval of capitalisation of such schemes in FY 2011-12. Once, in-principle approval is granted by the Commission, the same may be considered in future Orders subject to prudence check.

3.10.6. In form 5.4 of the data formats, RInfra-G submitted that in-principle approval has been granted only for the “coarse ash grinding unit” scheme. However, through letter dated March 31, 2011, the Commission has also given in-principle approval to various renovation & modernisation projects proposed by RInfra-G. Also, in-principle approval was granted to the scheme titled, “township residential area renovation and construction of boundary wall”, through letter dated September 22, 2011. Hence, for the purpose of determination of ARR of FY 2011-12, the Commission has considered the capitalisation on account of these schemes as well. During TVS and also during public hearing, RInfra-G submitted that the clearance from the Maharashtra Pollution Control Board (MPCB) is pending for the operation of the “coarse ash grinding unit”, which prevented it from putting the unit to use. Hence, the Commission has not considered the capitalisation of Rs. 12.35 Crore, projected by RInfra-G for determination of ARR of FY 2011-12.

3.10.7. For Non-DPR schemes, the Commission stated the following in its Order in Case No. 120 of 2008 as below:

*“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”*

3.10.8. Hence, for FY 2011-12, the Commission has restricted the total capitalisation of Non-DPR schemes to 20% of capitalisation approved for DPR schemes. The table below summarises the capitalisation approved by the Commission for FY 2011-12.

**Table 10: Capitalisation for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
DPR schemes submitted and approved	12.35	10.57
DPR schemes pending approval	29.94	-

Particulars	RInfra-G Petition	Approved
Non-DPR schemes	8.76	2.11
Total capitalisation	51.05	12.69

### 3.11. Interest on long-term debt for FY 2011-12

- 3.11.1. RInfra-G submitted that it had not taken or considered any actual debt for the capital expenditure schemes for FY 2011-12. RInfra-G submitted that the interest on long-term debt for FY 2011-12 was computed based on a normative debt of 70% as specified in the Tariff Regulations, 2005. Therefore, RInfra-G has considered addition to debt as 70% of the estimated capitalisation of Rs. 51.05 Crore, which is Rs. 35.73 Crore.
- 3.11.2. The Commission, in Case No. 122 of 2011, noticed that in the Allocation Statement submitted by RInfra-G for FY 2009-10 and for FY 2010-11, there were actual interest and finance charges of Rs. 98.18 Crore for its generation business. This observation was in sharp contrast with RInfra-G's claim of not taking any actual debt for FY 2009-10 and FY 2010-11. In light of the above observation, the Commission directed RInfra through its Order dated February 27, 2012 in Case No. 122 of 2011, to submit information related to the utilisation of externally borrowed funds allocated to the generation business. RInfra-G complied with the directive through letter dated March 31, 2012. RInfra-G, in reply to the information sought, submitted the following:

*“With respect to RInfra-G, there is an allocation of Rs. 98.18 Crore both during FY 09-10 and also during FY 10-11 towards interest and finance charges, as per the Allocation Statement submitted for the two financial years. This represents interest expenses with respect to the 11.55% Non-Convertible Debentures (NCD) issued by RInfra on Feb 24, 2009 amounting to Rs. 850 Crore. The NCDs are secured by way of first charge on company's fixed assets at Dahanu power plant and some of the other non-regulated / non licensed assets at Hyderabad and Mumbai (the premises in Mumbai pointed out in the petition are not part of any regulated business of RInfra).*

*However, for the purpose of ARR, we have only claimed normative interest rate for capital expenditure. The Hon'ble Commission would observe that the actual interest liability at 11.55% associated with the NCD is much higher than the normative term loan interest allowed by the Hon'ble Commission in the ARR. Nevertheless, as there's actual long term borrowing by way of securitization of RInfra-G assets, normative interest on term loans should not have been added back while claiming the Income Tax for FY 10-11."*

- 3.11.3. The Commission had scrutinized the above information and documents as submitted by RInfra by letter dated March 31, 2012. As mentioned in the said letter, pursuant to the issue of 11.55% Non convertible Debentures (NCD) during February 2009, amounting to Rs. 850 crores, the interest on the above NCDs amounting to Rs. 98.18 Crore was allocated to RInfra-G in the certified allocation statement for FY 2009-10 and FY 2010-11.
- 3.11.4. It was also mentioned by RInfra that normative interest on term loans was incorrectly considered in the calculation of income tax reimbursement, as there was actual identified and allocated borrowings.
- 3.11.5. However, as on April 1, 2009, the normative loans outstanding were amounting to Rs. 178.52 Crore and Rs. 200.10 Crore as on April 1, 2010. Thus, outstanding normative loans were significantly lesser than the actual identified allocated borrowings amounting to Rs. 850 crore, which implies that the difference between normative borrowings and actual allocated borrowings may have been utilised for funding the equity portion. The petitioner had not submitted the details of actual allocated borrowings from the proceeds of issue of NCDs amounting to Rs. 850 crore. Further, the petitioner had not considered the above allocated borrowings for the determination of normative interest for the FY 2011-12. Hence, due to submission of partial/ incomplete and inconsistent information by the petitioner, the Commission had approved the original claim of the petitioner with respect to normative interest on loan, as submitted in the petition.
- 3.11.6. RInfra has submitted that they have taken actual debt which was secured by way of first charge on the company's fixed assets of DTSP. However, for the purpose of

interest on long-term loan for ARR of FY 2011-12, RInfra-G has considered normative debt corresponding to 70% of the proposed capitalisation by RInfra-G during FY 2011-12.

- 3.11.7. With regard to the normative interest rate for FY 2011-12, RInfra-G has proposed an interest rate of 11.50% considering the average of the base interest rates across various banks and considering a spread of 2.23% on the base interest rate which would be available to RInfra. The Commission finds the reasoning of RInfra-G to be satisfactory in this regard and has considered the interest rate of 11.50% for capitalisation of schemes during FY 2011-12.
- 3.11.8. Further to the proposed interest rate for FY 2011-12, RInfra-G has considered an interest rate of 11.50% for all the schemes which have been initiated prior to FY 2011-12. RInfra-G submitted that the rates approved for FY 2004-05 to FY 2010-11 are not at all reflective of present rates of borrowings and in every likelihood if the debt already admitted was actually borrowed from external funding agencies, instead of internal company financing, the interest rates would have been periodically revised by the lending agencies in line with the changing economic conditions and the RBI's credit policy decisions.
- 3.11.9. The Commission has already approved interest rates for normative loans considered for each year since FY 2004-05. The interest rates have been varying every year since FY 2004-05. The Commission had not carried out any downward revision of the interest rates when the prevailing interest rates at the time of approving new loans in the past years were low. In line with the same principle, the Commission does not find any merit in revising the interest rates of loans approved prior to FY 2011-12.
- 3.11.10. Therefore, the Commission has computed the interest on long-term debt based on the following interest rates for normative loans considered for FY 2004-05 to FY 2011-12:
- a) A normative interest rate of 10% p.a. for normative loan considered for FY 2004-05 and FY 2005-06;

- b) A normative interest rate of 8% p.a. for normative loan considered for FY 2006-07 and FY 2007-08;
- c) A normative interest rate of 9% p.a. for normative loan considered for FY 2008-09 to FY 2010-11; and
- d) A normative interest rate of 11.5% p.a. for normative loan considered for FY 2011-12.

3.11.11. RInfra-G has considered normative loan repayment tenure of 10 years for loans drawn during FY 2004-05 and FY 2005-06 and 20 years for loans drawn during FY 2006-07 and afterwards. However, the MERC Tariff Regulations, 2005, states that normative repayment for a year shall be equal to the amount of depreciation on the fixed asset to which such loan relates. The relevant extract of the said regulations is quoted as below:

*“32.2 The loan capital calculated using the normative debt:equity ratio under Regulation 31.2, Regulation 31.3 and Regulation 31.4 above shall be assumed to be repaid each year based on a normative repayment schedule:*

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

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

*Provided also that all normative repayments are assumed to be made on September 30th of each financial year.”*

3.11.12. In line with provisions of the stated Tariff Regulations, the Commission has considered repayment of the outstanding normative loans as equal to the amount of depreciation. The Commission has considered repayment of the outstanding loans in proportion to their balance at the beginning of the year FY 2011-12.

3.11.13. Considering the above normative interest rates and repayment, the Commission has computed the interest on long-term loans for FY 2011-12 as shown in the table below.

**Table 11: Interest on long-term debt for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Opening balance of loan	196.66	181.48
Additions during the year	35.73	8.88
Repayments during the year	(43.94)	(16.93)
Closing balance of loan	188.45	173.43
Gross interest expense	22.14	14.84
Less: IDC	-	-
Net interest expense	22.14	14.84
Average interest rate (%)	11.50%	8.36%

### 3.12. Depreciation for FY 2011-12

3.12.1. RInfra-G has estimated the depreciation for FY 2011-12 as Rs. 17.29 Crore based on the rates provided in the Tariff Regulations, 2005 for calculation of depreciation for FY 2011-12. For FY 2011-12, the depreciation as a percentage of the average GFA was estimated by RInfra-G at 1.05%. Since, the opening GFA, as approved in Order dated February 27, 2012 (Case No. 122 of 2011) was lower than the actual GFA submitted by RInfra-G, and the capitalisation approved is lower than that estimated by RInfra-G for FY 2011-12, the depreciation approved by the Commission is lower than that claimed by RInfra-G.

**Table 12: Depreciation for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Opening GFA	1,629.09	1,614.31
Addition of assets during the year	51.05	12.69
Retirement of assets during the year	(1.89)	(1.89)



Particulars	RInfra-G Petition	Approved
Closing GFA	1,678.25	1,625.12
Depreciation	17.29	16.93
Depreciation (as a % of Average GFA)	1.05%	1.05%

### 3.13. Interest on working capital for FY 2011-12

- 3.13.1. RInfra-G has estimated the working capital requirement for FY 2011-12 based on the norms laid out in Regulation 34.5 of the Tariff Regulations, 2005. In accordance with the Regulations, RInfra-G has considered the State Bank of India (SBI) Prime Lending Rate (PLR) for FY 2011-12 as 14.75%, being the rate prevailing at present when the time the tariff determination Petition for FY 2011-12 was filed.
- 3.13.2. The Commission has estimated the working capital requirement of RInfra-G for FY 2011-12 after considering the estimated expenditure of various heads for FY 2011-12. The Commission has considered the short-term SBI PLR of 14.75% prevalent at the time of RInfra-G filing its Petition for Aggregate Revenue Requirement for FY 2011-12. The Commission has estimated the interest on working capital for FY 2011-12 as shown below.

**Table 13: Interest on working capital for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Working capital		
Cost of coal/ lignite (2 month)	106.39	106.10
Cost of secondary fuel oil (1 month)	5.34	5.34
O & M expenses (1 month)	9.47	7.83
Maintenance spares	14.81	14.67
Less: Payables for one month fuel at targeted availability	(55.86)	(55.72)
Total working capital requirement	80.14	78.22
Interest rate (SBI PLR)	14.75%	14.75%
Interest on working capital	11.82	11.54

**3.14. Return on equity for FY 2011-12**

- 3.14.1. RInfra-G submitted that it has computed the return on equity (RoE) for FY 2011-12 for its generation business in accordance with the Tariff Regulations, 2005 which stipulates a 14% return on equity per annum on the regulatory equity at the beginning of the financial year.
- 3.14.2. The Commission noticed that RInfra-G has estimated retirement of assets to the tune of Rs. 1.89 Crore in FY 2011-12. Assets which are retired do not provide any benefit to the consumers. Since the intent of the Tariff Regulations, 2005 is to allow return on equity only on assets put to use the equity corresponding to the retired assets also needs to be reduced from the regulatory equity for FY 2011-12.
- 3.14.3. Therefore, the Commission has subtracted 30% of the GFA of the retired assets while computing closing level of equity for FY 2011-12. The Commission had approved Rs. 532.96 Crore as the equity at the end of FY 2010-11 and the same has been taken as the opening equity for FY 2011-12. The Commission has computed the RoE for FY 2011-12 on the opening balance of equity in accordance with the Tariff Regulations, 2005 as applicable for the generation business. The summary of RoE as projected by RInfra-G and approved by the Commission for FY 2011-12 is summarised in the following table:

**Table 14: Return on equity for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Equity at beginning of year	538.63	532.96
Equity portion of capitalisation	15.31	3.81
Less: Equity portion of retired assets	-	(0.57)
Equity at the end of the year	553.94	536.20
<b>Total return on equity</b>	<b>75.41</b>	<b>74.61</b>

**3.15. Income tax for FY 2011-12**

- 3.15.1. RInfra-G estimated the income tax for FY 2011-12 considering that the profit after tax would be equal to the return on equity. RInfra-G grossed up RoE by the income tax rate of 32.45% and then adjusted regulated PAT for depreciation, interest on long-term debt and interest on working capital.
- 3.15.2. The Commission while computing the income tax has not added back the normative interest on working capital and long term loan since the normative debt is equivalent to actual debt for the purpose of determining the ARR. The Commission is of the view that the source of raising debts (be it actual or internal accrual) remain the management's choice. Such choice shall not put the consumers at disadvantage while determining ARR for the year. Since the normative interest expense on normative loans have been allowed as expenses in the ARR, the consumers shall not be deprived of the collateral benefits (tax shield) associated with such approved debt. It is no doubt valid that income tax on income earned by utility in capacity of equity investors needs to be reimbursed but it would be improper to extend that principle to compensate utilities of income tax on income earned by them in capacity of moneylenders.
- 3.15.3. The concept of normative interest on working capital was introduced to fairly create level playing field between utilities that resorted to actual borrowings vis a vis utilities which funded the projects from own capital. In first scene where utility has resorted to factual borrowing the consumers pay only interest but not income tax thereon (being income of interest accruing to moneylender). The concept of level playing field would demand that consumers suffer similar impact even in cases of utilities which do not resort to borrowing but fund the ventures from own funds. Thus although the consumers have to pay normative interest on such funding (although there is no factual interest payment by utility) but consumers should not suffer additional impact on tax thereon just because funding pattern has changed from factual borrowing to own funding. Therefore, the Commission does not find any merit in RInfra-G's contention that normative interest shall be added back.

3.15.4. On the basis of the information available, the Commission had assessed the claim of income tax reimbursement for FY 2009-10 and FY 2010-11 in the Order in case No. 122 of 2011. In this regard, it may be noted that the company would use the tax paid under MAT mechanism in prior 5 years; (which has been already compensated in the relevant years by the Commission) to discharge the tax liability of the current year and accordingly to that extent there will be no fresh tax impact. The tax liability for FY 2011-12, duly grossed up, is estimated at Rs. 27.40 Crore as per detailed calculations hereunder. The Commission has assessed and compensated the tax payment under MAT mechanism for FY 2010-11 at Rs. 5.00 Crore (later in Chapter 4). Further, the details of earlier year MAT carried forward, as submitted by the petitioner, is Rs.34.08 Crore. Though the income tax for FY 2011-12 is assessed at Rs. 16.89 Crore, it may not entail any further payment because the liability will be discharged by the company as per income tax laws by adjustment of the tax paid in earlier years under MAT mechanism, which have been already compensated in respective years.

3.15.5. The income tax approved by the Commission for FY 2011-12 is shown in the table below.

**Table 15: Income tax for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Return on equity	75.41	74.61
Income tax rate	32.45%	32.45%
Profit before tax	111.63	110.46
Add: depreciation as per ARR	17.29	16.93
Less: depreciation as per income tax	(42.96)	(42.96)
Add: normative interest on long term loan	22.14	---
Add: normative interest on working capital	11.82	---
Total profit before tax	119.93	84.43
Income tax rate	32.45%	32.45%
Income tax liability	38.92	27.40

Particulars	RInfra-G Petition	Approved
Less: MAT credit utilization	---	10.51
Net income tax liability	38.92	16.89
Effective tax rate	32.45%	20.00%

### 3.16. Non-tariff income

- 3.16.1. RInfra-G submitted that the actual non-tariff income for the 11 month period from April 2011 to February 2012 was Rs. 8.35 Crore, out of which Rs. 6.10 Crore was the revenue from 'sale of scrap'. The Commission has annualised this figure and has estimated the Non-tariff income as Rs. 9.11 Crore for FY 2011-12.

**Table 16: Non-tariff income for FY 2011-12**

(Rs. Crore)

Particulars	RInfra-G Petition	Approved
Non-tariff income	8.00	9.11

**3.17. Summary of annual fixed charges for DTPS for FY 2011-12**

3.17.1. Based on analysis of each element discussed above, the summary of annual fixed charges of RInfra-G for FY 2011-12 approved by the Commission are as shown below:

**Table 17: Summary of annual fixed charges for RInfra-G for FY 2011-12***(Rs. Crore)*

<b>Sl. No.</b>	<b>Particulars</b>	<b>RInfra-G Petition</b>	<b>Approved</b>
1	Operation & maintenance expenses	113.66	93.97
2	Depreciation, including advance against depreciation	17.29	16.93
3	Interest on long-term loan	22.14	14.84
4	Interest on working capital	11.82	11.54
5	Income tax	38.92	16.89
6	Return on equity	75.41	74.61
7	Less: Non-tariff income	(8.00)	(9.11)
	Annual fixed charges for FY 2011-12	271.24	219.67

#### **4. INCOME TAX RELATING TO FY 2009-10 AND FY 2010-11**

##### **4.1. Additional submissions by RInfra-G relating to Case No. 122 of 2011**

4.1.1. In the Order dated February 27, 2012 in Case No. 122 of 2011, the Commission had kept in abeyance RInfra-G's claim towards income tax expense for FY 2009-10 and FY 2010-11, as RInfra-G did not provide the information required by the Commission for approval of income tax. Under the present Petition RInfra-G has submitted a part of the required information for determination of income tax expense for FY 2009-10 and FY 2010-11 through letter dated April 16, 2011. Therefore, in this Order, the Commission has considered the submissions made by RInfra-G to determine the income tax expense for FY 2009-10 and FY 2010-11.

##### **4.2. Income tax for FY 2009-10**

4.2.1. During the processing of RInfra-G's Petition in Case No. 122 of 2011, RInfra-G did not furnish the following documents sought by the Commission:

- a) Copy of Income Tax return filed for the financial year 2009-2010;
- b) Statement of Computation of Income along with other information including the break-up of various additions and deductions claimed in tax computation for G-T-D and other segments; and
- c) Copies of assessment orders for earlier years.

4.2.2. In view of the above, RInfra-G's claim towards income tax expense for FY 2009-10 was kept in abeyance by the Commission in the Order dated February 27, 2012, in Case No. 122 of 2011 because the petitioner had not submitted the required documents on the basis of which the claim could be assessed by the Commission.

4.2.3. The extract of the relevant paragraphs of the said Order is reproduced as below:

*“From the limited records submitted prima-facie there are carried forward losses in some segments, MAT payments and MAT credit utilization all of which have tax impact which cannot be calculated without details called for. It is relevant to note*

*here that if losses in any regulated segment have been used as tax shield in the other segments there will be in fact tax recovery from the company for that regulated business following converse of the Hon'ble ATE Judgement wherein tax shield of non-regulated business was mandated to be added as tax impact of regulated business.*

*...As can be seen there has been fair amount of follow up on this issue with RInfra. Considering the fact that out of information sought; statement of computation of tax, income tax return filed is really mandatory statutory filings and the segmental break up is obviously the base on which utilities would have staked their claim for reimbursement. The inability of RInfra to produce these evidentiary documents is incomprehensible. Further from the mail dated February 11, 2012, as quoted above, it is apparent that the RInfra has gone to the extent of advising the Commission on the course of action rather than to take efforts for submission of the information sought. The approach of RInfra clearly appears to be stonewalling the fact finding on tax issue and therefore prima-facie presumption is against RInfra on that count...*

*...However in spite of this apparently defiant attitude, to be just and fair to RInfra-G, considering that it may have some issues in retrieving records, the Commission is of the opinion that RInfra-G should claim income tax after it is able to produce the information sought for, because the present Orders cannot be held back on this account."*

- 4.2.4. In response to the Commission's directives, R-Infra-G submitted the additional information on April 11, 2012. The Commission has duly scrutinised the information and documents submitted by the petitioner. It was observed that the petitioner submitted incomplete/ partial information.
- 4.2.5. The petitioner had not submitted the entire income tax return. Only the copy of the acknowledgment for 'electronic return filing' was furnished. In absence of the copy of complete income tax return filed the Commission cannot ascertain the setting off of losses brought forward from earlier years, MAT credit availability, 80(I)A deductions etc. claimed by the petitioner.



- 4.2.6. Though the statement of computation of income was submitted, the supporting information like break up of various additions and deductions claimed in tax computation in G-T-D and other segments was not furnished. The Commission had duly communicated to the petitioner about the non-submission/ incomplete submission of information sought earlier, through email on April 16, 2012. However, till date the petitioner has not submitted the required information sought for.
- 4.2.7. Hence, an effort was made to estimate the income tax impact on the basis of information available till date, with the aim to make some progress in the matter to the extent possible. It is observed that if the complete information as sought by the Commission is submitted, the same would result in decreasing the claim as calculated without the said information to the extent of MAT credit that may have been utilised and/or allocation of 80(I)A benefits. Accordingly, the Commission has decided to calculate the impact on the basis of information available and then to withhold some amount towards likely reduction in claim which the petitioners may claim after furnishing the relevant details.
- 4.2.8. In paragraph 14 of the Hon'ble ATE Judgement dated February 14, 2011 in the matter of TPC-T (Case No. 174 of 2009), the Hon'ble ATE clarified the issue as shown below:
- “Thus the intent of the Regulations is that the actual income tax paid by the transmission licensee in the business of transmission is included in the ARR and the licensee does not gain or lose on account of income tax which is a pass through in tariff.”*
- 4.2.9. This fundamental principle pronounced by the Hon'ble ATE has been the foundation of all the judgments on the subject of income tax reimbursement.
- 4.2.10. The Commission has studied the issue in consultation with professional consultants and has decided to consider the actual tax computation statement of the petitioner supporting returns of income filed as submitted by it as the base for true-up Petitions. The segmental allocation of taxable income and tax thereon is being done on line by line basis based on segmental allocation of income and expenses as
-

certified by the petitioners' Statutory Auditors. The same is annexed as 'Annexure A: Segmental Allocation'

- 4.2.11. The method is based in actual tax computation statement and segmental break up will be always the one that is used for approval of tariff / plan. The weighted income tax deductions / accelerated depreciation / income tax exemptions will be allocated to underlying segment to which they pertain as is clearly mandated by regulation. Cross tally of every line item in the computation of income statement is key demonstrative strength of methodology and would preclude the unwarranted disputes on the issue.
- 4.2.12. However, since the petitioner had not provided the break up of various allowances, disallowances, deductions, exemptions etc. for the line items appearing in the computation of income, the Commission has made allocation, on the basis of information made available till date. Further, the Commission had adjusted the net increase or decrease in the approved expenditure vis a vis the actual, since the true up exercise is completed. The same is annexed as 'Annexure B: Tax Computation'.
- 4.2.13. It was observed from computation statement that in the year under consideration the petitioner had negative taxable income i.e. taxable loss amounting to Rs. 17.18 Crore for the financial year 2009-2010, whereas on the overall basis, the company as a whole, RInfra had taxable profits. The net Taxable Income as per computation statement for company as a whole after setting off taxable losses in some segments with taxable profits from other segments was Rs. 289.95 Crore.
- 4.2.14. Thus, it is clearly evident that the inter-segmental taxable loss of RInfra G was adjusted with the taxable profits emanating from other than Mumbai licensed area operations. Thus, taxable losses in regulated segment - R-Infra G were used as a tax shield against discharging the income tax liability of the other segments. The Hon'ble ATE in petitioner's Appeal No 251 of 2006 in paragraph 32 of the Judgment held that *"The consumers in the licensee's area must be kept in a water tight compartment from the risks of other business of the licensee and the Income Tax payable thereon. Under no circumstance, consumers of the licensee should be made to bear the Income Tax accrued in other businesses of the licensee. Income*

Tax assessment has to be made on stand alone basis for the licensed business so that consumers are fully insulated and protected from the Income Tax payable from other businesses.”, and mandated that tax shield arising out of taxable loss in non regulated business needs to be compensated by the regulated segment having taxable profits.

- 4.2.15. Accordingly, following converse of the Hon’ble ATE Judgment (Appeal No. 251 of 2006), wherein tax shield of non regulated business was mandated to be added as tax impact of regulated business, an amount of Rs. 5.84 Crore will be the recovery from the petitioner on account of petitioner’s segment tax shield used in other segments. However, a further 20% of the tax amount is withheld by the Commission towards likely reduction in claim which the petitioners may claim after furnishing the relevant details. Thus, additional recovery of Rs. 7.01 Crore is being sanctioned against the claim of Rs.25.70 Crore in Case No. 122 of 2011.
- 4.2.16. Needless to add that unabsorbed MAT credit pertaining to earlier years if any will be carried forward to subsequent year, under MAT mechanism as permissible to be taken by the petitioner in the subsequent years in which petitioner actually takes such credit at total company level under the provisions of the Income Tax Act, 1961.
- 4.2.17. The summary of income tax approved for FY 2009-2010 by the Commission is provided below:

**Table 18: Income tax for FY 2009-10**

(Rs. Crore)

Particulars	RInfra-G Petition in Case No. 122 of 2011	Approved in Order in Case No. 122 of 2011	Approved in this Order
Income tax	25.70	----	(7.01)

**4.3. Income tax for FY 2010-11**

4.3.1. During the processing of RInfra-G's Petition in Case No. 122 of 2011, RInfra-G did not furnish the following documents sought by the Commission:

- a) Copy of Income Tax return filed for the financial year 2009-2010;
- b) Statement of Computation of Income along with other information including the break-up of various additions and deductions claimed in tax computation for G-T-D and other segments; and
- c) Copies of assessment orders for earlier years.

4.3.2. In view of the above, RInfra-G's claim towards income tax expense for FY 2009-10 was kept in abeyance by the Commission in the Order dated February 27, 2012, in Case No. 122 of 2011 because the petitioner had not submitted the required documents on the basis of which the claim could be assessed by the Commission.

4.3.3. The extract of the relevant paragraphs of the said Order is reproduced as below:

*"4.14.4 For the purpose of estimating the income tax for FY 2010-11, as discussed in section 3.17, the Commission is of the opinion that it is not an objective of any of the authorities to establish method but the objective is to determine the actual tax impact on the business of petitioner and allow that as expense. The method comes in play only to determine this actual tax impact as means to achieve the said fundamental goal and method itself is not the end goal in itself. From the limited records submitted prima-facie there are carried forward losses in some segments, MAT payments and MAT credit utilization all of which have tax impact which cannot be calculated without details called for.*

*4.14.5. The objective at the APR stage is to assess the gap between actual and provisional revenue sanctioned at ARR stage based on unaudited/ unadopted results. APR is an interim stage where the petitioners are supposed to submit all the data available with them on actuals but it is still recognized that the final figures may vary on audit/final adoption. The mechanism does not absolve petitioners from furnishing actual data at APR stage on an unaudited/ unadopted basis. In fact there*

*is clear presumption that only those aspects where the petitioner can demonstrate the variations from ARR stage based on actual data available would form part of APR and all other aspects where actual data is yet to be frozen would be considered at final True Up stage which is in fact meant for those aspects. From the limited records submitted prima-facie there are carried forward losses in some segments, MAT payments and MAT credit utilization all of which have tax impact which cannot be calculated without details called for.*

*4.14.6. It is clear that the petitioner's insistence on assuming that the methodology is end goal is misplaced and denial of information based on such self presumption is unwarranted."*

- 4.3.4. In response to the Commission's directives, R-Infra-G submitted additional information through letter dated April 11, 2012. The Commission has duly scrutinised the information and documents submitted by the petitioner. It was observed that the petitioner has submitted incomplete, partial information. The petitioner had not submitted the entire income tax return.
- 4.3.5. For the year 2010-2011, it was stated by the petitioner that computation of income and income tax return for FY 2010-11 has already been provided to the Commission vide its communications dated October 25, 2011 and Feb 21, 2012 respectively. However, on verification from the Commission's record, it was noted that RInfra had submitted only the 'total computation of Income'; but the copy of income tax return was never submitted by the petitioner. The said fact of non-submission of the said information was duly mentioned in the Commission's Order dated February 27, 2012.
- 4.3.6. Though the statement of computation of income was submitted, the supporting information like break-up of various additions and deductions claimed in tax computation in G-T-D and other segments was not furnished.
- 4.3.7. It is observed that the company has discharged income tax liability under MAT mechanism for the year under consideration. MAT is chargeable on adjusted book profits. From the computation of tax statement submitted by the petitioner, it is apparent that there are adjustments on account of bad debts and contingencies; the
-

segment wise break-up thereof has not been submitted by the petitioners as stated above.

- 4.3.8. The Commission had duly communicated to the petitioner about the non-submission / incomplete submission of information sought earlier, through email on April 16, 2012. However, till date the petitioner has not submitted the required information sought for.
- 4.3.9. It is observed that the company has discharged income tax liability under MAT mechanism for year under consideration. MAT is chargeable on adjusted book profits. From the computation of tax statement submitted by the petitioner it is apparent that there are adjustments on account of bad debts and contingencies, the segment wise break-up thereof has not been submitted by the petitioners as stated above.
- 4.3.10. Hence, an effort was made to estimate the income tax impact on the basis of information available till date, with the aim to make some progress in the matter to the extent possible. It is observed that if the complete information as sought by the Commission is submitted, the same would result in decreasing the claim as calculated without the said information to the extent of reduction in book profits on account of allocation of bad debts and contingencies. Accordingly, the Commission has decided to calculate the impact on the basis of information available and then to withhold some amount towards likely reduction in claim which the petitioners may claim after furnishing the relevant details.
- 4.3.11. As per the paragraph 14 of the Hon'ble ATE Judgement dated February 14, 2011 in the matter of TPC-T (Case No. 174 of 2009), Hon'ble ATE clarified the issue of income tax as under:

*“Thus the intent of the Regulations is that the actual income tax paid by the transmission licensee in the business of transmission is included in the ARR and the licensee does not gain or lose on account of income tax which is a pass through in tariff.”*

- 4.3.12. This fundamental principle pronounced by the Hon'ble ATE has been the foundation of all the Judgments on the subject of income tax reimbursement.
- 4.3.13. The Commission has studied the issue in consultation with professional consultants and has decided to consider the actual tax computation statement of the petitioner supporting returns of income tax filed submitted by it as the base for true-up Petition. The segmental allocation of taxable income and tax thereon is being done on line by line basis based on segmental allocation of income and expenses as certified by the petitioners' Statutory Auditors. The same is annexed as 'Annexure C: Segmental Allocation'
- 4.3.14. The method is based on actual tax computation statement and segmental break up will be always the one that is used for approval of tariff/ plan. The weighted income tax deductions / accelerated depreciation / income tax exemptions will be allocated to underlying segment to which they pertain as is clearly mandated by regulation. Cross tally of every line item in the computation of income statement is key demonstrative strength of methodology and would preclude the unwarranted disputes on the issue.
- 4.3.15. It was observed from computation statement that in the year under consideration the petitioner was liable to pay based on Minimum Alternate Tax (MAT) mechanism under the Income Tax Act, which is higher than the normal tax on taxable income. In view of the Hon'ble ATE's pronouncements as aforesaid, this higher impact is being considered for sanctioning of the claim and this higher tax impact under MAT which has been actually suffered by the petitioner is allocated to various segments as per Annexure A. In case of MAT, the same is charged on the book profits. Book Profits are always calculated as income minus expenses as per books and accordingly book income minus book expenses of various regulated business segments have been considered as base as per audited allocation statements submitted by Licensee.
- 4.3.16. This clearly is in conformity with the directives of the Hon'ble ATE which has directed income minus expenses approach to be used vide its Judgment in Appeal No. 173 of 2009 as referred to hereinabove. Further since the actual tax suffering in

case of MAT happens on the basis of book profits without any consideration to any other figures, the same base of book profits of the relevant regulated segment has to be adopted. Accordingly the allocation of expenses was sought from petitioner duly audited by their auditors. The audited figures submitted by RInfra have been considered for arriving at book profits attributable to concerned regulated segment.

- 4.3.17. As will be apparent from Annexure D; the MAT has been calculated on all the segments in accordance with these audited figures submitted by Licensee themselves. The total MAT liability of company is duly reconciled with the total tax liability of all the segments taken together thereby the correctness of tax calculations stands duly demonstrated. The actual tax payment has been allocated to various segments based on the Judgements of the Hon'ble ATE. Further, in this case since the tax suffering is on MAT; which is based solely on book profits irrespective of any other considerations, the same base of book profits on which the petitioner has actually paid the tax has been used to ensure that base remains the same base on which the petitioner has actually suffered the tax.
- 4.3.18. As would be apparent from the Annexure D; the tax allocable to segment under consideration of this order is Rs. 22.26 Crore. As discussed earlier, 20% of the tax amount is withheld by the commission towards likely reduction in claim which the petitioners may claim after furnishing the relevant details to cover the tax impact that may emanate out of submission of further details. Accordingly a claim of Rs.17.80 Crores is being sanctioned against the claim of Rs. 36.85 crores under this petition.
- 4.3.19. Further the MAT paid is not actual expenditure because credit of such tax paid is available to the petitioner in subsequent years. Needless to add that the credit of tax paid under MAT mechanism (whether in current year or earlier) as permissible to be taken by the petitioner in the subsequent years under the provisions of the Income Tax Act, 1961 will be adjusted on proportionate basis of the allowance made in subsequent year(s) in which the petitioner actually takes such credit at total company level.



4.3.20. The summary of income tax approved for FY 2010-2011 by the Commission is provided below.

**Table 19: Income tax for FY 2010-11**

*(Rs. Crore)*

<b>Particulars</b>	<b>RInfra-G Petition in Case No. 122 of 2011</b>	<b>Approved in Order in Case No. 122 of 2011</b>	<b>Approved in this Order</b>
Income tax	36.85	----	17.80

## 5. AGGREGATE REVENUE REQUIREMENT OF RINFRA-G FOR FY 2011-12

- 5.1.1. The Commission had determined a revenue surplus of Rs. 8.75 Crore for FY 2009-10 in the Order dated February 27, 2011 in Case No. 122 of 2011, as against RInfra-G's claim of revenue gap of Rs. 35.23 Crore. This surplus has been adjusted to determine the net fixed charges for FY 2011-12. RInfra-G has claimed carrying cost for the revenue gap in FY 2009-10 and FY 2010-11. However, the Commission has not considered any carrying cost for FY 2009-10 and FY 2010-11 in this Order. The Commission will take a view on the same when RInfra-G files a Petition for tariff determination.
- 5.1.2. Based on analysis of each element discussed above, the Aggregate Revenue Requirement for RInfra-G for FY 2011-12 approved by the Commission is as shown below:

**Table 20: Summary of Aggregate Revenue Requirement of RInfra-G approved for FY 2011-12**

*(Rs. Crore)*

Sl. No.	Particulars	RInfra-G Petition	Approved
1	Fuel costs	803.59	801.51
2	Operation & maintenance expenses	113.66	93.97
3	Depreciation, including advance against depreciation	17.29	16.93
4	Interest on long-term loan	22.14	14.84
5	Interest on working capital	11.82	11.54
6	Income tax	38.92	16.89
7	Return on equity	75.41	74.61
8	Less: Non-tariff income	(8.00)	(9.11)
	<b>Aggregate revenue requirement for FY 2011-12</b>	<b>1,074.84</b>	<b>1,021.19</b>
9	Add: Revenue gap/ (surplus) for FY 2009-10 (in Case No. 122 of 2011)	35.23	(8.75)

<b>Sl. No.</b>	<b>Particulars</b>	<b>RInfra-G Petition</b>	<b>Approved</b>
10	Add: Carrying cost on the deferred revenue gap of FY 09-10 for two years	10.56	-
11	Add: Revenue gap/ (surplus) for FY 2010-11 (in Case No. 122 of 2011)	(11.67)	-
12	Add: Carrying cost on deferred revenue gap	(1.72)	-
13	Add: Income tax for FY 2009-10	-	(7.01)
14	Add: Income tax for FY 2010-11	-	17.80
	<b>Net ARR for FY 2011-12</b>	<b>1,107.24</b>	<b>1023.23</b>

## 5.2. Applicability of Order

- 5.2.1. This Order shall come into force with effect from May 1<sup>st</sup>, 2012. The Commission acknowledges the efforts taken by the consumer representatives and other individuals and organisations for their valuable contribution to the ARR determination process.

Sd/-

(Vijay L. Sonavane)

Member

Sd/-

(V.P. Raja)

Chairman

**Annexure A: Segmental Allocation of Net Profit – 2009-2010***(in Rs. Crores)*

<b>Particulars</b>	<b>Generation</b>	<b>Transmission</b>	<b>Distribution</b>	<b>Others</b>	<b>RInfra Total</b>
Revenue	1018.76	58.83	4461.00	4,196.96	9,735.55
Non Tariff Income	11.10	0.45	123.98	882.86	1,018.39
<b>Total Income</b>	<b>1029.86</b>	<b>59.28</b>	<b>4584.98</b>	<b>5079.82</b>	<b>10753.94</b>
<u>Less: Expenses</u>					
Cost of Fuel purchased	741.31	-	-	478.52	1,219.83
Cost of power Purchased	-	-	3,318.53	3.41	3,321.94
EPC Contract Expenditure	-	-	-	3,262.49	3,262.49
<u>O &amp; M Expenses</u>					-
Staff Cost	42.59	9.10	344.43	68.74	464.86
R & M Expenses	34.05	3.26	157.84	25.40	220.55
A & G expenses	17.21	3.04	124.98	125.74	270.97
Bad debts / Provision for DD	-	-	13.56	0.73	14.29
Provision for contingencies	-	-	70.00	-	70.00
Depreciation	54.29	15.38	189.53	60.64	319.84
Interest & Finance charges	98.18	-	47.56	146.48	292.22
<b>Total Expenses</b>	<b>987.63</b>	<b>30.78</b>	<b>4266.43</b>	<b>4172.15</b>	<b>9456.99</b>
<b>Segmental Profit</b>	<b>42.43</b>	<b>28.5</b>	<b>318.55</b>	<b>907.67</b>	<b>1296.95</b>

Note: Allocation basis

- i) In the absence of details, revenue for R Infra G and R Infra T is considered from the tariff order, whereas revenue for R Infra D is considered as the difference between the certified Mumbai licensed area operations revenue and R Infra G and T revenue as allocated.
- ii) In the absence of details, other income and expenses have been allocated on the basis of 'certified allocation statement' from the statutory auditor.

**Annexure B: Tax Computation: 2009-2010****( in Rs. Crore)**

	Particulars	RInfra G	RInfra D	RInfra T	Others	Total
D)	<b><u>INCOME FROM BUSINESS</u></b>					
	Net profit as per P & L A/c	42.23	318.55	28.50	907.67	1,296.95
Less	<b><u>Income receipt credited to profit and loss account considered under other heads of income</u></b>					
	Income from capital gains considered separately	-			135.08	135.08
	Interest income on Income Tax Refund Considered Separately	-			29.67	29.67
	Balance profit or loss	42.23	318.55	28.5	742.92	1,132.20
Less	<b><u>Income considered exempt/not taxable</u></b>					
	Tax free interest from US 64 & ARS bond exempt u/s 10(33)				6.85	6.85
	Dividend income exempt u/s 10(35)				165.40	165.40
	(-) Expenses in relation to exempt income (Disallowance u/s. 14A)				37.34	37.34
	Regulatory income credited not taxable		568.33			568.33
	Balance Profit or loss	42.23	(248.78)	28.50	608.01	428.96
Add	Depreciation debited to profit or loss account	54.29	189.53	15.38	60.64	319.84
Less	Depreciation allowable under the Income-Tax Act	45.46	191.62	20.98	69.25	327.31

	Particulars	RInfra G	RInfra D	RInfra T	Others	Total
	<b>Profit or Loss after adjustment for depreciation</b>	<b>51.06</b>	<b>(251.87)</b>	<b>22.90</b>	<b>599.40</b>	<b>421.49</b>
Add	<b><u>Adjustments in accordance with section 28 to 44</u></b>					
	Donation				0.10	<b>0.10</b>
	Loss on sale of obsolete Assets (Net)				1.04	<b>1.04</b>
	Provision for doubtful debts				49.13	<b>49.13</b>
	Provision for diminution in value of investments				0.41	<b>0.41</b>
	Loss on sale of investments				0.00	<b>0.00</b>
	Provision for contingency as per clause 17(k) of Tax audit report				75.02	<b>75.02</b>
	Buy back related expenses				0.05	<b>0.05</b>
	De-merger expenses				2.30	<b>2.30</b>
	Share issue expenses (QIB)				1.33	<b>1.33</b>
	Disallowance u/s 36(1)(va) as per Clause 16(b) of Tax audit report				0.00	<b>0.00</b>
	Disallowance u/s 40(a) as per Clause 17(f) of Tax audit report				0.02	<b>0.02</b>
	Disallowance u/s 43 B as per clause 21(i) of Tax audit report				8.86	<b>8.86</b>
	Penalty/Fine				0.07	<b>0.07</b>
	Subtotal	-	-	-	138.33	<b>138.33</b>
	Balance Profit or Loss	51.06	(251.87)	22.90	737.72	<b>559.81</b>
Less	<b><u>Adjustments in accordance to section 28 to 44</u></b>					

	<b>Particulars</b>	<b>RInfra G</b>	<b>RInfra D</b>	<b>RInfra T</b>	<b>Others</b>	<b>Total</b>
	Profit on sale of assets				3.74	<b>3.74</b>
	Reversal of provision of doubtful debts and diminution in the value of investments against earlier years provisions ( clause 20 of tax audit report)				6.04	<b>6.04</b>
	Premium on redemption on Preference Shares				195.52	<b>195.52</b>
	Deduction u/s 35 D- 8th year				0.01	<b>0.01</b>
	Expenditure on Amalgamation on RSPCL & BAPL u/s 35 DD-4th year				0.47	<b>0.47</b>
	Expenditure on Amalgamation on RPFPL u/s 35 DD - 2nd year				0.01	<b>0.01</b>
	Interest expenses on VFD wrongly capitalised in AY 2008-09 claimed as revenue				0.30	<b>0.30</b>
	Director's Commission paid for the FY 2008-09 disallowed in AY 2009-10, claimed as revenue expenditure on actual payment				0.40	<b>0.40</b>
	Expenditure disallowed in earlier year u/s 40(a), now allowable on payment basis.				0.81	<b>0.81</b>
	Expenditure on replacement of meters		43.29			<b>43.29</b>
	Expenditure allowable on payment basis u/s 43B				22.48	<b>22.48</b>
	Balance Profit or Loss	-	43.29	-	229.78	<b>273.07</b>
	<b>Income chargeable under the head Profits and gains as per Computation</b>	51.06	(295.16)	22.90	507.94	<b>286.75</b>
	Less:					

	Particulars	RInfra G	RInfra D	RInfra T	Others	Total
	Normative Interest on Long Term Loan	13.60	89.82	7.30	(110.72)	-
	Normative Interest on Working Capital Loan	10.19	58.45	1.59	(70.23)	-
	Rent income on Santacruz Land and Building	-	26.08	-	(26.08)	-
	Net increase \ ( decrease) in expenditure approved ( refer note 1)	44.45	(40.10)	(0.29)	(4.06)	-
	<b>Adjusted Income chargeable under the head Profits and gains as per Computation</b>	(17.18)	(377.25)	14.30	666.87	286.75
II)	<b><u>INCOME FROM CAPITAL GAINS/LOSS</u></b>					
	Short term capital gain on sale of Mutual Fund Units-FMP Scheme				84.45	<b>84.45</b>
	Long Term Capital Loss on Premium on Redemption of Preference Shares-Realised				(218.42)	
	Long Term Capital Loss on Sale Of Mutual Fund Units - FMP Scheme				(0.53)	
					(218.95)	
	Add: Long Term Capital Loss Brought Forward from AY 2009-10				(62.60)	
	<b>Long Term Capital Loss to be carried forward for AY 2011-12</b>				<b>(281.55)</b>	
III)	<b><u>INCOME FROM OTHER SOURCES</u></b>					
	Dividend Income				165.40	
	Less: Exempt u/s 10(34) & 10(35)				165.40	



	Particulars	RInfra G	RInfra D	RInfra T	Others	Total
	Interest on Income Tax Refund				29.67	29.67
	<b>GROSS TOTAL INCOME</b>	<b>(17.18)</b>	<b>(377.25)</b>	<b>14.30</b>	<b>780.99</b>	<b>400.86</b>
	<u>Less: Deductions</u>					
	U/s 80G (50%)				0.03	0.03
	U/s 80G (100%)				0.05	0.05
	U/s 80 IA				110.84	110.84
	Taxable Income	<b>(17.18)</b>	<b>(377.25)</b>	<b>14.30</b>	<b>670.07</b>	<b>289.95</b>
	Tax on the same @ 33.99%	<b>(5.84)</b>	<b>(128.23)</b>	<b>4.86</b>	<b>227.76</b>	<b>98.55</b>

**Note 1: Net increase/ (decrease) in expenditure approved vis a vis actuals: RInfra-G**

S. No.	Particulars	As per Actuals	As approved by Commission	Net increase / (decrease)
1	Fuel related expenses	741.31	804.6	63.29
2	O & M Expenses	93.48	85.31	-8.17
3	Depreciation including AAD	15	14.96	-0.04
4	Interest on long term loan	13.91	13.6	-0.31
5	Interest on working capital	17.12	6.8	-10.32
	Total	880.82	925.27	44.45

**Note 2: Allocation basis**

- a) Depreciation as per company books is allocated as per the 'certified allocation statement' from the statutory auditors.

Depreciation as per Income Tax Act is allocated as per the respective petition.

- b) In the absence of details about the break up of various allowances, disallowances, deductions, exemptions into G-T-D segment of Mumbai licensed area and others, is allocated to 'others segment' except the following deduction is allocated to R-Infra D:
- Expenditure on replacement of meters – Rs. 43.29 crores.
  - Regulatory income credited not taxable – Rs. 568.33 crores

**Annexure C: Segmental Allocation of Net Profit – 2010-2011****( in Rs. Crore)**

<b>Particulars</b>	<b>Generation</b>	<b>Transmission</b>	<b>Distribution</b>	<b>Others</b>	<b>RInfra Total</b>
Revenue	1129.32	77.86	3749.21	4324.05	9280.44
Non Tariff Income	10.29	2.68	212.75	625.93	851.65
<b>Total Income</b>	<b>1139.61</b>	<b>80.54</b>	<b>3961.96</b>	<b>4949.98</b>	<b>10132.09</b>
<u>Less: Expenses</u>					
Cost of power Purchased		0	2713.76	10.55	2724.31
Cost of Fuel	780.51			520.63	1301.14
<u>O &amp; M Expenses</u>					
Staff Cost	45.28	10.31	388.5	136.66	580.75
R & M Expenses	30.87	3.78	186.28	10.21	231.14
A & G expenses	17.26	3.48	131.23	241.12	393.09
Bad debts / Provision for DD	0	0	5	0.02	5.02
EPC Contract Expenditure				3205.73	3205.73
Depreciation	55.84	16.93	178.26	62.38	313.41
Interest & Finance charges	98.18	0	21.09	123.18	242.45
<b>Total Expenses</b>	<b>1027.94</b>	<b>34.5</b>	<b>3624.12</b>	<b>4310.48</b>	<b>8997.04</b>
<b>Segmental Profit</b>	<b>111.67</b>	<b>46.04</b>	<b>337.84</b>	<b>639.5</b>	<b>1135.05</b>

Note: Allocation basis

- i) In the absence of details, revenue for R Infra G and R Infra T is considered from the tariff order, whereas revenue for R Infra D is considered as the difference between the certified Mumbai licensed area operations revenue and R Infra G and T revenue as allocated.
- ii) In the absence of details, other income and expenses have been allocated on the basis of 'certified allocation statement' from the statutory auditor.

**Annexure D: MAT working: 2010-2011****( Rs. In crores)**

<b>Particulars</b>	<b>Generation</b>	<b>Distribution</b>	<b>Transmission</b>	<b>Others</b>	<b>Total</b>
Net profit before Taxes and Statutory Appropriations and provisions as per P & L A/c	111.67	337.84	46.04	639.50	<b>1,135.05</b>
<b>Add:</b>					
Disallowance U/s 14A	-	-	-	39.13	<b>39.13</b>
Prov. For Contingencies	-	-	-	5.90	<b>5.90</b>
Provision for doubtful debts\Advances				46.71	<b>46.71</b>
Provision for diminution in the value of investments				0.49	<b>0.49</b>
<b>Less:</b>	-	-	-		
Tax Free Income				112.70	<b>112.70</b>
Directors Commission, disallowed earlier, now claimed on actual				0.40	<b>0.40</b>
Prov. For Contingencies written back, disallowed in earlier years				20.56	<b>20.56</b>
Wealth Tax provision				0.15	<b>0.15</b>
Taxable Income	111.67	410.13	46.04	597.92	<b>1,093.47</b>
MAT Liability @ 19.93%	22.26	67.33	9.18	119.17	<b>217.93</b>

**Note 1: Allocation basis**

In the absence of details about the break up of various allowances, disallowances, deductions, exemptions into G-T-D segment of Mumbai licensed area and others.

Note 2: MAT credit

(Rs. In crores)

Particulars	Generation	Distribution	Transmission
MAT credit b/f of earlier years	34.08	-	-
Add: MAT credit for current year	17.80	53.87	7.34
Less: MAT credit utilised	-	-	-
Closing MAT credit C/f	51.88	53.87	7.34

**APPENDIX – 1****Appendix 1A: List of persons who attended the Technical Validation Session held on December 26, 2011**

<b>Sl. No.</b>	<b>Name</b>
	<b>RInfra Officials</b>
1	Shri. R. R. Mehta
2	Shri. P. S. Pandya
3	Shri. Kapil Sharma
4	Shri. Kishor Patil
5	Shri. Himanshu Mishra
6	Shri. Rajandra Kayal
7	Shri. Narendra Manja
8	Shri. Gaurav Khandelwal

**Appendix 1B: List of persons who attended the Technical Validation Session held on January 20, 2012**

<b>S. No.</b>	<b>Name of the person</b>
	<b>RInfra Officials</b>
1	Shri. Himanshu Mishra,
2	Shri. Kishor Patil
3	Shri. Karn Pallav
4	Shri R. R. Mehta
5	Shri. Sharad Nath
6	Shri. K. Sridhar
7	Shri. Vijaya Bhatwadekar
8	Shri. Narendra Manja
9	Shri. Jalkote P. S.
10	Shri. P. S. Pandya
11	Shri. Anvesh Jain
12	Shri. Kapil Sharma
	<b>Others</b>
13	Shri. Rajendra Kagnad, R-Power
14	Shri. Rakshpal Abrol, Bhartiya Udami Avam Upbhogta Sangh
15	Shri. N. Poonarathanam, Vel Induction Hardening

**APPENDIX – 2****Appendix – 2A: List of Objectors**

<b>Sl. No.</b>	<b>Name of the person</b>	<b>Institution</b>
1	Shri. Abhinav Sharma	TPC
2	Shri Rakshapal Abrol	Bhartiya Udami Avam Upbhogta Sangh

**Appendix 2B: List of persons participated in the public hearing**

<b>Sl. No.</b>	<b>Name of the person</b>
1	Shri. M. S. Rao
2	Shri. S. G. Huprikar
3	Shri. S. S. Shinde
4	Shri. A. M. Joshi
5	Shri. P. S. Jalkote
6	Shri. Narendra Manja
7	Shri. G. Khandelwal
8	Shri. P. S. Pandya
9	Shri. Vivek Mishra
10	Shri. Karn Pallav
11	Shri. P. G. Phokmare
12	Shri. Bhuvanesh Mehta
13	Shri. Amir Samant
14	Shri. Himanshu Mishra
15	Shri. Ganesh Balasubramanium
16	Shri. Rajendra Kagnad
17	Ms. Sapna Purohit
18	Shri R. R. Mehta
19	Shri. Kapil Sharma