

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 66 of 2007

IN THE MATTER OF

**Reliance Energy Ltd. Distribution Business' (REL-D) Petition for Annual
Performance Review for FY 2007-08 and Tariff Determination for FY 2008-09**

Dr. Pramod Deo, Chairman

Shri A. Velayutham, Member

Shri S. B. Kulkarni, Member

ORDER

Dated: June 4, 2008

In accordance with the Tariff Regulations notified by the Maharashtra Electricity Regulatory Commission (Commission), Reliance Energy Limited's Distribution Business (REL-D), submitted its application for approval of Annual Performance Review for FY 2007-08 and Tariff Petition for FY 2008-09, under affidavit. 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 REL-D, all the objections and comments of the public, responses of REL-D, issues raised during the Public Hearing, and all other relevant material, and after review of Annual Performance for FY 2007-08, determines the revenue requirement and as a result of it, determines the tariff for the Distribution Business of REL as under.



Abbreviations

A&G	Administrative and General
APR	Annual Performance Review
ARR	Annual Revenue Requirement
ATE	Appellate Tribunal for Electricity
BSES	BSES Limited (now known as Reliance Energy Limited)
CAGR	Compounded Annual Growth Rate
Commission/MERC	Maharashtra Electricity Regulatory Commission
CPI	Consumer Price Index
Capex	Capital Expenditure
CWIP	Capital Work In Progress
DA	Dearness Allowance
DPR	Detailed Project Report
DTPS	Dahanu Thermal Power Station
EA 2003	Electricity Act, 2003
GFA	Gross Fixed Assets
IDC	Interest During Construction
IWC	Interest on Working Capital
IT	Income Tax
kV	Kilo Volt
kVA	Kilo-Volt Amperes
kW	Kilo Watt
MT	Metric Tonne
MW	Mega Watt
MYT	Multi Year Tariff
NFA	Net Fixed Assets
O&M	Operation & Maintenance
PLR	Prime Lending Rate
R&M	Repair & Maintenance
REL	Reliance Energy Limited
RoE	Return on Equity
SBI	State Bank of India
TVS	Technical Validation Session
WDV	Written Down Value
WPI	Wholesale Price Index



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1 BACKGROUND & BRIEF HISTORY

1.1 Background

This Order relates to the Petition filed by Reliance Energy Limited (REL) for Annual Performance Review for FY 2007-08 and tariff determination for FY 2008-09 for its Distribution Business (REL-D).

REL (formerly known as Bombay Suburban Electricity Supply Company (BSES)) is a vertically integrated utility carrying out the functions of Generation, Transmission, Wheeling and Retail Supply of electricity in the suburbs of Mumbai.

1.2 Tariff Regulations

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

1.3 Commission's Order on ARR and Tariff Petition for FY 2005-06 And FY 2006-07

REL submitted its ARR and Tariff Petition for FY 2006-07 on February 24, 2006. The Commission, in exercise of the power vested in it under Sections 61 and 62 of the Electricity Act, 2003, and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by REL, all the objections, responses of REL, issues raised during the Public Hearing, and all other relevant material, issued the Order on the ARR Petition of REL for FY 2005-06 and ARR and Tariff Petition of REL for FY 2006-07 on October 3, 2006.

1.4 ATE Order

The Commission, in the Tariff Order dated October 3, 2006, decided on the revenue requirement of Reliance Energy Limited (REL) for FY 2006-07. In the same Order, the Commission also dealt with the truing up of cost and revenues for FY 2004-05 and FY 2005-06 based on actuals subject to prudence check.



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

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

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

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



not deviate from the operating norms for station heat rate, auxiliary consumption and specific consumption of secondary fuel as specified in the MERC (Terms and Conditions of Tariff) Regulations, 2005, even though REL's performance was better than the norms.

1.5 Commission's Order on MYT Petition for REL-D for FY 2007-08 to FY 2009-10

REL submitted its ARR and Multi Year Tariff (MYT) Petition for the first Control Period from FY 2007-08 to FY 2009-10 for its Distribution Business on January 31, 2007. The Commission, in exercise of the powers vested in it under Sections 61 and 62 of the Electricity Act, 2003, and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by REL, all the objections, responses of REL, issues raised during the Public Hearing, and all other relevant material, issued the MYT Order for REL-D for the first Control Period, i.e., FY 2007-08 to FY 2009-10, on April 24, 2007, which came into effect from April 1, 2007. As the Annual Performance Review for FY 2007-08 and Tariff determination for FY 2008-09 were under process, the various Utilities filed a Petition for continuation of revenue requirement determined for FY 2007-08 till the time of issuance of the respective Orders for each Utility. Accordingly, the Commission in its Order issued on April 1, 2008, extended the applicability of the aforesaid Tariff Orders for the Utilities till the revised tariffs are determined for FY 2008-09 under the APR framework and Orders issued there under.

1.6 Petition for Annual Performance Review for FY 2007-08 and Determination of Revenue Requirement for FY 2008-09

As per the MERC Tariff Regulations, the application for the determination of tariff has to be made to the Commission not less than 120 days before the date from when the tariff is intended to be made effective. The Commission had directed REL-D to submit the Petition for Annual Performance Review latest by November 30 of each year in line with Regulation 9.1 of the Tariff Regulations.

REL submitted its Petition for Annual Performance Review for FY 2007-08 and Tariff Determination for FY 2008-09 for its Distribution Business on December 14, 2007, based on actual audited expenditure for FY 2006-07, actual expenditure for first half of FY 2007-08, i.e., from April to September 2007, revised estimate of expenses



for the period from October 2007 to March 2008, and projections for FY 2008-09. REL-D, in its Petition, requested the Commission to:

- undertake truing up for FY 2006-07 based on actual expenses and revenue;
- undertake Annual Performance Review for FY 2007-08
- consider revised estimates of ARR of FY 2007-08 for the purpose of determination of revenue requirement for FY 2008-09
- consider the efficiency gain/loss and the sharing for FY 2007-08 based on actual audited data for complete FY 2007-08 during the final truing up exercise.
- approve the revised ARR and tariff for FY 2008-09.

The Commission, vide its letter dated December 23, 2007, forwarded the preliminary data gaps and information required from REL. REL submitted its replies to preliminary data gaps and information requirement on December 29, 2007.

The Commission held a Technical Validation Session (TVS) on REL's APR for FY 2007-08 and Tariff Petition for FY 2008-09, on January 3, 2008, in the presence of authorised Consumer Representatives. The list of individuals, who participated in the TVS, is provided at **Appendix-1**. During the TVS, the Commission directed REL to provide additional information and clarifications on issues raised during the TVS. The Commission also directed REL to submit the draft Public Notice in the format prescribed by the Commission.

1.7 Admission of Petition and Public Process

REL submitted its responses to the queries raised during the TVS on January 9, 2008, and the Commission admitted the APR Petition of REL-D on January 11, 2008.

In accordance with Section 64 of the EA 2003, the Commission directed REL to publish its application in the prescribed abridged form and manner, to ensure public participation. The Commission also directed REL to reply expeditiously to all the suggestions and comments from stakeholders on its Petition. REL issued the public notices in newspapers inviting comments/suggestions from stakeholders on its APR Petition. The Public Notice was published in The Times of India, Indian Express, Loksatta, Samana, Gujarat Samachar and Mumbai Samachar newspapers on January 13, 2008 and January 16, 2008 and revised Public notice was published on January 30, 2008. The copies of REL's Petitions and its summary were made available for inspection/purchase to members of the public at REL's offices and on REL's website



(www.rel.co.in) and also on the web site of the Commission (www.mercindia.org.in) in downloadable format. The Public Notice specified that the suggestions/objections, either in English or Marathi, may be filed in the form of affidavits along with proof of service on REL.

The Commission received written objections expressing concerns primarily on several issues, including procedural issues, distribution losses, sales projections, etc., in case of REL-D. The Public Hearing originally scheduled on February 9, 2008 was held on February 14, 2008 at 11:00 hours at **Rangsharda Natya Mandir, Bandra Reclamation, Bandra (W), Mumbai 400 050**. The list of objectors, who participated in the Public Hearing, is provided in **Appendix- 2**.

The Commission has ensured that the due process, contemplated under law to ensure transparency and public participation has been followed at every stage meticulously and adequate opportunity was given to all the persons concerned to file their say in the matter.

Though a common public process was held for processing the Petition for APR for FY 2007-08 and tariff determination for FY 2008-09 filed by REL-G, REL-T and REL-D, the Commission is issuing separate Orders on the three Petitions filed by REL. This Order deals with the truing up for FY 2006-07, Annual Performance Review of FY 2007-08 and determination of revised revenue requirement and tariff of REL-Distribution Business for FY 2008-09. Various objections that were raised on REL-D's Petition after issuing the public notice both in writing as well as during the Public Hearing, along with REL's response and the Commission's rulings have been detailed in Section 2 of this Order.

1.8 Organisation of the Order

This Order is organised in the following four Sections:

- **Section 1** of the Order provides a brief history of the quasi-judicial regulatory process undertaken by the Commission. For the sake of convenience, a list of abbreviations with their expanded forms has been included.
- **Section 2** of the Order lists out the various objections raised by the objectors in writing as well as during the Public Hearing before the Commission. The various objections have been summarized, followed by the response of REL and the ruling of the Commission on each of the points.



- **Section 3** of the Order details the truing up of expenses and revenue of REL's Distribution Business for FY 2006-07, including sharing of efficiency gains/losses due to controllable factors.
- **Section 4** of the Order comprises the Review of Performance for FY 2007-08, covering both physical performance and expenditure heads. This Section also comprises the Commission's analysis on various components of revenue requirement of REL-D for FY 2008-09, including sales projections, distribution losses, energy balance, power purchase, etc.
- **Section 5** of the Order comprises the Tariff Philosophy adopted by the Commission and the category-wise tariffs applicable for FY 2008-09.



2 OBJECTIONS RECEIVED, REL'S RESPONSE AND COMMISSION'S RULING

There were some specific objections raised in the context of the APR Petition filed by REL-D, while most objections were common to REL-G, REL-T and REL-D. Hence, in this Section, the Commission has considered the specific objections to REL-D's APR Petition as well as objections common to REL-G, REL-T and REL-D.

2.1 Procedure for APR filing and Public Hearing

Shri. Sandeep Ohri and Groups of Co-operative Housing Societies (GCHS) submitted that the Commission cannot exceed the powers given to it under the EA 2003 and that the Commission should abide by its own Regulations. They referred to Regulation 64 (a) of MERC (Conduct of Business) Regulations, 2004 dated June 10, 2004, and submitted that adequate time of three weeks as stipulated in the Regulations were not provided to the public to study the documents and submit the responses. GCHS also submitted that the process of determination of tariff should be guided by Section 61 of the EA 2003 and Clause 5 (h) of the National Tariff Policy (NTP) notified in January 2006, which require the Commission to determine tariffs under a Multi-Year Tariff (MYT) regime.

GCHS submitted that under MYT regime, the tariff revision can be undertaken only at the end of the first Control Period, i.e., around March 31, 2010. Prior to the NTP, the Commission had formulated the MERC (Terms and Conditions of Tariff) Regulations, 2005 on August 23, 2005, wherein it stated that the MYT regime would have an Annual Performance Review (APR). However, once the NTP has been notified, it supersedes the MERC (Terms and Conditions of Tariff) Regulations, 2005 and is binding on the Commission as per Section 61 of EA 2003. GCHS suggested that all tariffs should be frozen at the present levels till the end of the first Control Period, i.e., up to March 31, 2010.

Shri Ohri submitted that the Regulations notified by the Commission are binding on all the electricity companies falling under the ambit of EA 2003. Shri. Ohri submitted that the due process of law has not been followed by the Commission in the APR process as regards the announcement of the Public Hearings for the APR, and postponement of the Public Hearing of REL.

Shri. Ohri stated that the Commission has not followed the procedure for issuing Public Notice and determination of tariff as specified under Regulation 90 (a) of the MERC (Conduct of Business) Regulations, 2004 for publication of the Petition,



Regulation 97 of the MERC (Conduct of Business) Regulations, 2004 for extension or abridgement of time prescribed, Regulation 8.4 of the MERC (Terms and Conditions of Tariff) Regulations, 2005 for receipt of a completed application, ready for publication, Regulation 9.1 of the MERC (Terms and Conditions of Tariff) Regulations, 2005 for application to be filed 120 days before (new) determined tariff comes into force, first proviso, third proviso and explanation to Regulation 8.5 of the MERC (Terms and Conditions of Tariff) Regulations, 2005 for making available all data to the public, in its entirety, including calculations, formulae and linked spreadsheets, and Section 86(3) of EA 2003 for transparency of the Commission. Shri. Ohri submitted that sufficient time has not been provided to the public to study the documents as per Regulation 64 (a) of MERC (Conduct of Business) Regulations, 2004.

Shree Bhayander Stainless Steel Manufacturers & Traders Association (SBSSMTA) submitted that REL should have provided ninety (90) days advance Public Notice before any change in tariff is to be implemented. Bharat Traders suggested that the APR Petition should be rejected by the Commission for non-compliance with MERC (Terms and Conditions of Tariff) Regulations, 2005.

REL-D's Response

REL responded that the Public Notice was published on January 13, 2008 and again on January 16, 2008. Thereafter, a Public Notice for re-schedulement of Public Hearing date was published on January 30, 2008 and January 31, 2008, *interalia* conveying that the Public Hearing for REL APR Petition has been re-scheduled by the Commission on February 14, 2008. REL submitted that it has followed the directives issued by the Commission from time to time.

Commission's Ruling

As mentioned in Section 1 of the Order, REL submitted its Petition for Annual Performance Review for FY 2007-08 and determination of revenue requirement for FY 2008-09 for its Distribution business on November 30, 2007. The Commission communicated the data gaps in the Petition and held a Technical Validation Session on REL-D's Petition, in the presence of authorised Consumer Representatives. Upon submission of revised Petition by REL-D incorporating the additional information and replies to queries raised by the Commission, the Petition was admitted for further public process on January 11, 2008. The Commission directed REL-D to host the detailed Revised APR Petition and formats in MS Excel on its website for easy download by interested stakeholders.



The Public Notice was published on January 13, 2008 and January 16, 2008, in leading newspapers and the public hearing was originally scheduled to be held on **February 9, 2008**. Considering the requests made by the stakeholders for additional time and allegations that the Petition documents were not available at the concerned offices on the due dates, the Commission postponed the Public Hearing, which was finally held on February 14, 2008. Thus, adequate time, as envisaged under the Regulations has been provided to stakeholders to submit their views/suggestions before the Public Hearing, and additional time of 7 days was also provided to file rejoinders.

As regards determination of tariff on annual basis, the Commission in its MYT Order for REL-D dated April 24, 2007 has approved the Aggregate Revenue Requirement and trajectory of performance parameters for REL's Distribution Business for the Control Period from FY 2007-08 to FY 2009-10. The pooled transmission tariff for the State of Maharashtra was determined for FY 2007-08 only, by aggregating the ARR of all the transmission licensees in the State of Maharashtra, in accordance with Regulation 20.1 of the MERC (Terms and Conditions of Tariff) Regulations, 2005, which stipulates that the tariff will be determined on an annual basis. Hence, in this Order, the Commission is approving the revised revenue requirement of REL-D for FY 2008-09. Further, the Commission is of the view that the provisions of the National Tariff Policy referred by the objectors do not stipulate that the tariff cannot be determined on an annual basis.

2.2 O&M Expenses

Energy Study Group (ESG) submitted that the Commission should appoint an external auditor to verify the necessity for expenditure incurred by REL, since REL has shown significant increase in actual expenditure over approved expenditure levels. Further, ESG enquired about the reasons behind the steep rise and the steps taken by REL to control the expenses.

Shri Naveen Shetty and Shri. P B Samant submitted that the actual expenses were much higher than the approved expenses under the O&M head, and in addition, the ATE has permitted the higher expenditure claimed by REL in previous years also. Shri Shetty submitted that employee cost contributes largely to the variations in FY 2006-07 and the trend is likely to continue in future years unless the Commission disallows the excess expenses.



Shri. Samant submitted that the Commission's Order in Case No. 75 of 2006 dated April 24, 2007 has stated that any increase in the O&M expenses in excess of inflation shall be borne by REL from efficiency gains achieved by it during the Control Period, and the Commission has considered escalation at the rate of 5.39%.

Shri Ohri submitted that REL has asked for annual increase due to inflation, which should not be allowed under the MYT regime.

REL-D's Response

REL submitted that the reasons for the variation between the actual expenditure and the audited expenditure are given in the Petition. REL added that the actual O&M expenses are only around 10% higher than that approved by the Commission. REL further submitted that the actual expenditure should be allowed as it is essential to provide services to its consumers as a distribution licensee. REL submitted that the APR Petition has been filed as per the MERC (Terms and Conditions of Tariff) Regulations, 2005 dated August 23, 2005, and the directives issued by the Commission from time to time.

Commission's Ruling

In this Order, the Commission has undertaken truing up of the actual expenses in FY 2006-07 vis-à-vis the expenses approved in the Tariff Order for FY 2006-07, subject to prudence check. As regards FY 2007-08, the Commission has undertaken provisional truing up of the expenses only in certain circumstances, as elaborated in Section 4 of this Order. The approved expenditure for FY 2008-09 has been revised by applying the appropriate growth rates on the trued up expenditure in FY 2006-07. The final truing up of O&M expenditure will be undertaken only after the end of the year, once the audited data is submitted to the Commission, and subject to prudence check.

The Commission's computations in this regard has been elaborated in the relevant Sections of this Order on truing up and revised revenue requirement for FY 2007-08 and FY 2008-09.

2.3 Employee Expenses

Shri. Sandeep Ohri submitted that REL, in its Petition, has asked for encashment of earned leave for contract labour. Shri Ohri submitted that contract labour has no right to have earned leave, and consequently, no right to encash it. The concept of contract



labour is such that they are not entitled to the 'benefits' that are normally available to permanent employees. Shri. Ohri added that REL has made a reference to the ATE's Judgment and the Sixth Schedule to the Electricity (Supply) Act, 1948, and submitted that this Act has been repealed by EA 2003 and hence, any issue which has reference to any repealed Act must not be considered. He added that REL has shown a steep increase in the Dearness Allowance paid to its employees, over and above what has been already allowed in the MYT Order, and hence, this increase should not be allowed. Further, REL has considered employee cost as an uncontrollable cost, even though REL has signed a wage agreement and the negotiations were under the management's control and hence, the increase due to the wage revision should not be allowed. Shri A.R. Bapat submitted that the employee expenses have risen by 20% in 2 years.

REL-D's Response

REL submitted that on behalf of the workers employed by the contractors, the Bombay Electric Workers Union has negotiated an agreement with the contractors, which includes the following clause:

"The respective contractor shall provide leave or pay wages in lieu of leave as per the provisions of the Bombay Shops & Establishments Act"

As regards ATE's Judgment, REL responded that the quotation was an extract from the ATE's Judgment dated April 4, 2007.

REL submitted that the Wage Agreement is applicable for a period of four years and also includes the impact of inflation, which has been defined as Uncontrollable factor under Regulation 15.6 of MERC Tariff Regulations, and therefore, REL has categorized this cost as Uncontrollable.

Commission's Ruling

In this Order, the Commission has undertaken truing up of the actual expenses in FY 2006-07 vis-à-vis the expenses approved in the Tariff Order for FY 2006-07, subject to prudence check. As regards FY 2007-08, the Commission has undertaken provisional truing up of the expenses only in certain circumstances, as elaborated in Section 5 of this Order. The approved expenditure for FY 2008-09 has been revised by applying the appropriate growth rates on the trued up expenditure in FY 2006-07. The final truing up of the employee expenditure will be undertaken only after the end



of the year, once the audited data is submitted to the Commission, and subject to prudence check.

The Commission's computations in this regard has been elaborated in the relevant Sections of this Order on truing up and revised revenue requirement for FY 2007-08 and FY 2008-09.

As regards the reference to the Sixth Schedule to the erstwhile Electricity (Supply) Act, 1948, REL has made the same in the context of the Judgment of the ATE in this regard, and since the subject matter was for the period FY 2005-06, in which the Commission's Tariff Regulations had not been made applicable.

The Commission does not find any merit in REL's statement that employee expenditure is an uncontrollable factor, since REL has entered into a negotiated settlement with the Unions, which is certainly within the control of REL's management. As regards the impact of inflation and other Government Policies as regards DA, etc., these may be considered as uncontrollable, and hence, the Commission has largely allowed the actual employee expenditure as incurred, after undertaking a prudence check of the reasons given by REL to justify the increase in employee expenditure. However, this does not mean that the total employee expenditure should be treated as uncontrollable. The Commission's Tariff Regulations also do not classify employee expenditure as an uncontrollable factor.

2.4 Administrative & General (A&G) Expenses

Shri P B Samant submitted that while the Commission in its Order in Case No. 75 of 2006 dated April 24, 2007, has projected increase in A&G expenses at the rate of 5.38%, REL has sought approval for much higher increase in the A&G expenses over the approved figure for FY 2006-07.

REL-D's Response

As regards A&G Expenses, REL submitted that the actual expenditure should be allowed as it is essential to provide services to its consumers as a distribution licensee.

Commission's Ruling

In this Order, the Commission has undertaken truing up of the actual expenses in FY 2006-07 vis-à-vis the expenses approved in the Tariff Order for FY 2006-07, subject to prudence check. As regards FY 2007-08, the Commission has undertaken



provisional truing up of the expenses only in certain circumstances, as elaborated in Section 5 of this Order. The approved expenditure for FY 2008-09 has been revised by applying the appropriate growth rates on the trued up expenditure in FY 2006-07. The final truing up of A&G expenditure will be undertaken only after the end of the year, once the audited data is submitted to the Commission, and subject to prudence check.

The Commission's computations in this regard has been elaborated in the relevant Sections of this Order on truing up and revised revenue requirement for FY 2007-08 and FY 2008-09.

2.5 Repair and Maintenance (R&M) Expenses

Shri P B Samant submitted that in the Order in Case No.75 of 2006 dated April 24, 2007, the Commission has stated that R&M expenses needs to be linked not only to the inflationary increase but also to the efficiency gain that is expected of the licensee, and the Commission projected annual increase at the rate of 5.39 %. However, REL has sought approval for much higher increase in the R&M expenses over the approved figure for FY 2006-07.

REL-D's Response

REL responded that that it has no comments beyond what is stated in the Petition.

Commission's Ruling

In this Order, the Commission has undertaken truing up of the actual expenses in FY 2006-07 vis-à-vis the expenses approved in the Tariff Order for FY 2006-07, subject to prudence check. As regards FY 2007-08, the Commission has undertaken provisional truing up of the expenses only in certain circumstances, as elaborated in Section 5 of this Order. The approved expenditure for FY 2008-09 has been revised by applying the appropriate growth rates on the trued up expenditure in FY 2006-07. The final truing up of R&M expenditure will be undertaken only after the end of the year, once the audited data is submitted to the Commission, and subject to prudence check.

The Commission's computations in this regard has been elaborated in the relevant Sections of this Order on truing up and revised revenue requirement for FY 2007-08 and FY 2008-09.



2.6 Truing Up for FY 2006-07

Shri Bapat submitted that while truing up for FY 2006-07, if the amount of Rs. 360 Crore given in Column E of Table No. 3 is considered, then there will be no revenue gap.

REL-D's Response

REL submitted that the Commission at the time of issuing REL's Tariff Order dated October 3, 2006 had adjusted the estimated surplus of Rs.260.29 Crore by disallowing certain costs incurred by REL. However, in REL's Tariff Order in Case No.75 of 2006 dated April 24, 2007, the Commission has recognized the ATE Judgment and accepted the allowability of these costs.

Commission's Ruling

The ATE's Judgment in Appeal No. 251 of 2006 clearly states that the actual expenditure has to be allowed subject to prudence check, in the absence of any norms being established by the Commission. Accordingly, in the MYT Order, the expenses for FY 2004-05 and FY 2005-06 had been trued up at higher levels, as a result of which the allowable expenses for FY 2006-07 are also higher. In accordance with this philosophy, in this Order, the Commission has undertaken truing up of the actual expenses in FY 2006-07 vis-à-vis the expenses approved in the Tariff Order for FY 2006-07, subject to prudence check. The details of the prudence check undertaken by the Commission and the expenses allowed after truing up for FY 2006-07 are elaborated in Section 4 of this Order.

2.7 Maintenance of Separate Book of Accounts

Shri P B Samant submitted that an Appeal has been filed before the Appellate Tribunal for Electricity (ATE) by Shri P.B.Samant and others (IA 186 & 187 of 2007 in 701/2007) against the MYT Order for FY 2007-08 to FY 2009-10 and tariff determination for FY 2007-08. The Commission has submitted an affidavit dated January 17, 2008 on the issue of 'separate accounts to be maintained by distribution licensee under the regulatory provisions', in which, it is mentioned that

“the Hon'ble Tribunal will appreciate the fact that since the segregation of accounts for generation., transmission and distribution and other businesses of REL-D is not available the during the tariff determination process...”



Shri Samant enquired whether REL has kept separate books of accounts for generation, transmission and distribution businesses as required under Regulation 8.4 of the MERC (General Conditions of Distribution Licensee) Regulations, 2006. Shri Samant submitted that the above Regulations stipulate that the books should be maintained as per Companies Act, 1956 and shall be audited. Further, Shri Samant submitted that Regulation 17.3 of MERC (Terms and conditions of Tariff) Regulations, 2005 stipulate that audited performance should be compared with approved data. In essence, while doing trueing up exercise for FY 2006-07 under Regulation 17 of MERC Tariff Regulations, audited figures for separate divisions is mandatory, as also for considering mid-year review for FY 2007-08 or for making revised estimates for FY 2008-09. Shri Samant submitted that under Section 51 of EA 2003, it is necessary for the licensee to keep separate accounts for other businesses with allocations as certified by the management. Shri Samant stated that REL has submitted only un-audited reconciliation statements for FY 2006-07 with allocations as certified by the management. Shri Samant requested the Commission not to consider the accounts submitted by REL-D in its Petition.

Shri Samant, in his rejoinder, submitted that under Section 51(2) of the EA 2003, it is mandatory to maintain separate accounts and the same applies to Section 41(2) of the EA 2003. Shri Samant submitted that the definition of 'Accounting Statements' is given in Regulation 2 of MERC (General Conditions of Distribution Licensee) Regulations, 2006. Shri Samant further submitted that Accounting Statements should be submitted along with Auditor's Certificates as per Regulations 8.4.2 (b) of MERC (General Conditions of Distribution Licensee) Regulations, 2006. Further, REL should maintain separate Book of Accounts for licensee business and other businesses as per the Schedule of the Companies Act, 1956 and the Auditor's Certificate for the same is necessary while submitting the Accounting Statements to the Commission.

ESG submitted that the expenses of REL's other businesses should be totally segregated and if not, details of common and apportioned expenses should be provided along with reasons for not completely segregating the expenses.

REL-D's Response

REL clarified that the Company is registered under the Companies Act, 1956 and the accounts of the Company are maintained on ERP Platform that segregates accounting for each Business/Division of the Company. There are separate Trial Balances, Profit & Loss Accounts, Costing Records, etc., which are readily available. Accounts for each activity including licensee business are prepared in conformity with the Schedule IV of the Companies Act, 1956 and all applicable Accounting standards



issued by the Institute of Chartered Accountants of India (ICAI). Further, REL submitted that while submitting data for licensee business, following adjustments required to be carried out in order to comply with the provisions of EA 2003 and the applicable Regulations, such as, (a) Normative interest on loans and loan accounting (as per Tariff Regulations), (b) depreciation calculation at rates prescribed in the Tariff Regulations, (c) Head office allocation of common expenses, income, Assets and Liabilities of wire and retail business, (d) Income tax calculations on profits determined as per Regulations, (e) exclusion/inclusion of items disallowed /allowed by the Commission and other applicable adjustments, if any.

REL added that it has submitted information to the Commission as required from time to time. REL submitted that the Regulations require the availability of accounting information with reference to the Licensed Business and not maintenance of separate Books of Accounts as has been contended by Shri. Samant.

Commission's Ruling

The Commission had sought the reconciliation between REL's audited accounts vis-à-vis the expenditure and revenue considered in the APR Petition filed by REL-D. REL was directed to submit the reconciliation between the Company's various businesses as well as between REL's generation, transmission and distribution businesses, duly audited by a Chartered Accountant. REL's submission in this regard was included as a part of the Petition, to ensure wide public dissemination. The Commission has considered this reconciliation statement and the APR Petition filed by REL on affidavit, for the truing up exercise for FY 2006-07.

2.8 Non-tariff Income and Income from Other Business

Shri Samant submitted that under the truing up exercise for FY 2006-07, REL has considered the amount of non-tariff income as Rs. 54.73 Crore, whereas in the Annual Report of REL for FY 2006-07, the non-tariff income is shown as Rs.252.64 Crore. Shri Samant submitted that MERC (Terms and Conditions of Tariff) Regulations, 2005 require REL to disclose the basis of allocation and full details of this other income, whereas REL has considered the allocation as per previous year.

Shri Samant added that the concept of non-tariff income category has been created by the Commission in its Tariff Regulations is contrary to Sections 41 and 51 of the EA 2003, which provide for only 'income from other business'.



REL-D's Response

REL submitted that Other Income relating to the licensed distribution business shown in the Auditors Certificate and the balance "Other Income" is not related to the licensed distribution business and is shown as "Corporate Uncontrollable Adjustment". REL added that the same principle has been used in allocating the expenses to REL-G, REL-T and REL-D to reflect the respective expenses of these businesses. REL also submitted that the income and expenditure have been appropriately allocated to the licensed transmission business, licensed distribution business and REL-G, and therefore, this meets the requirement of the applicable Regulations.

As regards the concept of non-tariff income vis-à-vis income from other business, REL responded that non-tariff income primarily includes income arising from sale of obsolete assets, receipt of insurance claims if any, etc. relating to licensed business, whereas Sections 41 and 51 of the EA 2003 refer to income generated through "Other Business". REL submitted that as per the MERC (General Conditions of Distribution License) Regulations, 2006, "Other Business" is defined as under;

“ “Other Business” means that business of the Distribution licensee other than the Licensed Business, which is undertaken for optimum utilisation of its assets, with prior intimation to the Commission;”

Commission's Ruling

The concept of 'non-tariff income' should not be confused with 'income from other business'. Non-tariff income refers to income from activities that are incidental to the main activity, i.e., generation of electricity in this case, and comprises activities like sale of scrap or obsolete assets, income from investments made in Bank Fixed Deposits, interest on loans given to employees, etc. This non-tariff income is reduced from the revenue requirement, since the revenue is being realised by utilisation of the existing organisational set up, in order to reduce the impact on the consumers. On the other hand, income from other business refers to income from an unrelated business, i.e., activities/businesses that are not regulated by the Commission, but are undertaken to ensure optimum utilisation of the assets.

The Commission had sought the reconciliation between REL's audited accounts vis-à-vis the expenditure and revenue considered in the APR Petition filed by REL-D. REL was directed to submit the reconciliation between the Company's various businesses as well as between REL's generation, transmission and distribution businesses, duly



audited by a Chartered Accountant. REL's submission in this regard was included as a part of the Petition, to ensure wide public dissemination. The Commission has considered this reconciliation statement and the APR Petition filed by REL on affidavit, for the truing up exercise for FY 2006-07.

2.9 Income Tax

Energy Study Group submitted that REL has sought approval for much higher amount of income tax as compared to the income tax approved by the Commission in the Tariff Order.

REL-D's Response

REL replied that the justification for the higher amount of income tax has been elaborated in its Petition.

Commission's Ruling

The Commission had allowed income tax in the Tariff Order for FY 2006-07 in accordance with the philosophy that the consumers of the Mumbai license area should get the benefit of the tax shelter, if any, being derived by the other business ventures, and the consumers of the Mumbai license area should not subsidise the other businesses of REL by way of payment of notional income tax. Hence, in larger public interest, the Commission had ruled that the income tax allowable for REL's licence business in Mumbai, will be a proportion of the actual income tax paid by REL. The income tax liability for FY 2006-07 for REL's Mumbai license area was considered as the average of the actual income tax liability in the previous two years, i.e., Rs. 7.64 crore and Rs. 26.96 crore, which worked out to Rs. 17.30 crore. This tax liability was further apportioned to each business, viz., generation, transmission and distribution, in the proportion of the RoE component, in the absence of any other reference parameter. Thus, the income tax liability of the generation business of REL in FY 2006-07 was estimated as Rs. 4.55 crore.

REL filed an Appeal before the ATE on this issue, and the ATE allowed REL's appeal in this regard, and ruled that the income tax has to be computed on a stand-alone basis for the license area. Accordingly, REL has claimed higher tax liability for FY 2006-07 in its APR Petition under the truing up process. The Commission has recomputed the tax liability for FY 2006-07 and the detailed computation and rationale is given in Section 3 of this Order.



2.10 Sales and Power Purchase

Shri A.R.Bapat submitted that REL has projected expenditure on power purchase from other sources at the rate of Rs. 4.41 per kWh, which is unrealistically low and the difference between the actual cost and the projected cost will be recovered as FAC, which is misleading to the consumers. Moreover, the quantum of power purchase from other sources has been projected to increase in FY 2008-09 over that in FY 2007-08. Further, REL-D has no Power Purchase Agreement (PPA) in place, not even with its own generation business, viz., REL-G. Shri Bapat added that DTGS generation projected for FY 2008-09 is 400 MU lower than actual generation in FY 2006-07, requiring additional power purchase of 500 MU from TPC-G and 700 MU from bilateral sources, which are costlier sources, thus increasing the cost to consumers.

Shri Ohri submitted that the Petition has incorrectly indicated the 5-year CAGR in sales, and the numbers indicated are actually 4-year CAGR figures, when calculated over the period from FY 2006-07 to FY 2002-03.

REL-D's Response

REL submitted that incremental power requirement of REL is primarily met through short term bilateral purchases, which has been projected to increase significantly in FY 2008-09 over FY 2007-08 levels, due to the increase in sales. REL added that REL-G and REL-D being part of the same Company, therefore, there cannot be any Power Purchase Agreement within two arms of the Company, and hence, REL is in the process of formulating a Power Purchase Arrangement between REL-G and REL-D. REL submitted that as per the Commission's directives, FAC chargeable is capped at 10% of the variable cost and balance, if any, is recovered under the trueing up process.

As regards power purchase from TPC-G, REL submitted that it has considered entitlement of 42.85% of TPC-G capacity for FY 2008-09, in accordance with the allocation given by the Commission for FY 2007-08 as stated in TPC-G Tariff Order dated April 2, 2007. REL added that the TPC-G capacity allocated to REL for FY 2006-07 was 40.44% as per TPC-G Tariff Order dated October 3, 2006.

REL regretted the computational error, and admitted that the numbers indicated as 5-year CAGR in sales are actually 4-year CAGR in sales. However, REL submitted that the sales for FY 2007-08 have been projected with reference to actual sales in H1 and H2 of FY 2006-07. REL added that the CAGR indicated in the Forms under



Annexure to the Petition, would not have any impact on the sales forecast for FY 2007-08 and thus, are only referral numbers.

Commission's Ruling

The Commission has assessed the actual sales in FY 2007-08, based on actual sales over the period from April 2007 to February 2008, and has proportionately considered the consumption in March 2008, based on past trend of consumption in that month. The sales for FY 2008-09 have been projected on the basis of the revised sales estimate for FY 2007-08, as elaborated above, considering the past trends in sales. The details of category-wise sales considered by the Commission have been elaborated in Section 4 of this Order.

REL-D's share of TPC-G generation capacity as considered by the Commission, and the related issues, has been elaborated subsequently in the Order. The Commission agrees with the objector that considering the bilateral power purchase rate as Rs. 4.41 per kWh results in underestimating the power purchase cost, and levy of Fuel Adjustment Cost (FAC) Charge from the first month itself. Accordingly, the Commission has considered the average rate of power purchase from bilateral sources as Rs. 5.50 per kWh, which is the average rate of power purchase from such sources in FY 2007-08. Recently, REL has submitted the Power Purchase Arrangement (PPA) between REL-G and REL-D for the Commission's approval, which is under process. For the purpose of this Order, the Commission has considered that 500 MW of REL-G generation capacity is available to REL-D, and the generation quantum has been considered in accordance with the quantum projected in REL-G's Tariff Order in Case No. 64 of 2007, issued on April 20, 2008.

2.11 Capital Expenditure

Shri Ohri submitted that the actual amount incurred on capital expenditure is much lower than the amount approved by the Commission in its Order, which implies that though the amounts were approved and the cost implications passed through to the consumers as tariff, these were actually not incurred by REL-D. Shri Ohri submitted that capital expenditure of Rs.620.16 Crore had been approved by the Commission; however, only Rs. 390.97 Crore has been actually incurred. As a result, REL-D has capitalised a notional amount much higher than that which was actually incurred and consequently, also computed higher Reasonable Return, which in turn has resulted in a higher 'gap', thus charging more tariff to the consumers.



REL-D's Response

REL submitted that the actual capital expenditure incurred is not lower than the capital expenditure approved by the Commission. Further, REL submitted that the amount capitalised would depend on the stage of implementation of various projects.

Commission's Ruling

The determination of ARR and tariff for the ensuing year is based on the capital expenditure and capitalisation projected by the licensee, and the prudence assessment of the same by the Commission, related to approved capital expenditure schemes and phasing of the same. For FY 2007-08, the Commission has considered the actual capitalisation of capital expenditure in the first half of FY 2007-08 and the projected capitalisation of capital expenditure in the second half of FY 2007-08, while undertaking the provisional truing up of capital expenditure related expenditure heads, viz., depreciation, interest, and RoE. The detailed computation is discussed in the relevant Section subsequently in this Order.

2.12 Tariff Slabs

Shri Naveen Shetty submitted that the Commission's Order in Case No.12 and 56 of 2005 dated October 3, 2006 had a large impact on the LT consumer category. The Commission re-categorised consumers with sanctioned load above 15 HP upto 50 HP under LTP-2 category, and introduced a two-part tariff structure for this category. In the MYT Order in Case No.75 of 2006 dated April 24, 2007, consumers with sanctioned load above 26.5 HP upto 50 HP were categorised under the new consumer category LT-IV. Shri. Shetty submitted that the Commission has given directives to the licensees to conduct micro-analysis of the consumer segment and provide accurate data on consumer growth patterns, which has not been done by the licensee till now. Shri. Shetty requested the Commission to categorise the consumers fairly, and determine tariffs such that two-part demand based tariffs are not applicable for LT industrial consumers below the earlier threshold limit of 50 HP.

REL-D's Response

REL submitted that this issue has been addressed in Chapter 3.1 of the APR Petition, wherein the basis for projection of sales and number of consumers for FY 2007-08 and FY 2008-09 has been elaborated.



Commission's Ruling

The issues involved in the categorisation of consumers, and the Commission's decision and rationale for the same, have been elaborated in the Section on Tariff Philosophy, subsequently in this Order.

2.13 Load Factor Incentive/Power Factor Incentive

Shri. Shetty submitted that eligibility for earning load factor incentive has been set unrealistically at 75%, which is not achievable by LT and HT consumers. Shri. Shetty submitted that load factor incentive should be provided from 50% load factor onwards.

SBSSMTA submitted that power factor incentive applicable for LT-4 category should be extended to LT-3 category also. SBSSMTA submitted that LT-3 consumers who maintain power factor above 0.95 deserve the incentives enjoyed by LT-4 consumers. SBSSTMA also submitted that power factor penalty should be abolished for LT-4 consumers, as they pay demand charges.

Shri Tandon and others submitted that it is the responsibility of the distribution licensee to maintain high power factor as auto power factor correction (for power factor improvement) is included in capital expenditure. Further, Shri Tandon and others submitted that the power factor incentive/disincentive cannot be levied without consent of the consumer.

REL-D's Response

REL responded that all corrective actions required are continuously taken by REL to maintain higher power factor. However, it is important to understand that correction of power factor at HT though correct and which improves the system from HT to T<>D interface, if the consumers does not undertake correction of his power factor, then the efficiency of the LT network remains low.

Commission's Ruling

The system of power factor incentive and penalty beyond specified limits has been in vogue for quite some time now in the State, and has yielded good results, and the Commission does not find any rationale for removing the power factor penalty. However, the power factor incentive and penalties have not been extended to LT-3 category, due to the absence of appropriate meters capable of recording the power factor, since these consumers are not billed on the basis of recorded demand. As



regards the modification to the applicability of load factor incentive, the Commission does not find any merit in the suggestion. The objective behind this incentive is not to ensure that some consumer gets the incentive, rather, the objective is to ensure that the load factor of the system is maintained at higher levels, to maximize the utilization of the load, and hence, there will be no benefit in offering load factor incentive for load factor above 50%.

2.14 Security Deposit

Shri Shetty submitted that interest rate of security deposit lying with the licensee should be in line with the prevailing rate of interest.

REL-D's Response

REL has not replied to this objection.

Commission's Ruling

The Commission has considered the interest on security deposit at the levels suggested by REL-D, which are in line with the statutory requirements in this regard. Moreover, the consumers should appreciate that if the interest on consumers' security deposit is increased, then the same will be passed on to the consumers as an expense, and the tariffs will have to be increased further.

2.15 Tariff Increase

Paramount Silk Mills (P) Ltd (PSML), Pravasi Industrial Estate Co-operative Society Ltd. (PIECSL), and others submitted that tariff of LT and HT industries has increased substantially in recent times. The tariff has been increased by around 32% to 55% excluding taxes and duties in October 2006 and April 2007, and further increase will result in closure of operations. Shoppers Stop submitted that the tariff has been proposed to be increased for all tariff categories by 4.19% and increase in tariff is not justified.

Sanghi Oxygen submitted that the tariff of HT consumers should be less than tariff applicable for LT consumers.

ESG submitted that the tariff for REL consumers is higher than that applicable for the same level of consumption in BEST area, even though REL is having own power



generation capacity of 500 MW, while BEST is purchasing its entire power requirement from TPC, which is a costlier source.

Shri Vikas Damodar Pawar submitted that REL licence area has more number of middle class consumers and the tariff of REL is Rs.1.40 per kWh for monthly consumption lower than 100 units, whereas BEST tariff is considerably lower at Rs.0.50 per kWh for monthly consumption lower than 100 units. Shri Pawar requested the Commission to implement tariff of REL same as that of BEST Undertaking for LT-1 consumer category having monthly consumption lower than 100 units, and the revenue gap should be collected in the form of tariff hike to industries, shopping malls and Multiplexes and Hotels, etc.

REL-D's Response

REL-D, in its response, submitted that the Commission decides the consumer categorisation and applicability of tariff from time to time. REL stated that the consumer mix of REL-D and BEST areas are different and REL is having greater percentage of lower end residential consumers. However, Average Billing Rate (ABR) for BEST is Rs. 5.76 per kWh as compared to Rs. 4.96 per kWh for REL.

Commission's Ruling

The Commission has ensured that the tariff for HT industrial and commercial consumers is lower than that applicable to LT industrial and commercial consumers, while determining the category-wise tariffs, as elaborated in the Section on Tariff Philosophy.

The comparison between the category-wise tariffs of different licensees has to be seen in the context of the cost of supply, the consumer mix, consumption mix, current level of cross-subsidy, and other factors.

The cost of supply of different licensees depends upon various factors such as cost of power procured, distribution losses, operational and administrative expenses, capital related expenditure such as depreciation and interest, etc., which is bound to vary between different licensees, due to inherent differences in power purchase mix, availability and cost of own generation, and operational efficiency in controlling distribution losses. The Commission has to determine the category-wise tariffs for different licensees on the basis of the respective cost of supply and consumption mix.



It may be noted that BEST has a significantly higher proportion of commercial consumers and commercial consumption as compared to that of REL, while REL has a higher proportion of residential consumers, which enables BEST to cross-subsidise its domestic consumers at the expense of the commercial consumers to a larger extent, which is not possible to the same extent in REL area. Further, the consumption mix of BEST is more favourable than that of REL, as it has a higher proportion of subsidising consumers, primarily commercial consumption, where the tariffs are higher.

As regards the steep increase in tariffs in the recent past and in this Order, the tariffs have to be determined such that the licensees' costs are recovered through tariffs. The allowable revenue requirement of REL has increased significantly in recent years, over and above the levels originally approved by the Commission, due to various Judgments of the Hon'ble Appellate Tribunal for Electricity (ATE), which have been implemented by the Commission. The details of these Judgments have been elaborated earlier and are not being repeated here.

2.16 Time of Day (TOD) Tariff

Sanghi Oxygen, Shri Shetty and others proposed that ToD rebate should be given for consumption during off-peak hours, to provide incentive to industry for switching to night usage.

SBSSMTA submitted that the ToD charges should be applied on consumption after 2000 hrs.

REL-D's Response

REL submitted that the consumer categorisation and applicability of tariff is decided by the Commission from time to time for implementation by the distribution licensee. Further, REL submitted that in the MSEDCL licensee area the additional ToD charges are applicable for two (2) time blocks in a day, viz., 0900 hrs to 1200 hrs and 1800 hrs to 2200 hrs. and ToD rebate is applicable for one (1) time block, viz., 2200 hrs to 0600 hrs, whereas in the REL Tariff Order, additional ToD charges are applicable for one (1) time block from 1800 hrs to 2200 hrs. REL submitted that ToD rebate in a particular time slot may be made applicable if the Commission feels that it would incentivise shifting of consumption from one time slot to the said time slot. Further, REL requested the Commission to structure the tariff in manner that it keeps REL revenue neutral on account of the same.



Commission's Ruling

The Commission has designed the TOD tariffs in such a manner that it disincentivises consumption during the peak hours in the State, and incentivises shift in consumption from peak hours to off-peak hours, by charging higher tariffs for consumption during peak hours and providing a rebate for consumption during off-peak hours. The details of time-slots and applicable ToD tariffs have been elaborated in the Section on Tariff Philosophy.

2.17 Special Economic Zone (SEZ) Tariff

Seepz Gems & Jewellery Mfrs. Association (SGJMA) submitted that several provisions are stated in Govt. of India SEZ Act, 2005, SEZ Rules 2006 and Maharashtra SEZ Policy 2001 for providing reliable and economical power supply to SEZ units and granting exemption of taxes from the State.

REL-D's Response

REL submitted that exemption from payment of Electricity duty and tax on sale of Electricity is under the preview of Govt. of Maharashtra (GoM) and REL abides by the Rules and Regulations under the applicable Act(s).

Commission's Ruling

The Electricity Act, 2003, from which the Commission draws its powers, does not provide for any special dispensation for SEZs and consumers located within SEZs. The Commission has not created any special tariff category for SEZs and consumers located within SEZs. As regards exemption from payment of Tax on Sale of Electricity (TOSE) and Electricity Duty (ED), the same is not within the purview of the Commission, and is a matter under the jurisdiction of the State Government, which has levied these taxes.

2.18 Metering

Shri Bapat submitted that the distribution loss reduction projected by REL due to changing from electro-mechanical meters to electronic meters is paltry, comprising 5 MU technical loss reduction and 22 MU commercial loss reduction.



REL-D's Response

REL submitted that CEA (Installation and Operation of Meters) Regulations, 2006 requires use of electronic meters. The electronic meters also contribute to the loss reduction as explained by REL in its Petition.

Commission's Ruling

The Commission had initially disapproved the capital expenditure on replacement of electro-mechanical meters with electronic meters, since the electro-mechanical meters were around three years old, and their average life is around 15 years. However, the Honourable ATE, in its Judgment in Appeal 90 of 2007 filed by REL, held that REL should be allowed to replace all the electro-mechanical meters with electronic meters within a time frame of six months. Accordingly, the Commission has considered the capital expenditure on this account, as well as the benefits projected by REL, in terms of reduction in distribution losses, while determining the energy balance for FY 2008-09.

2.19 Distribution Loss and collection efficiency

Shri Bapat submitted that distribution losses have been reduced by 4 % per year by MSEDCL and 2 % per year by BEST. Shri Bapat submitted that REL-D, however, maintains 12 % loss levels, and collection efficiency is also lower in FY 2007-08. Shri Bapat further submitted that the collection efficiency for October and November 2007 is stated to be 106%, and stated that collection efficiency cannot be more than 100%.

Shri Samant, in the context of norms for distribution losses, referred to the Judgment passed by ATE on December 11, 2007, in Appeal No. 90 of 2007 filed by REL against the MYT Order dated April 24, 2007. In the said Judgment, the ATE has observed as regards distribution losses as follows:

“Admittedly loss reduction in distribution system is vital and in the interest of both the licensee and the consumers and, therefore, all efforts need to be made to reduce these losses. We recognize that the Commission is making all sincere efforts to ensure reduction of losses. We find that though specific numbers have been given while setting the target for the losses in three years of the control period, no study has been done either by the Commission or by the licensee while fixing these loss targets.”



Shri Samant submitted that REL has claimed that 65% customers come under the category of non-slum dwellers and 35% are slum dwellers, and claimed the distribution losses in non-slum consumers is less than 1% while losses in slum areas varies between 15% to 70% with an average of 22%. Shri Samant submitted that all these claims are being made without indicating the quantity of electricity consumed by both categories separately. Further, Shri Samant submitted that the actual loss levels of FY 2006-07 should be accepted as base for FY 2007-08, FY 2008-09 and FY 2009-10.

In his rejoinder to REL's reply, Shri Samant submitted that the ATE, in its Judgment, had observed that no study has been done either by the Commission or the licensee while fixing these loss targets. Further, Shri Samant submitted that proper study on the distribution losses as contemplated in the MYT Order should be undertaken by the Commission to arrive at reasonable percentage of losses to be allowed to REL and time bound programme for reduction in distribution losses should be given.

Shri Bapat submitted that REL has stated that the technical loss study report has been submitted to the Commission, and enquired regarding the assessment of technical losses by REL.

REL-D's Response

REL submitted that in the Truing up mechanism, the actual losses of the distribution system have to be taken into account, and the actual losses also form the baseline for the subsequent years.

REL submitted that it has projected reduction in distribution losses from 12.10% in FY 2006-07 to 11.85 % in FY 2007-08. REL further submitted that the collection efficiency may vary between different time periods due to various reasons such as temporary shift in pattern of payment by consumers, increased activity of Authorities such as demolitions and rehabilitation, impact of holidays and consumers preference to pay in installments due to their temporary economic reasons, etc.

REL responded that the technical loss study report submitted to the Commission is not substantially different to the submissions that have been referred in the Commission's Tariff Order Case No.75 of 2006 dated April 24, 2007.

Commission's Ruling

The Commission had initially set a target of distribution loss reduction by 0.5% for FY 2007-08 over the level indicated by REL-D for FY 2006-07 levels, resulting in an



approved loss level of 11.5% for FY 2007-08. In the MYT Order, the Commission further stipulated that the distribution losses should be reduced by 0.5% every year during the Control Period. REL filed an Appeal before the Honourable ATE against the Commission's Order. The ATE, in its Judgment dated December 11, 2007, in Appeal No. 90 of 2007 filed by REL, held that REL could not be directed to reduce the distribution losses further in the absence of any scientific study to assess the same, and REL should be allowed to claim distribution losses of 12.1% till such time a detailed study is conducted to assess the actual level of distribution losses.

The Commission has studied the technical loss study report submitted by REL in the context of assessment of distribution losses in REL-D's distribution system. REL-D has assessed the technical distribution losses as 10.45% based on its in-house study, and has submitted that since the overall distribution losses are 12.10%, the balance losses of 1.65% are commercial losses. The study report submitted by REL-D is very detailed, and the Commission is not in a position to assess the veracity of the findings put out by REL-D's in-house study, in the absence of any study by an independent agency. The Commission may consider appointing an independent agency for assessing the actual level of technical losses and commercial losses in REL-D's distribution system. In the meantime, within two months of issue of this Order, REL-D should submit a break-up of number of consumers residing in slums and the consumption and the number of consumers classified as 'non-slum' areas and their consumption, since REL has submitted that the commercial losses of these two groupings are significantly different.

REL should also submit the basis for the statement made by REL in the proceedings before ATE that 65% customers come under the category of non-slum dwellers and 35% are slum dwellers, and that the distribution losses of non-slum consumers is less than 1% while losses in slum areas varies between 15% to 70% with an average of 22%.

The Commission's detailed analysis of the energy balance of REL-D and the actual distribution losses in FY 2006-07 has been elaborated in Section 4 of this Order. Accordingly, the distribution loss levels considered for FY 2007-08 and FY 2008-09 has also been modified as elaborated in Section 4 of the Order, since the base level in FY 2006-07 has itself been modified on the basis of the actual distribution losses in FY 2006-07, and considering the benefits of certain capital investments being undertaken by REL-D in FY 2007-08 and FY 2008-09.



As regards the computation of collection efficiency, the same is traditionally computed as the ratio of current collection over current billing, where current collection includes collection of arrears, and hence, it is possible that the reported collection efficiency is higher than 100%. In fact, it is a positive sign if the collection efficiency is reported higher than 100%, as it indicates that the arrears are also being collected, and the overall arrears position is improving.

2.20 Reliability Charges

Shri Bapat submitted that there is no increase in energy charges; while a 4.19% increase in Reliability Charges has been proposed, varying between 8 to 36 paise per kWh for most of the categories.

SBSSMTA submitted that the Reliability Charges for LT-4 category, i.e., Rs.0.80 per kWh, should be reduced to Rs.0.45 per kWh as applicable to LT-3 category.

Shri Tandon and others submitted that MERC (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2005 does not support levy of Reliability Charges, Standby Charges and expensive power charges, which are hence, illegal. Further, Shri Tandon and others submitted that the licensee is liable to pay compensation for failure to meet Standards of Performance.

REL-D's Response

REL submitted that it has proposed an increase of 4.19% on the existing tariff as "Regulatory Asset Recovery Charge" and the incremental amount therefore, will depend on the existing tariff.

Commission's Ruling

The Commission has determined the energy charges and reliability charges on the basis of the revenue gap and the consumption mix. The detailed tariff philosophy is given in a separate Section subsequently in this Order. The reliability charges, standby charges and expensive power charges are all different forms of energy charges, and have been identified separately in order to sensitise the consumers that the tariffs are high and increasing due to the dependence on expensive power purchase from other sources, and that it is essential to conserve electricity. The Commission's detailed philosophy in this regard has been elaborated in detail in the Commission's MYT Order for REL.



2.21 Capacity Allocation

BEST submitted that REL-D has considered 42.85 % of TPC-G's generation capacity as capacity allocation under power purchase, on the basis of the Commission's Tariff Order dated April 24, 2007 in Case No.75 of 2006. BEST submitted that the Commission's Order in Case No. 72 of 2006 dated April 2, 2007 for TPC-G, had allocated the share of TPC-G's generation capacity on an interim basis in absence of approved PPA and is valid only for FY 2007-08 and had also clarified that FY 2008-09 onwards the allocation would be on the basis of approved PPA. However, till date, REL has not submitted any PPA for the Commission's approval. Further, BEST submitted that BEST has filed an appeal against this Order of the Commission and the Appellate Tribunal in its interim Order dated May 17, 2007 has mentioned that no parties should claim equities on the basis of the above allocation. BEST stated that the Commission has approved the PPA between BEST and TPC-G for 800 MW capacity and the PPA between TPC-G and TPC-D for 477 MW vide Order dated November 6, 2007 and has mentioned that the same will be applicable from April 1, 2008.

BEST submitted that the percentage share of capacity of TPC-G as considered by REL-D for FY 2008-09 is in contravention with the Commission's Order on TPC-G's ARR for FY 2007-08, ATE's interim Order, the Commission's Order on the PPAs, guidelines enshrined in EA 2003, and the Commission's Regulations. BEST added that while delivering the above Order dated November 6, 2007, on BEST PPA, the Commission has also covered REL-D's Petition on the subject matter in Case No.30 of 2007 and as such the issue of REL's share of TPC's generation capacity vis-à-vis BEST and TPC-D is settled and therefore, it is improper on the part of REL-D to consider the share of TPC-G's generation as per allocation of FY 2007-08 while computing its power purchase expenses for FY 2008-09.

BEST submitted that REL-D has made reference to the Appeal No. 143 of 2007 filed by REL before the ATE against the Commission's Order in Case No. 87 and 88 of 2006 and Case No.30 of 2007 dated November 6, 2007 on BEST's PPA. BEST submitted that REL-D has not succeeded in obtaining any stay on the above mentioned Order of the Commission. BEST requested that the Commission's Order in Case No.87 and 88 of 2006 and Case No.30 of 2007 dated November 6, 2007 should be given full effect as far as the allocation is concerned as per approved PPA.

BEST submitted in its rejoinder that in response to BEST objection, REL has mentioned that, "*the issue raised by the objector in the present matter are sub-judice*". In this context, BEST submitted that the ATE has not given any stay on the Commission's Order on BEST's PPA. BEST further submitted that the Commission's



Order on BEST and TPC-G PPA is effective and allocation of TPC-G's generation capacity and units should be as per PPA approved by the Commission.

BEST stated that REL-D in its reply has referred to “*equitable balance of use of generation capacity of TPC serving the consumer of Mumbai*”. BEST submitted that REL has no contract in place and there is no case of shortage in contracted capacity of REL, and requested the Commission that the plea of REL to the Commission to use powers under Section 23 of EA 2003 does not hold good and is required to be rejected outright.

Shri Tandon and others submitted that REL does not have any PPA as required under EA 2003.

REL-D's Response

REL submitted that issues raised by BEST in the present matter are sub-judice and BEST is a party to the judicial proceedings. REL submitted that without prejudice to REL's rights and contentions in the proceedings before the ATE in Appeal No. 143 of 2007 and Appeal No. 159 of 2007 , REL would like to state that the EA 2003 and NTP clearly indicates that the stakeholders of electricity management, Regulators and Governments shall keep the consumer interest paramount. Further, REL submitted that BEST and TPC have totally overlooked the equitable balance of the use of generation capacity of TPC serving the consumers of Mumbai and unilaterally signed PPA allocating non-equitable capacities. REL also submitted that in addition to this, in the past, conditions were created by TPC whereby potential generation capacity addition by REL was resisted with a statement by TPC in judicial proceedings that TPC would meet the requirement of REL and therefore generation capacity proposed by REL should not be allowed. REL submitted that in its Petition it has already explained the rationale for its contention that the Commission should exercise its power conferred under Section 23 of EA 2003 and allocate the generation capacity in the manner as was done in the MYT Order.

REL responded to Shri Tandon and others that the status of PPA has been already clarified in the Petition.

Commission's Ruling

For the purpose of this Order, the Commission has considered the availability of generation capacity of TPC-G to the three distribution licensees, viz., REL-D, BEST and TPC-D, in accordance with the Power Purchase Agreement (PPA) between TPC-



G and BEST and the Power Purchase Arrangement between TPC-G and TPC-D, as approved by the Commission in its Order dated November 6, 2007 in Case No. 87 and 88 of 2006 and Case No.30 of 2007. The details of the power procurement plan from various sources including TPC-G, the ATE Order on the appeal filed against the Commission's above said Order, and the pending judicial proceedings, have been detailed in the Section on Revenue Requirement for FY 2007-08 and FY 2008-09 subsequently in this Order.

2.22 Consumer Categorisation

SBSSMTA submitted that the sanctioned load of LT-3 category should to be increased from 20 kW to 37.5 kW.

The Association of Hospitals (AH) submitted that charitable hospitals getting supply at LT voltage, must not be classified under LT-1 category, and should be either classified under LT-4 category or a separate classification under LT category at subsidized tariff rate, as the member hospitals are charitable in nature and are 'not for profit' institutions. Further, AH submitted that charitable hospitals under HT supply should be classified under HT-1 category instead of HT-2 category considering the characteristics of the charitable hospitals. A similar submission was made by Holy Spirit Hospital.

Sanghi Oxygen submitted that the Commission should create a separate category for continuous process industry and ensure that the licensees provide reliable and continuous power. Shri Mahesh submitted that there should be a new tariff for continuous process industries, and further, ToD tariff, expensive power charges, and standby charges should not be made applicable for continuous process industry, while night usage should be incentivised.

Shoppers Stop objected to the continuation of LT-9 tariff category for shopping malls and multiplexes.

Vivekanand Educational Society (VES) submitted that educational institutions are presently in LT-1 (Residential) consumer category but the purpose of supply to educational institutions is different in nature to residential supply. Further, VES submitted that bulk of the power supplied is falling in consumption slabs of above 500 units/month, which has a very high tariff. VES requested the Commission to create a sub-category for recognised educational institutions taking into account of



consumption slab. VES also submitted that construction power for educational institutions should also be charged under educational institutional category.

Sidhivinayak Aund Apang Sanstha (SAAS) submitted that REL is charging handicapped operated telephone booths at commercial rate in the suburbs of Mumbai. SAAS requested the Commission that handicapped operated telephone booths in REL area should be charged at residential tariff instead of commercial tariff, in a manner similar to that applicable in BEST licensee area. Several individuals submitted that they are handicapped and are running telephone booths, however, tariff is charged under LT-2 commercial category. They requested the Commission to direct REL to charge such consumers under LT-1 category.

The Gem & Jewellery Export Promotion Council (GJEPC) submitted that the India International Jewellery Show (IIJS) is organized continuously at Bombay Exhibition Centre, NESCO Complex from 2001 onwards except in 2004. However, REL is charging at the rate applicable for temporary power supply, even though REL has setup three permanent sub-stations to supply power for organizing IIJS. GJEPC further submitted that REL has a permanently installed distribution network at NESCO complex, permanent A/C plant installation and GJEPC is taking power from their permanent feeder pillars by laying temporary cables themselves. GJEPC requested the Commission that REL should charge them HT Commercial Tariff for the Exhibition.

Shri Tandon and others submitted that there is no provision in the EA 2003 and Regulations of the Commission for creating separate category for Advertisement & Hoarding or Malls & Multiplexes as these consumers are in commercial category and creation of any new category is illegal.

REL-D's Response

REL-D submitted that the categorization of consumers and the applicability of tariff for the same are governed by the Tariff Order issued by the Commission and the last Tariff Order issued by the Commission for REL consumers is the Order in Case No. 75 of 2006 dated April 24, 2007.

REL-D submitted that LT-7 tariff applicable for temporary supply includes temporary supply for all construction activity, irrespective of the end use. REL replied to GJEPC's objection stating that LT-7 tariff is applicable to consumers requiring Temporary Connections and since GJEPC's requirement for exhibitions is temporary in nature, the LT-7 tariff will be applicable.



Commission's Ruling

The Commission has attempted to ensure that the categorisation of consumers and the applicability of tariffs across different licensees is uniform, though the tariffs are varying, depending on the revenue requirement and consumption mix. The categorisation has been rationalised depending on the historical classification, voltage of supply, and purpose for which electricity is supplied, amongst other aspects. As regards LT-3 categorisation, the Commission has retained the sanctioned load for this category as 0 to 20 kW for all the licensees, and LT-4 category comprises consumers with sanctioned load above 20 kW upto 50 kW. However, in order to provide certain relief to the consumers who have lower load factor, the Commission has significantly reduced the fixed charges and demand charges payable by these categories, and correspondingly increased the consumption related charges such as energy charges, reliability charges, etc., so that the consumers are billed more for their actual consumption rather than the load, and the licensees also have an incentive to ensure that continuous 24 hour supply is given to the consumers.

As regards the proposals regarding charitable hospitals getting supply at LT and HT voltages, the Commission does not find any merit in the suggestion. The suggestion given by the Association of Hospitals appears to be with the sole objective of reducing the applicable tariff, since contrary arguments have been submitted as regards LT and HT consumers. In case of LT consumers, it has been submitted that they should not be classified under residential category and should be classified under industrial category, whereas for HT consumers, it has been suggested that they should not be classified under HT-2, which comprises industrial and commercial consumers, and should be classified under HT-1 category, which is the tariff applicable for Group Housing Societies. The alternative to classification under LT-1 category would be to classify such consumers under LT-2 commercial category, which would result in further tariff increase, and hence, the Commission has not modified the tariff applicability for such consumers. Moreover, the Commission would not like to comment on whether such charitable hospitals are really charitable in nature and 'not for profit' as suggested by the objectors. Similarly, the tariff categorisation of educational institutions has also not been modified, and has been retained under LT-1.

As regards the suggestion that a separate consumer category should be created for continuous supply industries, the Commission has not done so in this Order, since the objective is not to create more and more tariff categories to suit every specific requirement. Further, there are very few such consumers in the Mumbai licence area, and there is no rationale for creation of such a category, since the Mumbai licensees are supplying continuous power to all consumers. Moreover, the Commission has



determined tariffs such that the standby charges and reliability charges are applicable to all consumer categories, except for BPL category and the lower consumption slabs in LT-1 category, where only the standby charges are applicable.

The Commission has modified the applicability of tariff to telephone booths operated by handicapped persons and such booths will henceforth, be charged as per tariffs applicable to the LT-1 residential category.

As regards the issue of applicability of temporary tariff for exhibitions, the Commission is of the view that the applicability has to be seen in accordance with the nature of connection rather than the infrastructure created for the purpose. The GJEPC applies for supply every year at the time of IJS, and the tenure of the supply is limited to the duration of the IJS and to that extent, the supply is temporary in nature, even though REL has developed the distribution infrastructure on the premises in view of the exhibitions being regularly held in the premises. Further, the temporary tariff will be applicable for all construction purposes, irrespective of end-use.

As regards LT-9 tariff applicable for shopping malls and multiplexes, which is a new category introduced in the MYT Order, the Commission has done away with this consumer category and has included such consumers under LT-2 commercial category. However, sub-categories have been created within the LT-2 category, depending on the sanctioned load, to ensure that commercial establishments are charged at the same rate, irrespective of whether they are located within a shopping mall or outside.

2.23 Cost of Supply and cross-subsidy

Spencers' submitted that it is amongst the existing subsidizing class of consumers of REL-D and is concerned with the continuation of the cross-subsidy. Spencers submitted that the tariff should be determined on the basis of the Cost of Supply (CoS). Section 61 of EA 2003 lays down different factors to be considered by the Commission while specifying the terms and conditions for tariff determination. Spencers submitted that cross-subsidy should be progressively reduced as mandated in Clause 5.5.3 of the NEP and Clause 8.3.2 of the NTP.

Shri Tandon and others submitted that the subsidy to BPL consumers should be compensated by Government and should not be given through cross-subsidy. Shri Tandon, Shri. Ohri, and others further submitted that as per NTP, the distribution licensee has to reduce cross-subsidy by 2011 such that the tariffs do not exceed +/-



20% of the average cost of supply, without giving tariff shock to the consumers. However, REL-D has not laid out any roadmap for complying with this guideline of the NTP 2006. The average cost shown in the present Petition is shown to be Rs. 4.50-Rs. 5.15, and yet some of the tariff categories have rates ranging from Rs. 1.00-Rs. 15.34. These are blatant violations of the guidelines laid down by the NTP 2006. Spencers submitted that the Commission's MYT Order dated April 24, 2007 in Case No.75 of 2006 on the determination of the ARR for REL-D for the Control Period from FY 2007-08 to FY 2009-10 and retail tariff for FY 2007-08 had provided for in-built price signals in the tariff as a DSM initiative, which admittedly led to artificial increase in cross-subsidy levels.

Spencers further referred to the observation made by ATE in its Judgment in Appeal No. 146 of 2007 on the Appeal filed Spencer's Retail Ltd. v. Maharashtra Electricity Regulatory Commission and ATE Judgment in the case of SIEL Ltd. v. PSERC. Spencers further submitted that the ATE in its Judgment in Appeal No.146 of 2007 in the matter of Spencers Retail Ltd. v. MERC and Others has disapproved the above approach and held as under:

"We hold that the consumers could be incentivized for adopting DSM measures but cannot be penalized for not doing so with tariff higher than that determined under the provisions of the Act and enforcement of DSM measures is not within the jurisdiction of the Commission. Enforcement of DSM measures for energy conservation is subject to regulation under Energy Conservation Act, 2001, by agencies so designated."

Spencers submitted that the Commission should accordingly discontinue the practice of giving price signals in the tariffs as a measure toward DSM.

Shri Jude G. Tandon and others submitted that as per the provisions of Section 62 (3) of EA 2003, the Commission has powers to differentiate between consumers only on the basis specified as under:

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



Shri Tandon and others submitted that the above stated factors under which the tariff rate can differ from the Cost of Supply (CoS) and all the factors should be examined in detail. Shri Tandon stated the Regulation 5.3 of MERC (Standards of performance of distribution licensees, period for giving supply and determination of compensation) Regulation, 2005 states that the consumer categorisation should be based on classification of installation. Shri Tandon submitted that the tariffs should be higher for supply at lower voltages vis-à-vis tariff for supply at higher voltages, in proportion to the CoS at respective voltages.

REL-D's Response

REL-D in its response submitted that determination of tariff is the prerogative of the Commission and the Commission from time to time decides the consumer categorisation and applicability of tariff. REL responded that.

Commission's Ruling

The Commission is well aware of the need to reduce the cross-subsidies between different consumer categories, and has been successfully reducing the cross-subsidy over successive Tariff Orders. However, in recent times, due to the increase in demand and shortage of generation capacity available to the distribution licensees in Mumbai, the licensees are having to source expensive power from other sources. Hence, in order to sensitise the consumers, the Commission has segregated the reliability charges which comprise the standby charges payable by REL-D to MSEDCL and the expensive power charges required to meet the expenditure on costly power purchase. The Commission has attempted to ensure that the cross-subsidy in the base energy charges is reduced; however, the reliability charges have been applied to most of the categories. However, the revenue gap of REL-D has increased significantly, and even though the Commission has passed on only a portion of the revenue gap to the consumers, which has happened primarily on account of the impact of the ATE Judgments and additional power purchase from costly sources, the tariff increase is quite significant. Due to the higher power purchase from costly external sources in case of REL-D vis-à-vis purchase from cheaper sources in previous years due to reasons explained in detail subsequently in this Order, coupled with the increase in demand, the magnitude of reliability charges has had to be increased significantly. However, the revenue gap has to be recovered through the tariffs, and there is no merit in creating regulatory assets every year, and delaying the recovery of the costs, which only increases the eventual burden, due to the addition of the carrying cost. At the same time, given the huge revenue gap, it has not been feasible to pass on the entire revenue gap in FY 2008-09.



2.24 Data inconsistencies in Petition

Shri Tandon, Shri. Ohri and others submitted that the average number of BPL consumers as per MYT Order dated April 24, 2007 in Case No. 75 of 2006, is 2,89,357 consumers with a consumption of 29 MU/Year whereas actual revenue chart of April 24, 2007 to September 30, 2007 indicates average number of BPL consumer as 31688 consuming 1 MU/month.

Further, Shri Tandon submitted that in the MYT Order the average no. of LT-4 consumers is 3456 consuming 691 MU at 258723 kVA demand, whereas revenue from April 1, 2007 to April 23, 2007 indicates 10665 LT-4 consumers consuming 82 MU at 1873791 kVA demand, revenue from April 24, 2007 to September 30, 2007 show 12768 LT-4 consumers consuming 528 MU at 1873791 kVA and revenue from October 1, 2007 to March 31, 2008 show 13013 consumers consuming 563 MU at 288276 kVA demand. From the above information, it is submitted that demand is fluctuating from 1873791 to 288276 kVA, i.e., 90% fluctuation with marginal difference in units consumed.

Shri Tandon and others submitted that in the MYT Order, number of residential LT-1 consumers is 593926 with consumption of 297 MU, whereas in revenue from April 1, 2007 to April 23, 2007, number of residential LT-1 consumers is 1054041 and in revenue from April 24, 2007 to September 30, 2007 number of residential LT-1 consumers is 994135 with consumption of 908 MU.

Shri. Ohri submitted that on page 88 and 99 of the Annual report of REL for the year ended 31.3.2007 and Exhibit (i) to Annexure F dated 9.1.2008, "Reconciliation of ARR Data submitted to MERC & Annual Accounts" by M/s Chaturvedi & Shah, there is a discrepancy in the figures on sales. Annual Report pg 88 states "Sale of Electrical Energy" is Rs. 3741.79 Crore, whereas the Annual Report, pg 99 states "Gross Earnings from Sale of Electrical Energy" is Rs. 3720.76 Crore and M/s Chaturvedi & Shah's letter states "Sale of Electrical Energy" is Rs. 3610.95 Crore.

Further, Shri Ohri submitted that in Form 1 – ARR Requirement, Summary Sheet and Exhibit (i) to Annexure F dated 9.1.2008, "Reconciliation of ARR Data submitted to MERC & Annual Accounts" by M/s Chaturvedi & Shah, there seems to be some discrepancy in the Expenses. Apparently, the expenses declared in the ARR are higher than those certified by the Auditors, M/s Chaturvedi & Shah.

Shri Tandon also submitted that REL-D does not have the locus standi to submit this Petition without being a licensee/deemed licensee as per EA 2003.



REL-D's Response

REL responded that the error regarding BPL consumers in the MYT Tariff Order has already been communicated to the Commission vide letter dated May 31, 2007.

REL responded that the total billing demand for six months is 18,73,791 kVA during the period April 24, 2007 to September 30, 2007 and 2,88,276 kVA is estimated monthly billing demand which on extrapolation for 6 months would be nearer to the first six month demand of 1873791 kVA.

REL responded that the data relating to revenue stated for the period April to September 2007 represents actuals and therefore, these are correct. However, in number of consumers in view of change of Tariff in between, there has been double counting of some of the consumers, as three-phase consumers were also inadvertently added in the first column of the table, and secondly the period had to be split in two periods within H1 of FY 2007-08, viz., from April 1, 2007 to April 23, 2007 under old tariff and April 24, 2007 to September 30, 2007 under the new tariff which resulted into inadvertently counting of some of the consumers twice.

The information in the matter is as follows:

Category	Slab	As submitted in APR Petition	Revised in view of above comments
LT-1	0-100 Units	1054041	816004
	101-300 Units	1232330	972565
	>= 301 Units	172288	135299
	Three Phase	202101	158698

REL submitted that the inadvertent error is regretted.

REL submitted that the treatment of expenses such as interest, depreciation, etc. for tariff determination differs from the treatment of the same expenses under the Companies Act. REL submitted that all the expenses which do not have differential treatment between Financial Accounting and Regulatory Accounting are same in the certificate issued by the Auditor and the Petition filed by REL.

REL responded that the sales figure shown on Page No.88 of the Annual Report (Rs.3741.79 Crore) includes revenue from sale of electricity and miscellaneous income from Mumbai Business, Goa Business, Samalkot Business and wind farm Business, which all are different Business Units of REL, whereas the figures shown



on Page No. 99 of the Annual Report (Rs. 3720.76 Crore) shows the revenue from sale of electricity (without including Miscellaneous Income) for Mumbai Business, Goa Business, Samalkot Business and Wind Farm Business amounting to Rs.3610.95 Crore and revenue from sale of electricity of its subsidiary BKPL of Rs.109.81 Crore.

REL submitted that the issue of REL status as a distribution licensee has already been dealt with by the Commission in its various Tariff Orders for REL.

Commission's Ruling

As regards the issue of discrepancy in the number of BPL consumers, the Commission confirms that the same had been brought out by REL subsequent to the issue of the MYT Order. Moreover, reporting higher consumption under BPL category leads to understatement of revenue, and it is hence, appropriate that the actual number of BPL consumers and their consumption is correctly represented.

The Commission has accepted REL's explanation on the discrepancies highlighted by the objectors. However, as regards the computational mistakes, REL is directed to ensure that such mistakes do not occur in future Petitions, so that the Petition that is published has all the correct data and is complete. Further, in places where the expenses and revenue indicated in the Petition do not match with the expenses and revenue reported in the Annual Accounts, REL should ensure that a reconciliation statement is enclosed and explanation provided for the difference, which may be on account of difference in accounting treatment.

As regards the status of REL's distribution licence, the Commission has ruled in the past in this regard, and there is no need to repeat the same in this Order.

2.25 Non-Compliance with Commission's Directives

Shri Samant submitted that the Commission has given several directives to REL-D, which have not been complied with by REL, which have adversely affecting the interest of consumers. Some of the directives are replacement of the old meter system, detailed study of the technical losses in the system and entering into PPA with TPC-G within three months of the Order dated December 9, 2005.

Shri Samant, in his rejoinder, submitted that the Commission should ensure that all the directives given in the MYT Order for the Control Period from FY 2007-08 to FY



2009-10 are complied with by REL within a specific time period. Further, Shri Samant requested the Commission that in case of failure to comply with its Order/directives, the Commission should take penal action against REL under Section 146 of the EA 2003.

REL-D's Response

As regards meter replacement, REL submitted that it has submitted proposals for the same, which have been approved by the Commission, from time to time. In addition, REL has also replaced defective and faulty meters after identification of the same.

REL submitted that it has submitted the technical loss assessment study report to the Commission. Further, REL has explained in its Petition the reasons due to which, REL could not execute PPA with TPC-G. REL submitted that the matter is subjudice and is pending before the ATE.

Commission's Ruling

The Commission's views on the technical loss assessment study and the meter replacement issue have already been elaborated in this Section. As regards the Power Purchase Agreement between TPC-G and REL-D, the ATE has given its Judgment, which has however, been stayed by the Honourable Supreme Court. The Power Purchase Arrangement between REL-D and REL-G is under consideration of the Commission and will be decided upon after following the due regulatory process.

2.26 Cash Management Service

Shri Ohri submitted that REL, in its Petition, has stated that the consumers are required to bear the brunt of any increase in the collection charges by the bankers of REL-D. Shri Ohri submitted that this is a facility that REL-D has obtained to ensure that they get their payments faster, and should not unnecessarily be passed on to the consumers through tariff increase.

REL-D's Response

REL-D responded that cash management service (CMS) is a service provided by the Bank for collecting the cash and cheques deposited at various collection points of REL and depositing the same in REL's account with the Bank. The service provided under this mitigates REL's cash transit risk, since this risk is borne by the Bank providing the CMS.



Commission's Ruling

In a cost-plus scenario, such expenses incurred by the distribution licensee will qualify under business expenses, and have to be passed on to the consumers, through the ARR and eventually tariff.

2.27 Regulatory Asset Charge

Shri Ohri submitted that REL has proposed a new charge called 'Regulatory Asset Charge' under the proposed tariffs. Shri. Ohri submitted that the heads under which electricity companies can recover charges from the consumer cannot be increased all the time. All allowable charges have already been pre-defined by the Indian Electricity Rules, 1956, which has not yet been repealed and the Commission has no power to supersede these.

REL-D's Response

REL responded that under Section 185 of EA 2003, the continuance of the Indian Electricity Rules, 1956 is with reference to Section 53 of the EA 2003, which relates to provisions relating to Safety and Electricity Supply and is therefore, not related to tariff. Further, REL submitted that the Commission has already framed MERC (Terms and Conditions of Tariff) Regulations, 2005 under EA 2003 relating to tariff determination.

Commission's Ruling

The Commission is in agreement with the reply submitted by REL, as the objector has quoted Sections of the EA 2003, which are not relevant in the present context. However, the Commission agrees that to the extent possible, the number of heads under which, the tariff should be charged to the consumers, should be minimised, in order to avoid confusion in the minds of the consumers. However, there is a merit in creating separate heads, as done by the Commission in the past, in instances like the Additional Energy Charges, Reliability Charges, etc., when the objective was to sensitise consumers regarding the incidence of the additional expenses and hence, charges. In this Order, the Commission has not created a separate charge called the 'Regulatory Asset Recovery Charge' and has retained the existing heads under which the tariff is levied.



2.28 New category – Metro Tariff

Shri Ohri, Shri. Samant, and others submitted that REL-D has asked for approval for charging tariffs for this new category of consumer, but has not indicated the amount of revenue that will be generated through sales to this category. It is obvious that a handsome amount will be collected from this category, which has not been declared by REL-D, which may be because the consumer covered under the proposed consumer category is the Mumbai Metro rail project, which is a sister concern of REL-D. Shri Ohri added that it is unfair to have a separate category only for this consumer, and this consumer should be classified in line with the rest of the consumers, based on categorisation laid down as per the existing laws.

REL-D's Response

REL submitted that it has already clarified in the Petition that REL is yet to receive any application for the power requirement from Mumbai Metro. Further, the tariff proposed by REL for this category is the same as is applicable for Mumbai's Suburban railways.

Commission's Ruling

The Commission is of the view that it is premature at this stage to determine any tariff for this consumer, including discussing whether a separate category should be created for this consumer, or otherwise, etc.

Also, for supply during the construction period of Mumbai Metro, REL-D has already clarified in Para 2.22 that LT-7 tariff applicable for temporary supply includes temporary supply for all construction activity, irrespective of the end use, which has been accepted by the Commission.



3 TRUING UP OF ANNUAL REVENUE REQUIREMENT FOR FY 2006-07

REL, in its Petition for Annual Performance Review for FY 2007-08 and determination of revised revenue requirement for FY 2008-09 has included a section on final truing up of expenditure and revenue for FY 2006-07 based on actual expenditure and revenue for FY 2006-07 as per audited accounts. REL provided the comparison of actual revenue and expenditure against each head with the revenue and expenditure approved by the Commission along with the reasons for deviations and also proposed the sharing of the efficiency gain/loss for each head of expenses and revenue, as applicable.

REL submitted that in the Tariff Order for FY 2006-07, the Commission also dealt with the truing up of cost and revenues for FY 2004-05 and FY 2005-06, against which REL filed a statutory Appeal in the Appellate Tribunal for Electricity (ATE) on various issues relating to operating parameters and costs.

REL submitted that in its Petition, it has considered truing up for FY 2006-07 in accordance with the ATE Judgment dated April 4, 2007 in Appeal No. 251 of 2006. REL submitted that the efficiency gains on account of actual performance of controllable factors being better than the norms have been proposed to be shared as per Regulation 19 of MERC Tariff Regulations.

In this Section, the Commission has analysed all the elements of actual revenue and expenses for FY 2006-07, and has carried out the truing up of expenses and revenue after prudence check. Further, the Commission had stipulated in its Order dated October 3, 2006 that the gains and losses on account of controllable and uncontrollable factors will be shared between the Utility and the consumers at the time of truing up of ARR in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

3.1 Sales

REL submitted the month-wise actual category-wise sales in the Formats annexed to the APR Petition, and also submitted the summary of actual sales in the two halves of the financial year, as follows:



Table: REL-D's Actual Sales in FY 2006-07 (MU)

Sl.	Particulars	Tariff Order	Actuals		
			H1	H2	Total
1	Sales	7238	3815	3638	7453

The actual sales have been higher than the sales considered in the Tariff Order, by 215 MU. The Commission has considered the actual sales under the truing up process.

3.2 Distribution Losses and Energy Input Requirement

In the Tariff Order for FY 2006-07, the Commission observed that REL in its proposals submitted for approval of Capital Expenditure schemes has indicated a loss reduction of around 109 MU in FY 2004-05 and 34 MU in FY 2005-06, thus aggregating to total loss reduction of around 1.5% over the actual loss level of FY 2003-04. Considering the actual loss reduction achieved during FY 2004-05 and FY 2005-06 and loss reduction indicated by REL alongwith Capital Expenditure Schemes, the Commission approved the target of 0.5% distribution loss reduction to be achieved during FY 2006-07, and approved the Distribution loss level for FY 2006-07 as 11.52%.

In the APR Petition, REL has submitted that the actual distribution losses in FY 2006-07 were 12.10%, which should be allowed, in line with the ATE's Judgment on the Appeal filed by REL.

In the Tariff Order dated October 3, 2006, the Commission had determined the Energy Input requirement, by grossing up the sales with the approved distribution losses and the intra-State transmission losses of 4.85%. However, since the intra-State transmission losses and tariff and the power purchase from TPC-G directly (rather than bulk purchase from TPC), and the interim balancing and settlement code in the State was implemented with effect from October 1, 2006, the energy input requirement to be considered under the truing up exercise has also be considered separately for the two halves of the year. Accordingly, REL-D was asked to submit the data for the two halves of the year separately, after taking into consideration the SLDC Settlement for H2 of FY 2006-07. However, REL has not filled in the Table completely, and has derived certain numbers, and left some cells blank, as shown below:



Table: Energy Input of REL-D for FY 2006-07 (as submitted by REL-D)

Particulars	Unit	Order	Actuals		
			H1	H2	Total
Total Sales	MU	7238	3815	3638	7453
Distribution Losses	MU	942			
Distribution Losses	%	11.52%		11.53%	12.1%
Energy Input to Distribution System	MU	8180		4112	8479
Intra-State Transmission System Losses	%	4.85%	**	5.25%	2.11%
Intra-State Transmission System Losses	MU	417			
Energy Input Required	MU	8597	4322	4340	8662
Power Purchase Quantum	MU	8597	4322	4340	8662

Note: shaded cells have been left blank by REL-D

** - REL submitted that “transmission losses cannot be segregated into H1 and H2 separately since for H1, principle of Transmission Pricing Framework was not applicable. Actual transmission loss for FY 2006-07 is approximately 2.11%. Since H2 transmission loss (higher than actuals) is based on principle of Transmission Pricing Framework, for H1, Transmission Loss will be negative. Hence, segregation will lead to distorted figures.”

Since the total losses (distribution and transmission combined) can be computed as the difference between the actual sales and the power purchase quantum, the Commission has completed the above table for the two halves of the year, in order to assess the total losses and the break-up of transmission and distribution losses for the same period, as shown in the Table below:

Table: Energy Input of REL-D for FY 2006-07 (as computed by the Commission)

Particulars	Unit	Order	Actuals					
			H1		H2		Total	
			REL	Commission	REL	Commission	REL	Commission
Total Sales	MU	7238	3815	3,815	3,638	3,639	7,453	7453
Distribution Losses	MU	942		425		474		899
Distribution Losses	%	11.52%		10.03%	11.53%	11.53%	12.10%	10.77%
Energy Input to Distribution System	MU	8180		4240	4112	4113	8479	8353
Intra-State Transmission System Losses	%	4.85%	**	1.90%	5.25%	5.25%	2.11%	3.57%
Intra-State Transmission System Losses	MU	417		82		227		309
Energy Input	MU	8597	4322	4322	4340	4341	8662	8662



Particulars	Unit	Order	Actuals						
			H1		H2		Total		
			REL	Commission	REL	Commission	REL	Commission	
Required									
Power Purchase Quantum	MU	8597	4322	4322	4340	4340	8662	8662	

The above analysis clearly shows that the actual distribution losses in REL-D's system are significantly lower than the levels being claimed by REL-D. REL has accepted the distribution losses and transmission losses considered for the energy settlement for the second half since all the energy interchange points are metered. However, REL has submitted that for the first half, the break-up of transmission and distribution losses can be misleading. Since the distribution losses were working out to be significantly lower than the levels indicated by REL-D, REL-D was asked to confirm that the above computations were correct, and that there was no other explanation.

In reply, REL-D submitted that for H1 of FY 2006-07, the energy balance should be based on the actual units received from respective Generating plants at T<>D Interface. Accordingly, the difference between ex-bus DTPS generation and T<>D interface of Aarey, Ghodbundar and Versova [after adjusting for 220 kV line procurement from TPC] will reflect transmission losses of only those units which are procured from DTPS. As such, for energy at T<>D Interface from DTPS, the transmission loss will be at 1.85% and it is difficult for REL to compute transmission losses for units received from TPC. Thus, it would be grossly inaccurate to apply transmission loss of 1.9% on entire T<>D interface, since 2009 MU are ex-bus DTPS units whereas 2313 MU are units procured from TPC at 22-33 kV and 220 kV tie line. The Energy Balance submitted for H1 of FY 2006-07 by REL-D is given below:

Particulars	Unit	DTPS	TPC	Total (H1)
Total Sales	MU			3815
Distribution Losses	MU			470
Distribution Losses	%			12.32%
Energy Input to Distribution System	MU	1972	2313	4285
Intra-State Transmission System Losses	%	1.85%		
Intra-State Transmission System Losses	MU	37		37
Energy Input Required	MU	2009	2313	4322
Power Purchase Quantum	MU	2009	2313	4322



However, REL-D has erroneously computed the distribution loss in the above computation, as the distribution loss has been computed as a % of sales, rather than the energy input to the distribution system. The Commission has accepted REL-D's explanation of the issue of applicability of transmission losses to the energy procured from TPC, and has recomputed the energy balance for FY 2006-07 as shown in the Table below:

Particulars	Unit	Order	Actuals					
			H1		H2		Total	
			REL	Commission	REL	Commission	REL	Commission
Total Sales	MU	7,238	3,815	3,815	3,638	3,639	7,453	7,453
Distribution Losses	MU	942	470	470	474	474	944	945
Distribution Losses	%	11.52%	10.97%	10.98%	11.53%	11.53%	11.24%	11.25%
Energy Input to Distribution System	MU	8180	4285	4285	4112	4113	8397	8398
Intra-State Transmission System Losses	%	4.85%	0.86%	0.86%	5.25%	5.25%	3.06%	3.05%
Intra-State Transmission System Losses	MU	417	37	37	228	227	265	264
Energy Input Required	MU	8597	4322	4322	4340	4341	8662	8662
Power Purchase Quantum	MU	8597	4322	4322	4340	4340	8662	8662

The revised computation for FY 2006-07 indicates a distribution loss of 11.25%, as compared to the loss level of 12.1% indicated by REL-D. As regards the distribution losses to be considered for FY 2006-07 and the ATE Judgement referred to in REL's Petition, the Commission is of the view that the ATE Judgment cannot be interpreted to mean that the distribution losses should be allowed at 12.10%, even if the actual losses are 11.25%. ATE has only stated that the actual losses should be allowed. The Commission has hence, considered the distribution losses for FY 2006-07, under the truing up exercise, as 11.25%, as compared to the 12.10% considered by REL. However, there is no adverse implication on REL, since the actual power purchase quantum and cost is being allowed in toto, and in fact, REL-D is entitled to an incentive on account of the lower than normative losses of 11.52% in FY 2006-07, which has been considered under the mechanism of sharing of gains on account of controllable factors.



3.3 Power Purchase quantum and Cost for FY 2006-07

The Commission, in its Order dated October 3, 2006 on REL's ARR and Tariff Petition for FY 2006-07, approved the total quantum of power purchase of 8597 MU from REL-G, Tata Power Company (TPC)-Generation Business, RPS and short term power purchase. However, the actual quantum of power purchased by REL from various sources during FY 2006-07 as submitted in APR Petition, is slightly higher at 8643 MU.

The Commission, in its Order on REL's ARR and Tariff Petition for FY 2006-07, had allowed total power purchase costs of Rs 2231.40 Crore, excluding standby charge. The actual power purchase cost for FY 2006-07 as submitted by REL in its APR Petition is Rs 2193.10 Crore.

REL, in its Petition, submitted that the requirement of Mumbai Discoms (REL-D, TPC-D and BEST) was higher than the availability from REL-G and TPC-G and the shortage was met through purchase of power under bilateral contracts to make continuous power available to the consumers. The net demand of Mumbai Discoms, which includes REL-D requirement after reducing the availability from REL-G and TPC-G, was met by procurement of power through TPC-D as short-term power. REL further submitted that no power purchase was made against RPS obligation during FY 2006-07, due to non-availability of renewable energy as against the specified RPS percentage of 3% of the Energy Input. REL-D further submitted that the balance power requirement after sourcing from REL-G, TPC-G and short term bilateral contracts was met through imbalance pool settlement undertaken by SLDC.

For FY 2006-07, the Commission has considered the actual quantum of power purchase by REL-D from DTPS, TPC and other sources, for truing up purposes. As regards purchase from REL-G during FY 2006-07, the Commission has considered the net energy available and cost of power purchase from REL-G for FY 2006-07 in accordance with the Commission's Order dated April 21, 2008 in Case No. 65 of 2007 in the matter of Reliance Energy Ltd. Generation Business's Annual Performance Review for FY 2007-08 and Tariff Petition for FY 2008-09. Accordingly, the Commission has considered a total quantum of 4118 MU and total cost of Rs 828.16 Crore for purchase from REL-G for FY 2006-07.

The Commission has also validated the actual power purchase cost of REL from generating stations of TPC for FY 2006-07 with the details of revenue break-up submitted by TPC in its APR for FY 2007-08 and ARR and Tariff Petition for FY 2008-09 and observed that TPC has shown a different value as revenue from REL



during FY 2006-07. A similar difference was observed between the value shown by BEST for power purchase from TPC in its APR Petition and revenue shown by TPC from sale to BEST in its APR Petition. In order to reconcile the power purchase quantum and cost amongst the Mumbai Distribution Licensees for FY 2006-07, the Commission convened a common meeting between representatives of the three distribution licensees of Mumbai and Maharashtra State Load Despatch Centre on April 30, 2008. During the meeting it was confirmed by TPC, REL-D and BEST that they have not considered the impact of the SLDC's final energy balance statement for FY 2006-07 dated September 13, 2007 in their respective workings. In the said meeting, it was agreed by all the three distribution licensees that the truing up of power purchase quantum and cost and revenue towards bilateral sale by Distribution Licensees and revenue to TPC for FY 2006-07 should be considered based on SLDC's final energy balance statement dated September 13, 2007. Subsequently, all the three distribution licensees submitted the jointly reconciled statements for power purchase quantum and cost for FY 2006-07 considering the impact of the SLDC's final energy balance statement.

Therefore, the Commission has considered the revised energy availability and costs thereof for FY 2006-07 for purchase of energy from generating stations of TPC, bilateral sources, imbalance pool and additional sales to MSEDCL for truing up purposes. The summary of the purchase of power by REL-D from various sources considering the impact of SLDC's final settlement is shown in the Table below:

Table: Summary of Power Purchase Expenses from different sources

Source	Quantum (MU)	Total Cost (Rs Crore)
Purchase from TPC-G	4408.12	1243.33
Purchase from Bilateral sources	65.64	40.77
Purchase through UI	93.20	65.41
Sales to MSEDCL	-23.34	-26.75
Total	4543.62	1322.77

The Commission, in its Order on ARR and Tariff Petition for FY 2006-07, considered the standby charge of Rs 202.60 Crore payable by REL to MSEDCL in proportion to the average non-coincident peak demand of the Distribution licensees in Mumbai system during FY 2005-06. The actual standby charge included by REL-D in its Petition as part of the total purchase costs for FY 2006-07 is Rs 101.30 Crore for second half of FY 2006-07 as the Order was made effective from October 1, 2006 and



the Commission has accepted the same for second half of FY 2006-07. The Commission has also considered the standby charges paid to TPC in the first half of FY 2006-07 by REL-D under the power purchase expenses for purchase from TPC as the same was recovered through bulk supply tariff levied during that period.

REL has not procured any power from renewable sources as stipulated under the RPS framework. The Commission in its Order in the matter of long term development of renewable energy sources and associated regulatory (RPS) framework dated August 16, 2006 while stipulating the enforcement of the RPS framework vide Para 3.1.9 stipulated as follows:

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

Accordingly, the Commission has not imposed any charge towards enforcement of RPS framework for FY 2006-07. However, the Commission directs REL-D to expedite its activities to procure power from possible renewable sources to meet the targets as specified by the Commission for FY 2008-09 in this Order.

As regards transmission charges payable during FY 2006-07, REL submitted that the Order dated September 29, 2006 in the matter of determination of Intra-State Transmission Tariff introduced the mechanism of pooling of transmission cost of all the Transmission Utilities, i.e., REL-T, MSETCL and TPC-T which was made applicable from October 2006 onwards. The Commission has considered the transmission charges paid during second half of FY 2006-07 as per the Order dated September 29, 2006 in the matter of determination of Intra State Transmission Tariff and accordingly has considered an amount of Rs 109.02 Crore for FY 2006-07.



The summary of power purchase quantum and costs including standby charges and transmission tariff for FY 2006-07 is given in the following Table:

Table: Summary of Power Purchase Quantum and Costs for FY 2006-07

S.No	Source	Tariff Order		APR Petition		Allowed after truing up	
		Quantum	Total Cost	Quantum	Total Cost	Quantum	Total Cost
		MU	Rs Crore	MU	Rs Crore	MU	Rs Crore
1	REL-G	3856	707.00	4118	829.13	4118	828.16
2	TPC-G	3982	1218.22	4365	1317.24	4408	1243.33
3	TPC-D	501	221.07	61	26.76	66	40.77
4	RPS	258	85.11	0	0.00	0	0.00
5	Other Sources (UI)	0	0.00	28	19.97	93	65.41
6	Standby Charges	0	202.60	0	101.30	0	101.30
7	Transmission Charges	0	170.70	0	109.02	0	109.02
8	Sale to MSEDCL	0	0.00	70	65.00	-23	-26.75
	Total	8597	2604.70	8642	2468.42	8662	2361.25

It should be noted that the actual rate of power purchased by TPC-D on behalf of the licensees has been higher than that considered by the Commission in the Order, and since this is actual cost incurred by REL-D, the same has been allowed.

3.4 O&M Expenses

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

3.4.1 Employee Expenses

REL submitted that the total actual employee expenses for FY 2006-07 was Rs 224.70 Crore against the Rs 162.33 Crore approved by the Commission in the Tariff Order. REL submitted that the actual permitted expenditure for FY 2006-07 should be Rs. 193.09 crore (7.5% over the actual expenses of Rs. 179.62 crore in FY 2005-06,



which has been accepted by the Commission, consequent to the ATE Judgment in this regard). REL submitted that the primary reasons for deviation from this revised allowable level of expenditure were due to provisioning made towards wage revision, change in Dearness Allowance (DA) and higher actual terminal benefits than that approved by the Commission. Dearness Allowances (DA) is dependent on the movement of the DA index, which is dependent on the directives issues by the Government agencies. Further, the revision in wages is an outcome of negotiation with the Union and other stakeholders, which have consequential impact on various other components of wages.

REL-D requested the Commission to approve the amount of Rs. 22.25 Crore provided for during FY 2006-07, as per audited financial accounts, towards wage revision. As regards terminal benefits, such as Provident Fund, Superannuation and Gratuity, REL submitted that there has been a compounding impact on accrued liability due to wage revision and REL-D incurred additional expenditure of Rs. 8.50 Crore during FY 2006-07. REL-D requested the Commission to allow these statutory and obligatory payments (which are linked to the basic salary) on the basis of the actual expenses.

The Commission has obtained the actual employee expenses for FY 2006-07 under various heads and analysed the increase in expenses for FY 2006-07 over actual expenses in FY 2005-06. The Commission also obtained the actual expenses under various sub-heads of employee expenses for FY 2004-05 and FY 2005-06 from REL. The Commission also obtained the copy of the Wage Agreement signed between REL and its employees, since in a cost-plus scenario, all such costs impact the consumers. Considering the details of actual employee expenses and reasons submitted by REL for increase in employee expenses, the Commission has accepted the actual employee expenses for FY 2006-07 under the truing up exercise. The summary of the employee expenses approved by the Commission under the truing up exercise has been shown in the following Table:

Table: Employee Expenses (Rs Crore)

Particulars	Tariff Order	Actuals	Allowed after truing up
Gross Employee Expenses	162.33	232.15	232.15
Less: Expenses capitalized	0.00	7.45	7.45
Net Employee Expenses	162.33	224.70	224.70

3.4.2 A&G Expenses

REL submitted that the actual A&G expenses in FY 2006-07 were Rs 96.25 Crore as against Rs 63.10 Crore approved by the Commission.



REL submitted that the Commission in its Order dated October 03, 2006 had allowed Rs. 76.48 Crore for FY 2005-06 as compared to the actual expenditure of Rs. 101.64 Crore incurred by REL on a combined basis for its G, T and D Businesses. REL appealed to the ATE against this Order. The ATE upheld REL's appeal regarding the allowance of actual A&G Expenses. Para 25 of the ATE Judgment is reproduced below:

“Concedingly, under the Sixth Schedule, Clause XVII of the Electricity (Supply) Act 1948 “any expenditure properly incurred” on the distribution and sale of energy by the licensee is to be permitted. In the absence of any norms specified by the Commission, merely allowing 3.3% (being the CAGR) is not correct as this does not factor inflation which has to be necessarily taken into account and can not be ignored. We are inclined to accept the contentions of the appellant and, therefore, allow the appeal in respect of A&G expenses for FY 2004-05 and FY 2005-06”.

Accordingly, REL submitted that the base for calculation of A&G expenses for FY 2006-07 has changed from Rs.76.48 Crore (trued up for FY 2005-06 for all functions of REL) to Rs. 101.64 Crore (actual allowed as per ATE Judgment). REL submitted that the allowable A&G expenses for REL-D for FY 2005-06, thus works out to Rs. 81.95 Crore, and considering an increase of 7.5%, the allowable A&G expense for FY 2006-07 works out to Rs. 84.65 crore.

REL-D submitted that in addition, REL-D has incurred expenditure of Rs. 5.92 Crore on account of '24X7' Energy help line, Rs. 5.87 Crore against 'Data centre charges' and Rs. 4.82 Crore towards increase in bank charges, which are the main reasons for increase in A&G expenses. Administration & General (A&G) expenditure also comprises a number of services (security, transport, communication, etc.), the cost of which is dependent on various external factors. REL-D submitted that, in the light of ATE Judgment dated April 4, 2007, the actual A&G expenses should be allowed during truing up.

The Commission observed that the 'contribution/donations' sub-head under A&G expenses includes an expense of Rs 0.62 Crore as against the actual expenses of Rs 0.05 Crore in FY 2005-06. The Commission asked REL to submit the basis and need for this expense, and also to provide the rationale for including this expense as recoverable from consumers. REL, in its reply, submitted that it incurred expenditure towards community development, social welfare and environmental activities such as maintenance of parks, plantation and maintenance of nursery and horticulture activities, environmental monitoring, etc., The Commission is of the view that if the company or the shareholders of the company wish to contribute/donate towards



charitable causes and community development, the same should be contributed from the return earned out of the business, rather than passed on to the Utility's consumers. Hence, for truing up purposes for FY 2006-07, the Commission has not considered the expense of Rs 0.62 Crore.

Considering the details of actual A&G expenses, reasons submitted by REL for increase in A&G expenses, and the ATE Judgment in this regard, the Commission has allowed the remaining actual A&G expenses for FY 2006-07 under the truing up exercise. The summary of A&G expenses approved in the Order, actual A&G expenses and A&G expenses approved after truing up for FY 2006-07 has been shown in the following Table:

Table: A&G Expenses **(Rs Crore)**

Particular	Tariff Order	Actuals	Allowed after truing up
A&G Expenses	63.10	96.25	95.63

3.4.3 R&M Expenses

REL submitted that the actual R&M expenses of Rs 103 Crore for FY 2006-07, as compared to the R&M expenses of Rs. 69.95 Crore approved by the Commission in its Tariff Order dated October 3, 2006. REL submitted that the Commission has stated in its Counter Affidavit before the ATE in the matter of REL appeal No. 251 of 2006, that it would consider the actual R&M incurred during FY 2006-07 subject to prudence of the expenditure, during the truing up process.

Accordingly, ATE, in its Judgment dated April 4, 2007, held as under (Para 38 & 39):

“38. Commission clarified that all these amounts in respect of Repairs and Maintenance for Generation, Transmission and Distribution are only projections, which will be considered at the time of truing up of the expenses, subject to prudence of the expenditure. We do not find anything wrong in this approach of the respondent Commission”.

“39. We do not find anything wrong in this approach of the respondent Commission...”

REL submitted that the actual expenditure allowed by the Commission for FY 2005-06, in the light of the ATE Judgment, is Rs. 88 crore (after reducing Rs. 42 crore of extra-ordinary expenditure). REL submitted that the increase of Rs. 15 crore in FY 2006-07 is attributable to the additional works undertaken in view of the large-scale widening of the roads being undertaken by MMRDA and full-year impact of increase in Reinstatement (RI) charges, effective October 2005. REL submitted that there has



been around 130% increase in the RI charges with respect to the RI charges payable in FY 2004-05. Further, service tax is also being levied on the RI charges.

As the Commission is undertaking the truing up of expenses for FY 2006-07 based on actual expenses subject to prudence check, and in accordance with the ATE Judgment, the Commission has considered actual R&M expenses of Rs 103.33 Crore for FY 2006-07. However, the Commission is very concerned about the high level of R&M expenses being incurred by REL, which amounts to around 5.4% of the opening GFA, which is very high. REL should take immediate steps to rationalise the R&M expenses. The summary of R&M expenses approved in the Order, actual R&M expenses and R&M expenses approved after truing up for FY 2006-07 has been shown in the following Table:

Table: R&M Expenses (Rs Crore)

Particular	Tariff Order	Actuals	Allowed after truing up
R&M Expenses	69.95	103.33	103.33

3.5 Depreciation

The Commission, in its Tariff Order dated October 3, 2006, had allowed depreciation to the extent of Rs 72.84 Crore for FY 2006-07, which amounts to 3.78% of Opening level of Gross Fixed Assets (GFA) of REL-D for FY 2006-07, which was stated at Rs 1984.89 Crore. The depreciation rates were considered as prescribed under MERC (Terms and Conditions of Tariff) Regulations, 2005. REL, in its APR Petition, submitted that the actual depreciation expense incurred in FY 2006-07 was Rs 64.66 Crore, (comprising wire related depreciation expense at Rs 48.37 Crore and supply related depreciation expense at Rs 16.29 Crore) at an overall depreciation rate of 3.36% corresponding to opening GFA of Rs 1923.72 Crore (comprising wire related Op. GFA at Rs 1578.63 Crore and supply related Op. GFA at Rs 345.09 Crore).

The Commission examined the depreciation and actual capitalisation claimed by REL in detail as against the various capex schemes approved by the Commission. The Commission observed that the actual Opening level of GFA for FY 2006-07 amounts to Rs 1923.72 Crore as against Rs 1984.89 Crore considered by the Commission in its Tariff Order, and sought clarification from REL in order to reconcile Opening GFA for its generation, transmission and distribution business with its audited financial statements for FY 2006-07. Accordingly, REL furnished reconciled Statement of Opening GFA for its three businesses, which indicate Opening GFA for distribution business as Rs 1923.72 Crore. Accordingly, for the purposes of true-up exercise for FY 2006-07, the Commission has considered opening GFA for REL's distribution business at Rs 1923.72 Crore as claimed by REL, as per its audited accounts. The



Commission has also considered Op. GFA for wire related and supply related components as indicated by REL-D.

Further, the Commission notes that as against permitted capitalisation of Rs 299.45 Crore in its Tariff Order for FY 2006-07, actual capitalisation by REL-D during FY 2006-07 amounted to Rs 455.61 Crore. REL submitted that capex schemes comprise DPR related schemes worth Rs 354.26 Crore for which in-principle approval is already in place and non-DPR related schemes worth Rs 101.35 Crore. The Commission has verified the actual capitalisation claimed by REL-D as against the capex schemes already approved by the Commission. REL has submitted that non-DPR related schemes comprise capacitors (HT & LT), street lights, switchgears, instruments, other tools & tackles, computers/printers/other IT related capex, and Buildings.

While the Commission has considered the capitalisation of the non-DPR related capex schemes as claimed by REL-D, based on audited financial statements, the Commission observes that the increase in quantum of Non-DPR schemes indicates an unhealthy trend, as the Commission feels that there may be a tendency to split distribution scheme so that capital outlay of the scheme is below Rs. 10 Crore, to escape regulatory scrutiny. The Commission will take a review of the schemes being classified under Non-DPR category, and in case it is found that these schemes should have ideally been classified under DPR category, then that capex and the related capital charges will be disallowed till the DPR is submitted and the scheme is approved by the Commission.

Further, REL-D in its additional submissions, has confirmed that depreciation has not been claimed beyond 90% of the asset value in line with the Tariff Regulations. Accordingly, the depreciation expenditure approved by the Commission for FY 2006-07 has been summarised in the following Table:

Table: Depreciation (Rs Crore)

Particulars	Tariff Order	Actuals	Allowed after truing up
Depreciation	72.84	64.66	64.66
Opening GFA	1984.89	1923.72	1923.72
Depreciation Rate	3.67%	3.36%	3.36%

3.6 Interest Expenses

The Commission, in its Tariff Order dated October 3, 2006, had approved interest expense of Rs 45.13 Crore, after considering the interest expense on normative debt



corresponding to capitalised assets only. The Commission had considered an interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06 and an interest rate of 8% p.a. for assets put to use during FY 2006-07, and accordingly considered the weighted average rate of interest as 9.6%.

REL submitted that interest on debt for FY 2006-07 has been computed based on interest on normative loans for previous years on the expenditure capitalised in FY 2006-07. REL submitted that normative loan repayment tenure for loans drawn during FY 2004-05 and FY 2005-06 has been considered as 10 years, and for loan drawal during FY 2006-07 and afterwards, the loan repayment tenure has been considered as 20 years. REL submitted that the revised interest expense for FY 2006-07 is estimated at Rs 63.17 Crore (comprising wire related interest expense at Rs 52.84 Crore and supply related interest expense at Rs 10.33 Crore). Further, in response to the Commission's query regarding reconciliation of the opening loan balance for FY 2006-07, REL has confirmed that it has erroneously considered opening loan balance of Rs 520.02 Crore for distribution business and requested Commission to consider opening loan balance of Rs 379.51 Crore for distribution business in line with earlier Tariff Order.

Accordingly, the Commission has considered opening loan balance as indicated above. Further, the Commission has considered the interest expense of the normative debt corresponding to capitalised assets only and has considered the interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06 and interest rate of 8% p.a. for assets put to use during FY 2006-07 in line with the principle adopted in the Tariff Order dated October 03, 2006. The Commission has considered normative loan repayment tenure of 10 years for loan drawal during FY 2004-05 and FY 2005-06 and 20 years for loan drawal during FY 2006-07. Accordingly, the weighted average rate of interest during FY 2006-07 works out to 9.4%.

Table: Interest Expenses (Rs Crore)

Particulars	Tariff Order	Actuals	Allowed after truing up
Opening balance of loan	379.51	520.02	379.51
Additions	209.61	318.93	318.93
Repayment	(24.05)	(41.61)	(41.61)
Closing balance of loan	565.07	797.34	656.83
Interest expense	45.13	63.17	48.79
Overall Interest Rate (%)	9.6%	9.6%	9.4%



3.7 Interest on working capital and Consumers' Security Deposit

As regards Interest on Working Capital, REL submitted that the interest rate has been considered at 10.25% as considered by the Commission in its Order dated October 3, 2006. Similarly, the interest on consumers' security deposit has been considered as Rs. 5.5%, as considered by the Commission in its Order dated October 3, 2006. Accordingly, REL estimated the revised Interest on Working Capital (IWC) considering the components considered in the Tariff Regulations, as Rs. 8.06 crore. The interest on consumers' security deposit has been considered as Rs. 12.84 crore. Thus, the total expenditure on these two heads works out to Rs 20.90 Crore as against Rs 17.87 Crore approved by the Commission.

REL-D confirmed in its reply to additional queries raised by the Commission that REL had not availed any loan for the purpose, and has funded such working capital requirement through internal accruals. Hence, REL has not actually incurred any expenditure towards interest on working capital during FY 2006-07.

REL-D has computed the interest on working capital only for its Supply Business, and has not considered any interest on working capital for its wires business. However, in accordance with the MERC Tariff Regulations, both the supply business as well as the wires business is entitled to normative interest on working capital. The Commission has estimated the normative working capital interest for FY 2006-07 in accordance with the Commission's Tariff Regulations and based on expenses approved in this Order after truing up, considering both supply business as well as wires business. However, the Commission has computed the sharing of gains/losses on the difference between normative working capital interest and the actual working capital interest incurred, which in this case is zero, since this is a controllable parameter. Further, the Tariff Regulations stipulates that rate of interest on working capital shall be considered on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on the date on which the application for determination of tariff is made. . As the short-term Prime Lending Rate of State Bank of India at the time when REL filed the Petition for tariff determination for FY 2006-07 was 10.75%, the Commission has considered the interest rate of 10.75% for estimating the normative interest on working capital, which works out to Rs 11.42 Crore.

REL's computation of interest on consumers' security deposit has been accepted by the Commission. Thus, the total Interest on Working Capital (IWC) and the interest on consumers' security deposit, considered by the Commission under the truing up exercise, works out to Rs. 24.26 crore.



3.8 Return on Equity (RoE)

REL submitted that based on the capital expenditure, capitalisation and normative debt:equity norm of 70:30, the return on equity on the equity portion has been considered at 16%. Further, REL has computed RoE on the opening equity as well as on the equity portion of the capitalisation during the year in accordance with the Tariff Regulations.

The Commission has computed the RoE for FY 2006-07 on the opening balance of equity and 50% of the equity portion of the approved asset capitalisation during the year, in accordance with the Tariff Regulations as applicable for the distribution business. The summary of RoE projected by REL and approved by the Commission for FY 2006-07 is summarised in the following Table:

Table: Return on Equity

(Rs Crore)

Particulars	FY 2006-07		
	Tariff Order	Actuals	Allowed after truing up
Regulatory Equity at the beginning of the year	913.09	913.09	913.09
Equity portion of assets capitalised during year	89.84	136.68	136.68
Regulatory Equity at the end of the year	1002.93	1049.77	1049.77
Return on Regulatory Equity at the beginning of the year	146.09	146.09	146.09
Return on Equity portion of assets Capitalised during year	7.19	10.93	10.93
Total Return on Regulatory Equity	153.28	157.03	157.03

3.9 Provisioning for Bad Debts

In the Tariff Order for FY 2006-07, the Commission had allowed provisioning for bad and doubtful debts to the extent of 1.5% of receivables, which worked out to Rs. 4.72 crore. In the APR Petition, REL-D submitted that the actual receivables as on March 2007 are Rs. 402 crore, and the actual provisioning for bad debts is Rs. 6.49 crore, which works out to 1.6% of receivables, which should be allowed as it is only marginally higher than the norm of 1.5%.

For the purposes of truing up for FY 2006-07, the Commission has considered provisioning for bad debts as 1.5% of the receivables, which works out to Rs. 6.04 crore.



3.10 Contribution to Contingency Reserves

REL submitted that the contribution to contingency reserves for FY 2006-07 has been computed at 0.5% of opening GFA in accordance with the Commission's Tariff Regulations, as Rs. 9.62 Crore, as against Rs. 9.82 crore approved by the Commission in the Tariff Order.

The Commission's Tariff Regulations stipulate that the amount appropriated under contingency reserve shall be invested in securities authorized under the Indian Trusts Act, 1882 within a period of six months of the close of the financial year. The Commission sought documentary evidence from REL-D to confirm that the contingency reserve has been invested in the approved securities, which was submitted by REL-D.

The Commission has also considered the contribution to contingency reserves at 0.5% of opening GFA for FY 2006-07, and has accepted the computation of REL-D in this regard.

3.11 Income Tax

REL, in its Petition, submitted that the income tax liability of REL-D for FY 2006-07 is Rs 79.67 Crore, as against the income tax of Rs. 11.39 crore approved in the Tariff Order. REL-D submitted that the ATE has held in its Judgment dated April 4, 2007 that the income tax assessment has to be made on a stand alone basis for the licensed business so that the consumers are fully protected from the income tax payable for other businesses. REL submitted that the income tax is payable at the corporate tax rate of 33.66% (30% tax, 10% surcharge, and 2% education cess on tax and surcharge).

The Commission subsequently asked REL to submit the detailed income tax computations for REL-G, REL-D and REL-D, after considering the 80 IA tax benefits, and other tax exemptions as applicable, including tax depreciation. REL, in its reply, submitted the revised workings for income tax in which it has computed tax by adding back the book depreciation and reducing Tax depreciation on WDV basis under provisions of the Income Tax Act. REL, in its revised submissions, also added back the normative interest on loan and normative interest on working capital to the taxable income while computing the income tax and submitted that these normative expenses are not eligible as expense for arriving at the profit before tax on which income tax will be computed. REL also submitted that the income tax computed



under this method is higher at Rs. 84.40 crore than that considered in the APR Petition.

The Commission agrees with REL's submission that normative interest on loan and normative interest on working capital are not actual expenses and hence, will not be eligible as deductible expenses while computing the income tax. The method of adding back book depreciation and deducting tax depreciation for computing the taxable profit is also correct, and has been accepted by the Commission.

The regulatory profit before tax has been considered as the RoE, grossed up for income tax, since the RoE is also taxed as a part of the income, and the Licensee is entitled for post-tax return of 16%.

Based on the above principles, the Commission has estimated the income tax of REL-D on stand alone basis by considering the income and expenses in accordance with the ARR approved after truing up for FY 2006-07, as Rs 80.58 Crore.

The income tax projected by REL in its APR Petition, tax projected in REL's additional submission, and the income tax approved by the Commission after truing up is shown in the Table below:

Table: Income Tax (Rs Crore)

Sl.	Particulars	FY 2006-07	
		REL	Approved
1	Profit Before Tax	236.70	236.70
2	Add: Depreciation as per APR	64.66	64.66
3	Less: Depreciation as per Income Tax	(121.86)	(121.86)
4	Add: Normative Interest on Long Term Loan	63.17	48.79
5	Add: Normative Interest on Working Capital	8.06	11.10
6	Total	250.73	239.38
7	Income Tax on Total Profit	84.40	80.58

3.12 Non Tariff Income

REL submitted that the actual non-tariff income for FY 2006-07 is slightly higher at Rs 54.73 Crore as against Rs 51.81 Crore approved by the Commission in its Tariff Order dated October 3, 2006.

The Commission has considered the non-tariff income equal to the actual non-tariff income reported by REL-D, as shown in the Table below:



Table: Non-Tariff Income (Rs Crore)

Particulars	Tariff Order	Actuals	Allowed after truing up
Non-Tariff Income	51.81	54.73	54.73

3.13 Sharing of gains and losses in FY 2006-07

REL submitted the actual expenditure under various heads of expenditure and the reasons for variation between the approved expenditure and the actual expenditure. Further, REL categorised all the expenditure as uncontrollable and hence, did not compute the gains and losses for the controllable expenditure.

The relevant provisions under the MERC Tariff Regulations stipulating sharing of gains/losses due to controllable factors are reproduced below:

“17.6.2 Some illustrative variations or expected variations in the performance of the applicant which may be attributed by the Commission to controllable factors include, but are not limited to, the following:

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

(b) Variations in technical and commercial losses, including bad debts;

(c) Variations in the number or mix of consumers or quantities of electricity supplied to consumers as specified in the first and second proviso to clause (b) of Regulation 17.6.1;

(d) Variations in working capital requirements;

(e) Failure to meet the standards specified in the Standards of Performance Regulations, except where exempted in accordance with those Regulations;

(f) Variations in labour productivity;

(g) Variations in any variable other than those stipulated by the Commission under Regulation 15.6 above, except where reviewed by the Commission under the second proviso to this Regulation 17.6.

...

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

(a) One-third of the amount of such gain shall be passed on as a rebate in tariffs over such period as may be specified in the Order of the Commission under Regulation 17.10;



(b) In case of a Licensee, one-third of the amount of such gain shall be retained in a special reserve for the purpose of absorbing the impact of any future losses on account of controllable factors under clause (b) of Regulation 19.2; and

(c) The balance amount of gain may be utilized at the discretion of the Generating Company or Licensee.

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

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

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

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

Operation & Maintenance Expenses

As regards employee expenditure, A&G expenditure and R&M expenditure, the actual expenditure has been higher than that considered in the Order, which has been allowed as REL-D's submissions that the increase has been due to uncontrollable factors has been accepted. Hence, there is no sharing of gain/loss on these heads of expenditure.

Interest on Working Capital

As discussed in the above paragraphs, the actual interest on working capital incurred by REL during FY 2006-07 is nil and the normative interest on working capital approved by the Commission considering other elements of expenses as approved after truing up, works out to Rs 11.42 Crore. As the actual expenditure under this head is zero, the Commission has considered the entire normative interest on working capital as efficiency gains and has considered sharing of the same with the consumers in the following manner - 1/3rd has been considered to be passed on to the consumers, 1/3rd has been passed on to a special reserve to be created to offset future losses due to controllable factors, if any, and 1/3rd has been allowed to be retained by the Distribution Licensee, i.e., REL-D.



Efficiency gains due to lower distribution losses

As discussed earlier, REL-D is entitled to an incentive on account of achieving a distribution loss of 11.25%, which is lower than the level of 11.52% specified by the Commission in the Order for FY 2006-07. The additional revenue earned by REL-D on account of the reduction in distribution losses has been estimated as Rs. 9 crore, by multiplying the additional units sold at the average billing rate of REL-D. In accordance with the Commission's Tariff Regulations for sharing of gains and losses due to controllable factors, one-third of this additional revenue, i.e., Rs. 3 crore has been passed on to the consumers through reduction in tariff, one-third has been passed on to the special reserve created for the purpose, and the balance one-third is allowed to be retained by REL-D.

Total Amount of Efficiency Gains

The summary of the net ARR and efficiency gains as approved by the Commission for FY 2006-07 is given in the following Table:



Table: Summary of Truing Up for FY 2006-07

Sl.	Particulars	Order	Audited	Approved after truing up	Deviation	Efficiency gain shared with Consumers	Net entitlement	Transferred to Reserve out of net entitlement under Reg 19.1 (b)
1	Power Purchase Expenses	2,433.73	2,294.40	2,252.22	(181.51)		2,252.22	
2	Operation & Maintenance Expenses	295.39	424.28	423.66	128.27		423.66	
2.1	Employee Expenses	162.33	224.70	224.70	62.37		224.70	
2.2	Administration & General Expenses	63.10	96.25	95.63	32.53		95.63	
2.3	Repair & Maintenance Expenses	69.96	103.33	103.33	33.37		103.33	
3	Depreciation, including advance against depreciation	72.83	64.66	64.66	(8.17)		64.66	
4	Interest on Long-term Loan Capital	45.13	63.17	48.79	3.66		48.79	
5	Interest on Working Capital and on consumer security deposits	17.87	20.90	24.26	6.39	3.81	20.45	3.81
6	Bad Debts Written off	4.72	6.49	6.04	1.32		6.04	
7	Income Tax	11.39	79.67	80.69	69.30		80.69	
8	Transmission Charges payable	170.70	109.02	109.02	(61.68)		109.02	
9	Contribution to contingency reserves	9.92	9.62	9.62	(0.30)		9.62	
	Total Expenditure	3,061.68	3,072.22	3,018.95	(42.73)	3.81	3,015.14	3.81
B	Return on Equity	153.28	157.03	157.03	3.75		157.03	
C	Revenue							
1	Revenue from sale of electricity	2,902.87	2,943.01	2,943.01	40.14	3.00	2,937.02	3.00
2	Other Income	51.81	54.73	54.73	2.92		54.73	
D	Distributable surplus from previous year	260.29	-	-	(260.29)		-	
E	Gap	(0)	232	178	178	6.80	180.43	6.80

3.14 Revenue Gap

REL-D submitted that the revenue gap in FY 2006-07 was equal to the difference between the revenue earned from tariff and the actual ARR, i.e., Rs. 232 crore.

The Commission has recomputed the revenue gap, by considering the ARR approved under the truing up exercise. Further, the Commission has also considered the sharing of gains and losses due to controllable factors, as discussed in earlier paragraphs, while determining the revenue requirement of REL-D for FY 2006-07.

Thus, the revenue gap for FY 2006-07 works out to Rs. 180.43 crore, which has been added to the ARR of FY 2008-09, as discussed in the subsequent Section.



4 PERFORMANCE REVIEW OF FY 2007-08 AND DETERMINATION OF REVENUE REQUIREMENT FOR FY 2008-09

4.1 Performance Parameters

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

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

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

4.1.1 Distribution Losses

For FY 2007-08, the Commission set the distribution loss levels at 11.50% and considered target loss reduction of 0.5% every year thereafter in the Control Period. The target of 11.5% was based on the base level of distribution loss of 12.1% in FY 2006-07 as submitted by REL, and as accepted by the ATE in its Judgment, based on REL's submissions.

In the APR Petition, REL referred to the ATE Judgment and stated that considering the actual losses in FY 2006-07 were 12.10%, REL has managed to reduce the distribution losses to 11.85%, by taking various measures as outlined below:

- § Due to availability of additional outlets from TPC, length of 33 kV cable laying required to feed the 33-22/11 kV substations is reduced, thereby contributing to reduction in losses
- § Installation of Automatic Power Factor Control (APFC) at 100 numbers of 11/0.4 kV substations with low power factor, has shown very good results in FY 2006-07, as average MD has reduced, and as technical loss is directly proportional to MD, saving in MD directly reflects in reduction in loss.



REL submitted that it has hence, considered the distribution losses as 11.85% in FY 2007-08, which is expected to be maintained in FY 2008-09, based on REL's efforts to contain the loss levels.

REL has also filed an Appeal in the ATE on the Commission's MYT Order, in the context of the distribution loss reduction trajectory, and the ATE in its Judgment held as follows:

“Admittedly loss reduction in distribution system is vital and in the interest of both the licensee and the consumers and, therefore, all efforts need to be made to reduce these losses. We recognize that the Commission is making all sincere efforts to ensure reduction of losses. We find that though specific numbers have been given while setting the target for the losses in three years of the control period, no study has been done either by the Commission or by the licensee while fixing these loss targets.”

Accordingly, the ATE held that REL could not be directed to reduce the distribution losses further in the absence of any scientific study to assess the same, and REL should be allowed to claim distribution losses of 12.1% till such time a detailed study is conducted to assess the actual level of distribution losses.

The Commission has studied the technical loss study report submitted by REL in the context of assessment of distribution losses in REL-D's distribution system. REL-D has assessed the technical distribution losses as 10.45% based on its in-house study, and has submitted that since the overall distribution losses are 12.10%, the balance losses of 1.65% are commercial losses. The study report submitted by REL-D is very detailed, and the Commission is not in a position to assess the veracity of the findings put out by REL-D's in-house study, in the absence of any study by an independent agency. The Commission may consider appointing an independent agency for assessing the actual level of technical losses and commercial losses in REL-D's distribution system. In the meantime, within two months of issue of this Order, REL-D should submit a break-up of number of consumers residing in slums and the consumption and the number of consumers classified as 'non-slum' areas and their consumption, since REL has submitted that the commercial losses of these two groupings are significantly different.

REL should also submit the basis for the statement made by REL in the proceedings before ATE that 65% customers come under the category of non-slum dwellers and 35% are slum dwellers, and that the distribution losses of non-slum consumers is less



than 1% while losses in slum areas varies between 15% to 70% with an average of 22%.

In its APR Petition, REL has claimed distribution losses of 11.85% for FY 2007-08 and FY 2008-09.

In this context, as discussed in the previous Section on truing up for FY 2006-07, the actual distribution losses in FY 2006-07 at 11.25%, are significantly lower than the 12.10% indicated by REL-D. Since the trajectory of distribution loss reduction was based on the loss level of 12.10% as submitted by REL-D, the trajectory itself has to be revised to reflect the actual base distribution loss levels. Pending independent technical study of REL's distribution losses, the Commission has considered the distribution loss level for FY 2007-08 at the level of 11.00% for the purposes of determining the energy input requirement, after considering the improvement of 0.25% projected by REL-D on account of installation of APFC Panels and due to availability of additional outlets.

For FY 2008-09, the Commission has added the projected loss reduction of around 27 MU due to installation of electronic meters, to the loss level of 11.00% considered for FY 2007-08, while determining the energy input requirement for FY 2008-09. The effective distribution losses considered by the Commission for FY 2007-08 thus, works out to 10.75%.

However, there is still scope for reduction in the commercial losses in REL-D's system, as submitted by REL-D itself, which has indicated commercial losses in some areas as high as 70%.

4.2 Control Period

The first Control Period for Multi-Year Tariff (MYT) has been stipulated as April 1, 2007 to March 31, 2010 in the MYT Order.

4.3 Provisional Truing-up for FY 2007-08

REL-D, in its APR Petition for FY 2007-08 and revenue requirement Petition for FY 2008-09, submitted the performance for FY 2007-08 based on actual performance for the first half of the year, i.e., April to September 2007, and estimated performance for the second half of the year, i.e., October 2007 to March 2008. REL-D submitted the comparison of each element of expenditure and revenue with that approved by the



Commission in its Order dated April 24, 2007 on REL's Multi Year Tariff petition for its Distribution Business for the Control Period from FY 2007-08 to FY 2009-10.

REL-D, in its Petition, requested that the estimated revenue gap for FY 2007-08 be considered while revising the approved expenditure for FY 2008-09.

The Commission will undertake the final truing up of the revenue requirement and Revenue for FY 2007-08 once the audited accounts of REL for FY 2007-08 are available, i.e., during Annual Performance Review for the second year of the Control Period, viz., FY 2008-09. However, the Commission in this Order on APR for FY 2007-08 and determination of Tariff for FY 2008-09 has considered provisional truing up of certain elements of the revenue requirement in cases where the impact is very high, or there is a change in principles/methodology, and due to revision in capital expenditure/capitalisation figures. The revised estimate of performance of REL-D during FY 2007-08 and FY 2008-09 as compared to the Commission's MYT Order for REL-D is discussed in the following paragraphs.

The Commission clarifies that the final truing up and the computation of sharing of gains and losses due to controllable factors will be undertaken only after the audited expenses and revenue are available. Further, for computing sharing of efficiency gains/losses for FY 2007-08, the revised expenses approved for FY 2007-08 in this Order under the provisional truing up exercise will be considered as base expenses.

4.4 Sales

REL-D submitted that the sales for FY 2007-08 have been estimated on the basis of the actual sales in H1 of FY 2007-08 and projections for H2 of FY 2007-08, in the same proportion of H1:H2 sales as in FY 2006-07 (52%:48%). REL-D submitted that since the actual sales in H1 of FY 2007-08 at 4090 MU is more or less similar to the pro-rated sales for H1 as per the MYT Order at 4007 MU. REL-D submitted the estimated sales for FY 2007-08 and FY 2008-09 as 7866 MU and 8246 MU, respectively.

For FY 2007-08, the Commission obtained the details of category-wise sales for the 10-month period from April 2007 to January 2008 and pro-rated the same for the entire FY 2007-08, by considering the share of sales in February and March of the previous year, for each consumer category separately. As shown in the Table below, the actual sales in FY 2007-08 have been higher than that considered by the Commission in the MYT Order, as a result of which, the power purchase has also increased to that extent, after considering the distribution losses on the sales.



For FY 2008-09, the Commission corrected the computation of 5-year CAGR of sales for each category as computed by REL-D, by considering the period from FY 2001-02 to FY 2007-08. For categories like HT industrial, the Commission has considered the 5-year CAGR for projecting the sales, while for categories like residential, the annual growth rate was used, as it appears to be more representative of the immediate trend, and for other categories, REL-D's sales projections were accepted. The category-wise sales projected by REL and approved by the Commission in this Order are given in the Table below:

Table: Approved sales for FY 2007-08 and FY 2008-09

Consumer Category & Consumption Slab	FY 07	(FY 2007-08)				FY 2008-09	
		MYT Order	REL-D	Actual till Jan 08 and pro-rated for entire year	Approved	REL-D	Approved
HT Category							
HT Housing	34.04	37	33	36.35	36.35	34	36.35
HT - Industrial	801.51	774	811	821.53	821.53	814	831.85
LT Category							
Below Poverty Line [BPL]	1.77	29	3	2.25	2.25	3	2.25
LF 1 - Residential	3,990.27	4,018	4,190	4147.84	4147.84	4,285	4413.78
LF 2 - Commercial	1,267.11	1,294	1,296	1315.07	1315.07	1,371	1,371
LTP 1							
0 - 15 Hp	211.19	325	170	166.82	166.82	193	193
LTP 2	1,087.17	1,093	1,173	1200.16	1200.16	1,345	1,345
15 - 50 Hp	1,087.17						
> 50 Hp							
Agriculture	0.02	0.01			0.01		0.01
Streetlights	50.95	57	44	51.83	51.83	46	51.83
Temporary	7.72	81	78	87.68	87.68	88	94.77
Religious	-						
Advertisement & Hoardings	1.47	0.52	3	3.00	3.00	3	3
Others	-						
Multiplexes & Malls			64	79.13	79.13	63	81.77
Total	7,453	7709	7866	7912	7912	8246	8424

Thus, the total sales estimated by the Commission for FY 2007-08 and FY 2008-09 is 7912 MU and 8424 MU, as compared to REL-D's estimate of 7866 MU and 8246 MU, respectively.

4.5 Distribution Losses and Energy Input

As discussed earlier, REL-D submitted that it had considered the distribution losses for FY 2007-08 and FY 2008-09 as 11.85%, for computing the energy input requirement. As discussed in earlier paragraphs, the Commission has considered the distribution losses for FY 2007-08 as 11.00% and 10.75%, respectively. It should be appreciated that there is no loss to REL on account of the above computations, since the actual losses are being considered for computing the energy input requirement,



with modifications for certain developments and capital expenditure being undertaken by REL, and the benefits of which, have been indicated by REL itself in the Petition. Moreover, under the Balancing and Settlement mechanism being undertaken by the Maharashtra State Load Despatch Centre (MSLDC) from October 2006 onwards, the actual distribution losses are clearly highlighted, since the energy drawn at T<>D interface is known and so are the sales. In any case, losses higher than the prevailing level of losses will not be allowed even under the truing up process, hence, the Commission is of the view that the Commission's approach in this regard is appropriate.

The corresponding Energy Balance is given in the Table below:

Particulars	Units	FY 2007-08			FY 2008-09	
		MYT Order	REL-D APR Petition	Allowed after provisional truing up	REL-D APR Petition	Approved
Sales	MU	7,709	7,866	7,912	8,246	8,424
Distribution Loss	%	11.50%	11.85%	11.00%	11.85%	10.75%
Energy Requirement at T<>D interface	MU	8,710	8,923	8,890	9,354	9,438
Transmission Loss	%	4.85%	4.85%	4.85%	4.85%	4.85%
Total Energy Requirement	MU	9,154	9,378	9,342.63	9,831	9,919.29

Thus, the total energy input required to be purchased by REL-D in FY 2007-08 and FY 2008-09, has been approved as 9342.63 MU and 9919.29 MU, respectively.

4.6 Energy Availability and Power Purchase cost for FY 2007-08 and FY 2008-09

4.6.1 Power Purchase from REL-G

REL-D, in its Petition, has submitted that it will procure the entire generation of REL-G during FY 2007-08 and FY 2008-09 as per the details submitted in the APR Petition of REL-G. Accordingly, REL-D projected a power purchase of 3969 MU and 3701 MU from REL-G at an estimated cost of Rs 800.45 Crore and Rs 822.80 Crore for FY 2007-08 and FY 2008-09, respectively.

For FY 2007-08, the Commission has undertaken the provisional truing up and considered the power purchase quantum and cost as projected by REL and hence, approves power purchase of 3969 MU at an estimated cost of 800.45 Crore for FY



2007-08 for purchase from REL-G. The Commission will undertake the final truing up of power purchase from REL-G for FY 2007-08 based on actual generation by REL-G during the APR process for FY 2008-09.

For FY 2008-09, the Commission has considered the power purchase from REL-G in accordance with its Order dated April 21, 2008 in Case No. 65 of 2007 in the matter of approval of Reliance Energy Limited (REL)'s Generation Business' Annual Performance Review for FY 2007-08 and Tariff Petition for FY 2008-09, at 3701 MU at a total cost of Rs 800.88 Crore. The Commission has also considered the incentive payable by REL-D to REL-G at approved generation for FY 2008-09, which works out to Rs 14.07 Crore for FY 2008-09.

The summary of the power purchase quantum and cost thereof as projected by REL-D and as approved by the Commission is shown in the Table below:

Table: Summary of Power Purchase from REL-G

Particulars	Unit	FY 2007-08			FY 2008-09	
		MYT Order	Revised Estimate	Approved after provisional truing up	Petition	Approved
Purchase from REL-G	MU	3742.00	3969.49	3969.49	3701.00	3701.00
	Rs Crore	786.00	800.45	800.45	822.80	814.95

4.6.2 Power Purchase from TPC-G

REL-D submitted that it procures power from generating stations of TPC-G in accordance with the Tariff Order, dated April 24, 2007 for FY 2007-08.

REL submitted that the power purchase agreement (PPA) between REL-D and TPC-G for TPC-G's present capacity of 1777 MW has not been signed in view of REL not being given its share on the principles of equitable distribution amongst Mumbai Licensees. In addition, REL-D also submitted that TPC had objected in the year 2001 to REL's proposal to set up a generating capacity at Safale stating that TPC will meet the requirement of REL. In view of this, REL and TPC-G have not been able to execute a PPA to incorporate TPC-G's earlier existing relationship as the bulk supplier to REL (now REL-D) and TPC-G's commitment while objecting to REL-G's Safale project.

REL-D submitted that it has filed an appeal against the Order dated November 6, 2007 vide Appeal No. 143 of 2007 before the Appellate Tribunal for Electricity



(ATE) on November 21, 2007, for a direction to TPC-G to allocate to all Mumbai Licensees, quantity of power based on the principle of equitable distribution.

REL submitted that in view of the above and the continued transition phase and shortage scenario, the availability of energy from TPC-G for FY 2008-09 has been considered at the same level as was considered by the Commission for FY 2007-08 in its MYT Order.

REL submitted that as per TPC-G's MYT Petition that Unit 8 will start functioning from October 2008 onwards and accordingly it has considered full capacity of TPC-G for H1 of FY 2008-09, and for H2, has considered capacity after removing Unit 4 capacity. REL-D has considered the allocation of Unit 8 capacity of 250 MW, as per TPC-G submission in MYT Petition and accordingly has considered 40% capacity to REL-D. REL further submitted that considering the continued shortage scenario and tightening availability of power in the market, TPC-G may evaluate the need for continued use of Unit 4 if approved by the Commission for availability of power for the consumers of Mumbai as has been thus far. Further, it is expected that there would be availability of natural gas, in which case it may overcome the technical and other limitations of running Unit 4 economically.

REL, in its Petition, submitted that in the MYT Order for REL dated April 24, 2007, the variable cost of power from Unit 4 and bilateral sources has been clubbed to arrive at the cost of expensive power to be recovered as reliability charges. In view of the continued and incremental bilateral power purchase, the impact of this element on tariff continues to exist.

REL submitted that as per the Commission's Order dated December 15, 2006, in Case No. 38 of 2005, REL was directed to pay TPC an amount of Rs 10.78 Crore towards the amount deducted from TPC bills for reverse flow of power. As per the said Order such amount was allowed to be considered as an expense in subsequent tariff filings. However, since REL has filed an appeal against the said order before ATE and the Judgment is awaited REL has not considered any effect of the same in this Petition.

REL further submitted that the issue in the Commission's Order dated December 12, 2007 in Case No. 7 of 2002 ("In the matter of Petition filed by TPC seeking payment of dues from REL for supply of energy in terms of Principles of Agreement dated January 31, 1998 as entered into between the parties") pertains to FY 1998-99 and FY 1999-00 for Rs. 310.92 Crore including interest upto July 31, 2007. REL has filed an Appeal before the Appellate Tribunal for Electricity challenging the same. In view of this and considering that this is a one-time impact, REL submitted that till the



conclusion of the judicial proceedings, the consumers should not be loaded with the cost as of now and therefore, REL-D has not included the same in its APR Petition.

For provisional truing up for FY 2007-08, the Commission has considered the power purchase quantum and cost from TPC-G as projected by REL-D and hence, approves power purchase of 4829.96 MU at an estimated cost of Rs 1743.22 Crore. The Commission will undertake the final truing up of power purchase from TPC-G for FY 2007-08 based on actual data for the entire year during the APR process for FY 2008-09.

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

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

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

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

105. In the circumstances, appeal No. 143 of 2007 is allowed and order dated November 06, 2007 of the MERC approving the PPA of TPC and BEST and



arrangement between TPC and TPC(D) with reference to allocation of power to BEST and TPC(D) is set aside. The Commission is directed to consider the question of approval of PPA and the arrangement afresh after taking into consideration the claims of BEST, REL and TPC(D). While considering the case of the parties the Commission shall have regard to the fact that the consumers of respective areas have been bearing the Depreciation and Interest on Loan elements of the Fixed Cost of tariff and also consider all other submissions of the parties which are permissible in the law.

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

Thus, the ATE set aside the Commission’s Order approving the PPA between TPC-G and BEST and the Power Purchase Arrangement between TPC-G and TPC-D. However, subsequent to the ATE Judgment on the said issue, TPC filed an appeal with the Hon’ble Supreme Court against the ATE Judgment. The Hon’ble Supreme Court in its Interim Judgment dated May 14, 2008, has stayed the ATE Judgment in the matter of Appeal No. 41 of 2007, Appeal No. 51 of 2007, Appeal No. 143 of 2007, Appeal No. 145 of 2007, Appeal No. 159 of 2007 and Appeal No. 14 of 2008. In effect, since the ATE Judgment setting aside the Commission’s Order has been stayed, the Commission’s Order dated November 6, 2007, is still in force.

TPC-G, in its Petition for Annual Performance Review for FY 2007-08 and Tariff Petition for FY 2008-09, submitted that the PPAs between TPC-G with BEST and between TPC-G and TPC-D have been approved by the Commission. As per the approved PPAs, out of the existing capacity of 1777 MW, 800 MW has been allocated to BEST, while a capacity of 477 MW has been allocated to TPC-D leaving a balance untied capacity of 500 MW. TPC-G, in its Petition, submitted that though REL has not signed the PPA with TPC-G so far, TPC-G it has considered that the balance capacity would be utilised by REL

TPC, in its submission dated March 25, 2008, submitted that out of the 250 MW capacity of Unit-8, as per the approved PPA, 100 MW has been allocated to BEST and 50 MW has been allocated to TPC-D. TPC submitted that it had indicated during the technical validation session of TPC that it has tied up the remaining 100 MW to a



trading company. TPC further submitted that it communicated to REL on December 31, 2007 and January 25, 2008 regarding this matter, however, REL did not come forward to sign the PPA with TPC-G and therefore, TPC has tied up the balance capacity of 100 MW from Unit-8 with Tata Power Trading Company Ltd. (TPTCL) and thus, the same is not available for sale to REL.

TPC, in its submission dated March 25, 2008, further mentioned that in spite of REL not making any efforts to tie up the balance available capacity, TPC in the interest of protecting the power supply to Mumbai consumers, till such the balance capacity of 500 MW is tied up elsewhere, is willing to supply up to 500 MW from the existing capacity to REL on energy basis. TPC mentioned that this 500 MW untied capacity would be infirm in nature on single part tariff basis.

Considering the fact that the ATE Judgment dated May 6, 2008 on appeals filed against the Commission's Orders on approval of PPA between TPC-G and BEST and internal arrangement between TPC-G and TPC-D, has been stayed by the Hon'ble Supreme Court, the Commission has considered the allocation of power from the existing capacity and Unit-8 of TPC-G based on the approved PPA between TPC-G and BEST and the internal capacity allocation from the generation division of TPC to its own distribution division, for FY 2008-09, with effect from April 1, 2008. Accordingly, from the existing capacity of TPC-G, the Commission has considered the power availability of 500 MW for REL-D for FY 2008-09 with effect from April 1, 2008. However, considering TPC's submissions dated March 25, 2008, the Commission has not considered any power available from Unit 8 of TPC-G for REL-D.

For estimating the cost of power purchase from TPC-G, the Commission has considered the tariff approved by the Commission in its Order dated April 2, 2008 in Case No. 68 of 2008 on TPC-G's APR Petition for FY 2007-08. The summary of the estimated power purchase quantum and cost of power purchase by REL-D from TPC-G in FY 2008-09 is given in the following Table:

Table: Energy and Variable Cost for Purchase of Power from TPC-G in FY 2008-09

Particulars	Quantum	Variable Cost
	MU	Rs Crore
Unit-5, 6 & 7	2470.17	823.31
Unit- 4	148.28	105.51
Hydel	384.92	70.25
Total	3003.38	999.07



Table: Other Costs for Purchase of Power from TPC-G in FY 2008-09

Particulars	Rs Crore
Fixed Charges-Thermal	151.95
Incentive at Projected Generation	9.71
Less Rebate-Hydel Excess Recovery	28.03
Total	133.63

4.6.3 Renewable Purchase Specification (RPS)

REL submitted that in the Renewable Purchase Specification (RPS) Order dated August 16, 2006 (in Case No. 6 of 2006 in the matter of Long Term Development of Renewable Energy Sources and associated Regulatory Framework), the Commission has directed all distribution licensees and other eligible persons covered under that Order, to procure a certain percentage of their respective energy consumption from Renewable Energy (RE) sources.

REL, in its Petition, submitted that various efforts like communication through media, communication to potential generators and associations and such other parties which had or could have RE generation, have been made to procure power from RE generation to meet the RPS target. In addition, REL also expressed its requirement to MEDA; the co-ordinating agency for RE in the State to encourage RE generation, and sought its support in sourcing RE power.

REL further submitted that due to inadequate response, REL appointed an independent consultant to evaluate and advice about the availability of RE Power in the State. The report submitted by the consultant indicates shortage in RE power availability in the State to meet the RPS requirement.

In view of the above and REL's desire to participate in procurement of RE power, REL has entered into agreement with Reliance Innoventures Ltd. (a group company of REL) for setting up a 45 MW wind project at Satara. M/s Suzlon Energy Limited (SEL) has been selected for supplying and commissioning the wind machines. However, it has been intimated by M/s SEL that it has been facing problems from local villagers and hence, the commissioning of wind project will be delayed.

REL (through its group companies) has also placed another purchase order with M/s SEL for supply and commissioning of 105 MW wind farm at Gude Panchgani area. M/s SEL has informed that site originally selected for 105 MW by them is now declared as bird/wild life sanctuary by the Forest Department. SEL informed that they



are looking for alternate sites around Gude Panchagani area. M/s Suzlon has also informed that recently Government of India (GoI)/ Ministry of Environment & Forest (MoEF) has changed the process of land allotment to wind developers, due to which time required for statutory clearances might increase. In the light of above, SEL informed that this wind project (105 MW) is likely to be completed by end of September 2008.

REL-D, in its Petition, submitted that it had brought these issues regarding RE power availability to the notice of the Commission. The Commission has directed Maharashtra Energy Development Agency (MEDA) to constitute a Technical Task Force (TTF) to ascertain the availability of RE in FY 2006-07 and during the Control Period. The Commission also directed MEDA to develop a data collection methodology to ascertain the RE generation similar to methodology of SLDC. The recommendation of the Task Force is awaited.

REL submitted that there is no power available from RE sources during FY 2007-08 and accordingly REL has not projected any purchase from the renewable sources as against the specified RPS target of 4% of the Energy Input.

As regards purchase of power from Renewable Energy sources during FY 2008-09, REL submitted that it is continuing its efforts to source the required RPS power, including approach to Group-II renewable energy generators. In view of its continued endeavour to procure RE power for FY 2008-09 and also in view of the technical task force constituted under MEDA, REL has considered the availability of RE for FY 2008-09 at 5% of the Energy Input.

For FY 2007-08, the Commission has not considered any power purchase quantum and cost from renewable sources, as projected by REL-D. However, the Commission clarifies that it would deliberate the issue considering the final settlement of RPS for FY 2007-08, during the final truing-up of FY 2007-08.

For FY 2008-09, the Commission has considered the power purchase from Renewable Energy Sources as per RPS obligation, i.e., 5% of the total energy input. Based on the total energy input approved by the Commission, the RPS obligation of REL-D for FY 2008-09 works out to 496 MU and corresponding total cost of meeting the RPS obligation works out to Rs 173.59 Crore by assuming an average rate of Rs 3.50/kWh.

4.6.4 Bilateral Contracts

REL-D submitted that the requirement of Mumbai Discoms (REL-D, TPC-D and BEST) is higher than the availability from REL-G and TPC-G and therefore, the net



shortage is being met through purchase of power under bilateral contracts to make continuous power available to the consumers.

REL further submitted that to have greater flexibility in power management (procurement and sale of surplus power, if any) and to prevent artificial competition in favour of the suppliers, a common Power Management Group (PMG) has been formed with an equal representation of all the three distribution licensees of Mumbai, to ensure uninterrupted power availability to the consumers in Mumbai at a competitive price as the collective power purchase helps in balancing the varying demand requirement of the consumers of the three distribution licensees.

REL-D submitted that the bilateral power purchase for FY 2007-08 and FY 2008-09 forms only 5-7% of the energy input requirement and the power procured so far has been at various rates ranging from Rs 3.97/kWh to Rs 5.51/kWh. REL submitted that in view of the fluctuating prices depending on various external factors, it has considered the rate approved by the Commission, i.e., Rs 4.41/kWh in the Tariff Order dated April 24, 2007 and any amount in excess of Rs 4.41/kWh will be recovered through FAC. REL-D has considered the standby purchase from MSEDCL during the non availability of power from REL-G and/or TPC-G generating units as a part of bilateral power purchase. REL-D further requested the Commission not to consider the energy drawn during standby support for the purpose of obtaining prior approval for exceeding 5% of the quantum and/or cost of bilateral power purchase.

For FY 2007-08, the Commission has considered the power purchase quantum and cost under bilateral sources based on the total energy input requirement as approved in this Order and accordingly has estimated power purchase of 439.72 MU at an estimated cost of Rs 241.84 Crore. The Commission is of the view that considering the bilateral power purchase rate as Rs. 4.41 per kWh results in underestimating the power purchase cost, and may lead to levy of Fuel Adjustment Cost (FAC) Charge from the first month itself. Moreover, REL-D has not been consistent in this regard, as it has considered a price of around Rs. 5.30 per kWh, while estimating the impact of non-availability of TPC-G power in case the power is not allocated according to the share of coincident peak demand. For estimation purposes, the Commission considering the recent trends for bilateral power purchase has considered an average rate of Rs 5.5/kWh for FY 2007-08. However, the Commission will carry out the final truing up of power purchase from bilateral sources for FY 2007-08 based on actual data during the APR of FY 2008-09.

For FY 2008-09, after considering the power available from REL-G, TPC-G and RPS, the total power purchase quantum from other sources works out to be 2718.9 MU to



meet the projected energy input requirement. This balance power requirement has to be met from bilateral contracts and imbalance pool settlement. For estimating the power purchase cost in this Order, the Commission has considered this balance power as available through bilateral contracts. The Commission observed that the short term purchase rate as submitted by REL-D for short term purchase during April to September 2007 is higher than the rate considered by REL in its Petition. However, as the power purchase from external sources is approved for the entire year and the rate will vary depending upon the demand and supply situation in various months of the year, i.e., purchase rate may vary from Rs 6-7/kWh during peak hours of the day to Rs 3-4/kWh during off-peak hours of the day. Accordingly, the Commission has considered the rate of Rs 5.50/kWh for purchase of from bilateral sources for estimating the cost of power purchase from external sources.

The summary of power purchase from bilateral sources as projected by REL-D and as approved by the Commission for FY 2008-09 is given in the Table below:

Table: Purchase of Power from bilateral sources in FY 2007-08 & FY 2008-09

Particulars	Unit	FY 2007-08			FY 2008-09	
		MYT Order	Revised Estimate	Approved after Provisional truing up	Petition	Approved
Bilateral Sources	MU	103.00	473.49	439.72	758.00	2718.95
	Rs Crore	1562.67	218.48	241.85	334.41	1495.42

4.6.5 Imbalance Pool for FY 2007-08

REL-D submitted that the balance power requirement after sourcing from REL-G, TPC-G and short term bilateral contract is being met through imbalance pool settlement undertaken by SLDC and projected a total quantum of 103 MU with an estimated cost of Rs 81.22 Crore during FY 2007-08.

The Commission has accepted REL-D's projection for meeting the balance power requirement for FY 2007-08 and considered power purchase of 103 MU at an estimated cost of Rs 81.22 Crore during FY 2007-08.

4.6.6 Costly Power Purchase

The Commission has considered the power purchase from Unit-4 of TPC-G and external sources as costly power purchase. The summary of purchase cost from these



costly sources of power as approved by the Commission for FY 2008-09 is given in the Table below:

Table: Summary of Costly Power Purchase in FY 2008-09

Source	Quantum (MU)	Variable Cost (Rs Crore)
TPC-G (Unit-4)	148.28	105.51
External Sources	2718.95	1495.42
Total	2867.23	1600.94

4.6.7 Month-wise Power Purchase Quantum for FY 2008-09

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

Table: Month-wise Power Purchase Quantum (MU) for FY 2008-09

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Power Purchase Quantum	831.85	842.46	891.38	816.18	822.51	872.43	817.94	896.97	788.41	744.15	761.77	833.23	9,919.29

4.6.8 Demand Side Management (DSM) Mechanism

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

The Commission, in its MYT Order, ruled that 2% of the costly power purchase requirement will have to be reduced as an initial step by implementation of DSM. Accordingly, the Commission has reduced 2% of the costly power purchase, which will be saved though DSM measures. This translated to 0.10% of the total power purchase quantum and reduction in power purchase cost by Rs 4.71 Crore. Therefore, the Commission has considered the reduction in power purchase cost of Rs 4.71 Crore



as approved in the MYT Order for FY 2007-08 for the purpose of provisional truing up for FY 2007-08.

However, for FY 2008-09, the Commission has considered reduction to the extent of only 1% of the expenditure on costly power purchase for DSM measures as the estimated power purchase quantum for FY 2008-09 from costly sources is very high. This translates to 0.10% of the total power purchase and reduction in power purchase cost by Rs 16.01 Crore.

4.6.9 Standby Charges

REL-D, in its Petition, submitted that the Commission in the MYT Order for REL-D has allocated standby charges of Rs. 396 Crore among the three Distribution licensees on the basis of the coincident peak demand and accordingly, REL-D share was 55.60% amounting to Rs. 220.21 Crore for FY 2007-08. REL-D has considered the standby charges of Rs 220.21 Crore as approved by the Commission in its MYT Order for REL-D for FY 2007-08 and FY 2008-09.

For FY 2007-08, the Commission has considered the standby charges approved in the MYT Order, i.e., Rs 220.21 Crore. For FY 2008-09, the Commission in line with the philosophy adopted in the MYT Order has allocated the standby charges between the three Distribution Licensees in Mumbai in proportion to the coincident peak demand for the last one year and the standby charges allocated to REL-D works out to Rs 220.40 Crore. REL-D will hence, pay standby charges of Rs 220.40 Crore to MSEDCL during FY 2008-09.

4.6.10 SLDC Charges

REL, in its Petition, submitted that the Commission has approved the SLDC Budget for FY 2007-08 vide its Order dated March 28, 2007 in Case No. 77 of 2006. Based on the approved budget, the Commission determined the Annual SLDC Operating Charges and Annual SLDC Fees and divided the same amongst the four distribution licensees in the proportion of coincident peak demand for FY 2007-08. Accordingly, REL-D share of Annual SLDC Operating Charges and Annual SLDC Fees worked out to Rs. 109.38 lakh and Rs. 46.51 lakh respectively. REL-D has considered its share of approved SLDC charges for FY 2007-08 for projecting charges to be paid to SLDC during FY 2007-08 and FY 2008-09.

The Commission has considered the approved share of REL-D of the SLDC charges, i.e., Rs 1.56 Crore for FY 2007-08 as approved in the SLDC Budget for FY 2007-08 vide Order dated March 28, 2007 in Case No. 77 of 2006. The Commission in its



Order dated May 30, 2008 in the matter of Approval of SLDC Budget for FY 2008-09 (Case No. 88 of 2007) has determined the mechanism for the recovery of SLDC Fees and Charges for FY 2008-09 and accordingly, the Commission has considered REL-D's share of the approved SLDC Charges for FY 2008-09, which works out to Rs 1.52 Crore.

4.6.11 Transmission Charges

REL, in its Petition, submitted that the Commission in its Order dated April 02, 2007 in the matter of Determination of Transmission Tariff for Intra-State Transmission System (InSTS) determined the manner in which the transmission charges are to be paid by the Transmission System Users (TSU's) for FY 2007-08. Accordingly, REL has considered the approved transmission charges of Rs 189.55 Crore payable by REL-D for FY 2007-08.

For FY 2008-09, REL submitted that in the aforesaid Order, the Commission determined the ARR of the three Transmission Utilities for FY 2008-09 and REL-D has assumed that the percentage share of the distribution utilities will remain same for FY 2008-09 as well, and calculated the transmission charges at 10.5% of the Total Transmission System Cost (TTSC). The transmission charge for FY 2008-09 as projected by REL-D is Rs 207.55 Crore.

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

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

4.6.12 Summary of Power Purchase Related Cost

The summary of the total power purchase cost as approved in MYT Order, as estimated by REL in APR Petition and as approved by the Commission based on provisional trueing up for FY 2007-08, is shown in the Table below:



Sl.	Source	MYT Order		APR Petition		Approved after provisional truing up	
		Quantum	Total Cost	Quantum	Total Cost	Quantum	Total Cost
		MU	Rs Crore	MU	Rs Crore	MU	Rs Crore
1	REL-G	3742.00	786.00	3969.49	800.45	3969.49	800.45
2	TPC-G	4803.00	1706.00	4829.96	1743.22	4829.96	1743.22
3	TPC-D (Short Term)	103.00	46.00	473.49	218.48	439.72	241.85
	Sub-total TPC	4906.00	1752.00	5303.45	1961.7	5269.68	1985.07
4	RPS	360.00	126.00	0.00	0.00	0.00	0.00
5	Other Sources			103.47	81.22	103.47	81.22
6	Standby Charges		220.21		220.21		220.21
7	Transmission Charges		189.55		189.55		189.55
8	SLDC Charges		1.55		1.56		1.56
9	Reduction of Cost (DSM)		-4.71				-4.71
	Total	9008.00	3070.60	9376.41	3254.68	9342.63	3273.34

The summary of the total power purchase cost considered by the Commission for FY 2008-09 is shown in the Table below:

Source	APR Petition		Approved	
	Quantum	Total Cost	Quantum	Total Cost
	MU	Rs Crore	MU	Rs Crore
REL-G	3701.0	822.8	3701.0	815.0
TPC-G: Thermal excl Unit 4			2470.2	985.0
TPC-G Unit 4	4881.0	1562.7	148.3	105.5
TPC-G Hydel			384.9	70.2
Sub-total TPC	4881.0	1562.7	3003.4	1160.7
RPS	492.0	179.4	496.0	173.59
Additional PP/Sale	758.0	334.4	2718.95	1495.42
Less TPC Hydro Rebate				28.0
Standby Charges		220.2		222.4
sub-total (Power Purchase)	9832.0	3119.5	9919.3	3839.05
Transmission Charges		201.7		221.63
SLDC Charges		1.6		1.6
Reduction of Cost (DSM)				-16.01
Total	9832.0	3322.8	9919.3	4046.27

4.7 O&M Expenses for FY 2007-08 and FY 2008-09

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



4.7.1 Employee Expenses

REL submitted that the total employee expense for FY 2007-08 is estimated at Rs 275.39 Crore against the Rs 192.56 Crore approved by the Commission in the MYT Order. REL submitted that the Commission had not considered the impact of the wage revision and had ruled that the impact would be allowed once the wage revision agreement was concluded. REL-D submitted that the wage revision agreement is effective from July 2006, and the full impact of the same is being reflected in FY 2007-08, including the difference between the provisioning in FY 2006-07 and the actual wage arrears for FY 2006-07. REL-D submitted that the Commission had considered a normal increase of 5.36% in employee expenses, for projecting the employee expenses for FY 2007-08. However, the DA index has increased significantly over FY 2007-08, and hence, the DA payments have increased. Also, due to the impact of Accounting Standard – 15 (Revised), an additional liability of Rs. 2 crore on account of PF in leave encashment, has been included in FY 2007-08. REL-D submitted that the impact of the above changes has resulted in an increase of around Rs. 51.60 crore in FY 2007-08 over FY 2006-07 levels. For FY 2008-09, REL-D projected the employee expenses by considering an increase of 12%, based on the assumption that the percentage of DA rise will be in line with that witnessed in FY 2006-07 and FY 2007-08.

For FY 2007-08, for each sub-head of employee expenditure, the Commission has considered an increase of around 6.26% on account of inflation over the revised level of employee expenses as approved for FY 2006-07 under the truing up exercise in this Order, based on the increase in Consumer Price Index (CPI). The Commission has considered the point to point inflation over CPI numbers for Industrial Workers (as per Labour Bureau, Government of India) for a period of 3 years, i.e., FY 2004-05 to FY 2006-07, to smoothen the inflation curve. The Commission will undertake the final truing up of employee expenses for FY 2007-08 based on actual employee expenses for the entire year and prudence check, during the APR process for FY 2008-09.

For FY 2008-09, for each sub-head of employee expenditure, the Commission has considered an increase of around 6.26% on account of inflation over the revised level of employee expenses as approved for FY 2007-08 under the provisional truing up exercise in this Order, based on the increase in Consumer Price Index (CPI). Accordingly, the approved employee expenses for FY 2007-08 and FY 2008-09 is summarised in the following Table:



Table: Approved Employee Expenses for FY 2007-08 & FY 2008-09 (Rs. Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate by REL	Approved After provisional truing up	MYT Order	Revised Estimate by REL	Approved
Net employee expenses	192.56	275.39	246.29	202.87	288.11	265.51

4.7.2 A&G Expenses

REL submitted that the total A&G expense for FY 2007-08 is estimated at Rs 103.3 Crore against the Rs 91 Crore approved by the Commission in the MYT Order. REL submitted that the allowable A&G expenses after considering the actual expenses in FY 2006-07 would work out to Rs. 101 crore. The difference between Rs. 101 crore and Rs. 103 crore is on account of additional cost of around Rs. 1 crore on account of AMR charges, which is necessary for faster and error free meter reading, and increase in rents by Rs. 1.33 crore. For FY 2008-09, REL-D projected a 5.5% increase in A&G expenses over FY 2007-08 levels, based on CPI and WPI.

For FY 2007-08, the Commission has considered an increase of around 5.29% on account of inflation over the revised level of A&G expenses as approved for FY 2006-07 in this Order, based on the increase in Wholesale Price Index (WPI) and Consumer Price Index (CPI). The Commission has considered the point to point inflation over WPI numbers (as per Office of Economic Advisor of Govt. of India) and CPI numbers for Industrial Workers (as per Labour Bureau, Government of India) for a period of 3 years, i.e., FY 2004-05 to FY 2006-07, to smoothen the inflation curve. The Commission has considered a weight of 60% to WPI and 40% to CPI, based on the expected relationship with the cost drivers.

However, in case of expense towards rents, rates and taxes, professional and technical fees, security arrangements, and conveyance and travel, the Commission has considered REL-D's projection of the same. Further, the Commission has disallowed the expenses on contributions and grants, due to reasons explained while truing up for FY 2006-07. The Commission will undertake the final truing up of A&G expenses for FY 2007-08 based on actual A&G expenses for the entire year and prudence check, during the APR process for FY 2008-09.



For FY 2008-09, for each sub-head of A&G expenditure, the Commission has considered an increase of around 5.29% on account of inflation over the revised level of A&G expenses as approved for FY 2007-08 under the provisional truing up exercise in this Order, based on the increase in Wholesale Price Index (WPI) and Consumer Price Index (CPI). Accordingly, the approved A&G expenses for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved A&G Expenses for FY 2007-08 & FY 2008-09 (Rs. Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate by REL	Approved After provisional truing up	MYT Order	Revised Estimate by REL	Approved
Net A&G expenses	91.01	103.03	99.36	95.89	108.70	106.84

4.7.3 R&M Expenses

REL submitted that the total R&M expense for FY 2007-08 is estimated at Rs 150 Crore against the Rs 144.4 Crore approved by the Commission in the MYT Order. REL submitted that R&M expenditure is required to maintain the system in healthy condition by carrying our prescribed preventive maintenance and attending breakdowns. REL submitted that the increase in the R&M expenses is also attributable to contract labour arrears, increase in RI and introduction of service tax, sierra card, etc. REL submitted that for FY 2008-09, REL has considered a 5.5% increase over FY 2007-08 levels, based on the CPI and WPI.

For FY 2007-08, for the supply business, the Commission has accepted REL's projections of R&M expenses, except for R&M projected for vehicles and furniture and fixtures. In response to the Commission's query in this regard, REL submitted that this expenditure has already been considered under A&G expense, and hence, should not be considered under R&M expenses. For the wires business, the Commission has considered a 4.5% increase over FY 2006-07 trued up levels, on account of change in WPI. For FY 2008-09, for both wires business and supply business, the Commission has allowed the R&M expenses by considering a growth rate of 4.5% over FY 2007-08 levels.

The Commission will undertake the final truing up of R&M expenses for FY 2007-08 based on actual R&M expenses for the entire year and prudence check, during the



APR process for FY 2008-09. Accordingly, the approved R&M expenses for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved R&M Expenses for FY 2007-08 & FY 2008-09 (Rs. Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate by REL	Approved After provisional truing up	MYT Order	Revised Estimate by REL	Approved
Net R&M expenses	144.39	150.28	137.67	152.14	158.55	145.00

4.8 Capital Expenditure and Capitalisation

Variation between approved and actual values of capital expenditure and capitalisation significantly influences computation of various critical parameters such as depreciation, interest on long term debt, and return on equity. The comparison between capital expenditure and capitalisation approved by the Commission with REL's revised estimates of capital expenditure and capitalisation are given in the Table below:

Table: Capital expenditure and Capitalisation projected by REL (Rs Crore)

Particulars	FY 2007-08		FY 2008-09	
	MYT Order	Revised Estimate by REL	MYT Order	Revised Estimate by REL
TOTAL				
Capital Expenditure	NA	572.06	NA	469.09
Capitalisation	15.99	440.08	40.42	506.79
Wire Related				
Capital Expenditure	NA	501.00	NA	423.09
Capitalisation	15.99	400.90	40.42	427.94
Retail Supply Related				
Capital Expenditure		71.06		46.00
Capitalisation		39.18		78.85



In the MYT Order for REL-D, the Commission has not considered any capital expenditure towards DPR schemes during the Control Period as no DPR scheme was approved in-principle until then. Subsequently, REL has submitted DPRs for 31 schemes, out of which, the Commission has granted in-principle clearance for around 27 schemes and remaining 4 schemes comprising metering and instruments, 11 kV network strengthening, distribution management system and land are yet to be scrutinised.

In the APR Petition, REL has submitted revised estimate of capital expenditure of Rs 572.06 Crore for FY 2007-08 and Rs 469.09 Crore for FY 2008-09. In the MYT Order, the Commission approved capitalisation of Rs 15.99 Crore and Rs 40.42 Crore for FY 2007-08 and FY 2008-09, respectively. mainly relating to non-DPR schemes alone. Against this, REL has submitted revised estimate of capitalisation of Rs 440.08 Crore and Rs 506.79 Crore for FY 2007-08 and FY 2008-09.

For the purpose of APR exercise for FY 2007-08 and revised projections for FY 2008-09, the Commission has considered capital expenditure and capitalisation on account of the DPR schemes that have already been approved by the Commission. Accordingly, the Commission has considered capitalisation of Receiving Station schemes, 11 kV Mains and Distribution transformers, Metering & Instruments, LT Mains, Services, Buildings & Construction works, Land & Units, Distribution Management schemes and Special projects schemes, etc., for the schemes already approved by the Commission and as proposed by REL .

The Commission notes that REL has projected higher capitalisation including IDC in respect of these DPR schemes than that earlier approved by the Commission. The Commission has considered approved capital cost as basis for capitalisation in respect of DPR schemes. The Commission also notes that as per Regulation 60.1 and 72.1 of Tariff Regulations, approved investment plan of the distribution licensee shall be the basis for determining the annual allowable capital cost for each financial year for any capital expenditure project initiated on or after April 1, 2005 with a value exceeding Rs 10 Crore. Accordingly, the Commission directs REL to provide adequate justification, rationale and supporting documentation for justifying increase in capitalised cost in respect of these schemes. The revised capitalised cost can be considered at the time of true-up of financial performance of FY 2007-08 and annual performance review for FY 2008-09.

The Commission has considered all other non-DPR related capital expenditure and capitalisation as proposed by REL during FY 2007-08 and FY 2008-09. Accordingly,



approved capital expenditure and capitalisation for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved Capital expenditure and Capitalisation (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate by REL	Approved After provisional truing up	MYT Order	Revised Estimate by REL	Approved
TOTAL						
Capital Expenditure	NA	572.06	390.21	NA	469.09	356.11
Capitalisation	15.99	440.08	266.30	40.42	506.79	378.87
Wire Related						
Capital Expenditure	NA	501.00	349.68	NA	423.09	352.86
Capitalisation	15.99	400.90	236.82	40.42	427.94	352.36
Retail Supply Related						
Capital Expenditure		71.06	40.53		46.00	3.25
Capitalisation		39.18	29.48		78.85	26.52

4.9 Depreciation

Wire related depreciation

The Commission, in its MYT Order, had permitted depreciation expense for Wire related business to the extent of Rs 71.87 Crore for FY 2007-08 and Rs 71.44 Crore for FY 2008-09, which amounts to 3.64% and 3.57% of Opening level of Gross Fixed Assets (GFA) of REL-D for FY 2007-08 and FY 2008-09 respectively. The opening GFA was stated at Rs 1967.28 Crore and Rs 1983.27 Crore for FY 2007-08 and FY 2008-09, respectively. The depreciation rates were considered as prescribed under MERC (Terms and Conditions of Tariff) Regulations, 2005.

REL, in its APR Petition, submitted the revised estimate for depreciation expenses for FY 2007-08 and FY 2008-09 as Rs 52.19 Crore and Rs 53.83 Crore, respectively, at an overall depreciation rate of 2.64% and 2.26% corresponding to opening GFA of Rs 1979.86 Crore and Rs 2377.37 Crore, respectively.



Table: Depreciation Expenses projected by REL (Wire Related)

(Rs Crore)

Particulars	FY 2007-08		FY 2008-09	
	MYT Order	Revised Estimate	MYT Order	Revised Estimate
Depreciation	71.87	52.19	71.44	53.83
Opening GFA	1967.28	1979.86	1983.27	2377.37
Depn as % of Op. GFA	3.64%	2.64%	3.57%	2.26%

The Commission has examined the depreciation and actual capitalisation claimed by REL in respect of its wire related business in detail as against the various capex schemes approved by the Commission. Further, REL in its additional submissions, confirmed that depreciation has not been claimed beyond 90% of the asset value in line with the Tariff Regulations. In view of revised value of capitalisation as approved under previous paragraphs, the approved depreciation expenditure for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved Depreciation Expenses (Wire Related)

(Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Depreciation	71.87	52.19	52.19	71.44	53.83	50.46
Opening GFA	1967.28	1979.86	1979.86	1983.27	2377.37	2213.29
Depn as % of Op. GFA	3.64%	2.64%	2.64%	3.57%	2.26%	2.28%

Retail Supply related depreciation

The Commission, in its MYT Order, had permitted depreciation expense for retail supply business to the extent of Rs 11.01 Crore for FY 2007-08 and Rs 10.96 Crore for FY 2008-09, which amounts to 3.55% and 3.53% of Opening level of Gross Fixed Assets (GFA) of REL-D for FY 2007-08 and FY 2008-09 respectively. The opening GFA was stated at Rs 310.45 Crore for FY 2007-08 and FY 2008-09, respectively.



The depreciation rates were considered as prescribed under MERC (Terms and Conditions of Tariff) Regulations, 2005.

REL, in its APR Petition, submitted the revised estimate for depreciation costs for FY 2007-08 and FY 2008-09 as Rs 17.29 Crore and Rs 22.43 Crore, respectively, at an overall depreciation rate of 4.70% and 5.83% corresponding to opening GFA of Rs 367.53 Crore and Rs 385.01 Crore, respectively.

Table: Depreciation Expenses projected by REL (Retail Supply) (Rs Crore)

Particulars	FY 2007-08		FY 2008-09	
	MYT Order	Revised Estimate	MYT Order	Revised Estimate
Depreciation	11.01	17.29	10.96	22.43
Opening GFA	310.45	367.53	310.45	385.01
Depn as % of Op. GFA	3.55%	4.70%	3.53%	5.83%

The Commission has examined the depreciation and actual capitalisation claimed by REL in respect of its retail supply related business in detail as against the various capex schemes approved by the Commission. Further, REL in its additional submissions, confirmed that depreciation has not been claimed beyond 90% of the asset value in line with the Tariff Regulations. In view of revised value of capitalisation as approved under previous paragraphs, the approved depreciation expenditure for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved Depreciation Expenses (Retail Supply) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Depreciation	11.01	17.29	17.29	10.96	22.43	21.85
Opening GFA	310.45	367.53	367.53	310.45	385.01	375.31
Depn as % of Op. GFA	3.55%	4.70%	4.70%	3.53%	5.83%	5.82%



Thus, total depreciation expense for REL-Distribution business (Wire + Retail Supply) is summarised in the following Table:

Table: Approved Depreciation Expenses (Wire + Retail Supply) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Depreciation	82.88	69.48	69.48	82.40	76.26	72.31
Opening GFA	2277.73	2347.39	2347.39	2293.72	2762.38	2588.59
Depn as % of Op. GFA	3.52%	2.96%	2.96%	3.59%	2.76%	2.79%

The Commission will undertake the truing up of Depreciation based on actual expenditure during the entire year, subject to prudence check, during Performance Review for the second year of Control Period, i.e., FY 2008-09.

4.10 Interest Expenses

Wire related interest expense

The Commission, in its MYT Order, had permitted wire related interest expense of Rs 40.27 Crore and Rs 40.07 Crore for FY 2007-08 and FY 2008-09, respectively, which amounts to weighted average interest rate of 8 % for both the years. Loan addition of Rs 11.19 Crore and Rs 28.29 Crore was considered in the MYT Order for FY 2007-08 and FY 2008-09, respectively, corresponding to 70% of the capitalised asset cost during respective years.

REL, in its APR Petition, submitted the revised estimate for interest expenses for FY 2007-08 and FY 2008-09 as Rs 72.17 Crore and Rs 91.18 Crore, respectively, as shown in the Table below:



Table: Long-term Interest Expenses by REL (Wire related)

(Rs Crore)

Particulars	FY 2007-08		FY 2008-09	
	MYT Order	Revised Estimate	MYT Order	Revised Estimate
Op. balance of loan	508.56	681.22	498.10	921.26
Loan Addition	11.19	280.63	28.29	299.56
Loan Repayment	(21.65)	(40.59)	(22.76)	(55.57)
Cl. Balance of loan	498.10	921.26	503.63	1165.25
Interest expense	40.27	72.17	40.07	91.18

REL submitted that interest on long-term debt for FY 2007-08 and FY 2008-09 has been computed considering normative loans for the assets put to use. Further, REL has submitted that normative loan repayment tenure for loans drawn during FY 2004-05 and FY 2005-06 has been considered as 10 years, and for loans drawn during FY 2006-07 and afterwards, the loan repayment tenure has been considered as 20 years.

The Commission has considered the interest expense on the normative debt corresponding to capitalised assets only and has considered the interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06, and interest rate of 8% p.a. for assets put to use during FY 2006-07, FY 2007-08 and FY 2008-09, in line with the principle adopted in the Tariff Order dated October 3, 2006 and MYT Order. Accordingly, approved interest expenses for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved Long-term Interest Expenses (Wire Related)

(Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Op. balance of loan	508.56	681.22	565.18	498.10	921.26	691.16
Loan Addition	11.19	280.63	165.77	28.29	299.56	246.65
Loan Repayment	(21.65)	(40.59)	(39.79)	(22.76)	(55.57)	(52.12)
Cl. Balance of loan	498.10	921.26	691.16	503.63	1165.25	885.69
Interest expense	40.27	72.17	56.00	40.07	91.18	68.48



Retail Supply related interest expense

The Commission, in its MYT Order, had permitted Retail Supply related interest expense of Rs 4.42 Crore and Rs 4.23 Crore for FY 2007-08 and FY 2008-09, respectively, which amounts to weighted average interest rate of 8 % for both the years. No loan addition was considered in the MYT Order for FY 2007-08 and FY 2008-09, respectively, as there was no projection of any capitalised asset cost during respective years.

REL, in its APR Petition, submitted the revised estimate for interest expenses for FY 2007-08 and FY 2008-09 as Rs 12.16 Crore and Rs 14.27 Crore, respectively, as shown in the Table below:

Table: Long-term Interest Expenses by REL (Retail Supply related) (Rs Crore)

Particulars	FY 2007-08		FY 2008-09	
	MYT Order	Revised Estimate	MYT Order	Revised Estimate
Op. balance of loan	56.51	116.12	54.10	132.50
Loan Addition	0.00	27.43	0.00	55.20
Loan Repayment	(2.41)	(11.04)	(2.41)	(13.80)
Cl. Balance of loan	54.10	132.50	51.69	173.90
Interest expense	4.42	12.16	4.23	14.27

REL has submitted that interest on long-term debt for FY 2007-08 and FY 2008-09 has been computed considering normative loans for the assets put to use. Further, REL has submitted that normative loan repayment tenure for loans drawn during FY 2004-05 and FY 2005-06 has been considered as 10 years, and for loans drawn during FY 2006-07 and afterwards, the loan repayment tenure has been considered as 20 years.

The Commission has considered the interest expense on the normative debt corresponding to capitalised assets only and has considered the interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06, and interest rate of 8% p.a. for assets put to use during FY 2006-07, FY 2007-08 and FY 2008-09, in line with the principle adopted in the Tariff Order dated October 3, 2006 and MYT Order. Accordingly, approved interest expenses for retail supply of REL for FY 2007-08 and FY 2008-09 is summarised in the following Table:



Table: Approved Long-term Interest Expenses (Retail Supply Related) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Op. balance of loan	56.51	116.12	91.66	54.10	132.50	101.15
Loan Addition	0.00	27.43	20.63	0.00	55.20	18.56
Loan Repayment	(2.41)	(11.04)	(11.14)	(2.41)	(13.80)	(12.06)
Cl. Balance of loan	54.10	132.50	101.15	51.69	173.90	107.65
Interest expense	4.42	12.16	8.78	4.23	14.27	9.26

Thus, total interest expense for REL-Distribution business (Wire + Retail Supply) is summarised under following table.

Table: Approved Long-term Interest Expenses (Wire + Retail Supply) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved After provisional truing up	MYT Order	Revised Estimate	Approved
Op. balance of loan	565.07	797.34	656.83	552.20	1053.76	792.31
Loan Addition	11.19	308.06	186.41	28.29	354.75	265.21
Loan Repayment	(24.06)	(51.63)	(50.93)	(25.17)	(69.37)	(64.19)
Cl. Balance of loan	552.20	1053.76	792.31	555.32	1339.15	993.34
Interest expense	44.69	84.33	64.79	44.30	105.45	77.73

4.11 Interest on Working Capital for FY 2007-08 and FY 2008-09

REL has estimated the Interest on Working Capital (IWC) considering interest rate @ 11.50% as per the components considered in the Tariff Regulations, with the revised IWC estimated at Rs 36.56 Crore as against Rs 20.18 Crore approved by the Commission. For FY 2008-09, REL estimated the interest on working capital, considering interest rate as 12.75%, as Rs. 41.44 crore.



The Commission has estimated the working capital requirement of REL-D for FY 2007-08 after considering the provisional truing up of various expenditure heads. The Tariff Regulations stipulates that Rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on the date on which the application for determination of tariff is made. As the application for determination of tariff for FY 2007-08 was made on January 16, 2007, the Commission has considered the short-term Prime Lending Rate of State Bank of India of 11.5% prevalent at that time for estimating the interest on working capital.

For FY 2008-09, the Commission has estimated the working capital requirement of REL-D after considering the revised expenditure approved in this Order. The Commission has considered the interest rate as 12.75% in accordance with the short-term Prime Lending Rate of State Bank of India prevalent at the time of filing the Petition for FY 2008-09 Further, for FY 2007-08 and FY 2008-09, REL-D has computed interest on working capital only for the wires business and has not computed the interest on working capital for the supply business. However, the Commission, in accordance with the Tariff Regulations, has computed the normative interest on working capital for both the wires and supply business.

REL has projected the interest on consumers' security deposits at the interest rate of 5.5% as approved in the REL MYT Order, and the Commission has accepted REL's computation in this regard.

The revised interest on working capital and consumers' security deposit for REL-D for FY 2007-08 and FY 2008-09 is given in the following Table:

Table: Interest on Working Capital and Consumers' Security Deposit for FY 2007-08 & FY 2008-09 (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate by REL	Approved After provisional truing up	MYT Order	Revised Estimate by REL	Approved
Interest on Working Capital and consumer security deposits	20.18	36.56	39.63	-	41.44	37.85



4.12 Contribution to Contingency Reserves for FY 2007-08 and FY 2008-09

REL submitted that the contribution to contingency reserves for FY 2007-08 and FY 2008-09 has been computed at 0.5% of opening GFA in accordance with the Commission's Tariff Regulations, as Rs. 11.74 Crore and Rs. 13.81 crore, respectively, as against Rs. 11.39 crore and Rs. 11.47 crore approved by the Commission in the MYT Order.

In this regard, the MERC (Terms and Conditions of Tariff) Regulations, 2005 stipulates,

“50.7.1 Where the Distribution Licensee has made an appropriation to the Contingencies Reserve, a sum not less than 0.25 per cent and not more than 0.5 per cent of the original cost of fixed assets shall be allowed towards such appropriation in the calculation of aggregate revenue requirement:

Provided that where the amount of such Contingencies Reserves exceeds five (5) per cent of the original cost of fixed assets, no such appropriation shall be allowed which would have the effect of increasing the reserve beyond the said maximum:

Provided further that the amount so appropriated shall be invested in securities authorized under the Indian Trusts Act, 1882 within a period of six months of the close of the financial year.”

As discussed in the paragraphs on truing up for FY 2006-07, REL-D has submitted the documentary evidence of investment of the contingency reserve in the approved securities, as stipulated in the Tariff Regulations.

The ARR of the Distribution Licensees is eventually recovered from the retail consumers through the Distribution Licensees' tariff. Considering that the overall tariff increase at the retail level is expected to be significant, in view of various developments discussed in detail in the respective Tariff Orders, the Commission has decided to provide for contingency reserves for all transmission licensees and distribution licensees at the minimum rate of 0.25% of opening GFA, as permitted under the Commission's Tariff Regulations, rather than 0.5% of opening GFA as claimed by the licensees. Since the MYT Order had considered the contingency reserves for FY 2007-08 as 0.5% of opening GFA, no change has been made to the same. However, for FY 2008-09, the Commission has considered the contribution to



contingency reserves at 0.25% of opening GFA, after considering the actual capitalisation and revised estimate of capitalisation for these years, as discussed in earlier paragraphs.

4.13 Return on Equity (RoE)

Wire Related RoE

The Commission, in its MYT Order, had permitted return on equity for its Wire related business to the extent of Rs 144.93 Crore and Rs 146.29 Crore for FY 2007-08 and FY 2008-09, respectively, considering rate of return of 16% during respective years. REL, in its APR Petition, submitted the revised estimate of return on equity for FY 2007-08 and FY 2008-09 as Rs 160.53 Crore and Rs 180.42 Crore, respectively. REL submitted that based on the capital expenditure, capitalisation, and normative debt:equity norm of 70:30, the return on equity on the equity portion has been considered at 16%.

In view of revised capitalisation as approved by the Commission in this Order, the Commission has computed the RoE for FY 2007-08 and FY 2008-09 on the opening balance of equity and 50% of the equity portion of the approved asset value capitalised during the year, in accordance with the Tariff Regulations as applicable for the distribution business. Accordingly, approved Return on Equity for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Return on Equity (Wire Related) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved after provisional truing up	MYT Order	Revised Estimate	Approved
Regulatory Equity at the beginning of the year	903.44	943.17	943.17	908.24	1063.44	1014.21
Equity portion of assets capitalized during year	4.80	120.27	71.05	12.13	128.38	105.71
Regulatory Equity at the end of the year	908.24	1063.44	1014.21	920.36	1191.82	1119.92
Return on Regulatory Equity at the beginning of the year	144.55	150.91	150.91	145.32	170.15	162.27
Return on Equity portion of assets capitalised during year	0.38	9.62	5.68	0.97	10.27	8.46
Total Return on Regulatory Equity	144.93	160.53	156.59	146.29	180.42	170.73



Retail Supply Related RoE

The Commission, in its MYT Order, had permitted return on equity for its Retail Supply business to the extent of Rs 16.06 Crore for FY 2007-08 and FY 2008-09, respectively, considering rate of return of 16% during respective years. REL, in its APR Petition, submitted the revised estimate of return on equity for FY 2007-08 and FY 2008-09 as Rs 18.00 Crore and Rs 20.83 Crore, respectively. REL submitted that based on the capital expenditure, capitalisation, and normative debt:equity norm of 70:30, the return on equity on the equity portion has been considered at 16%.

In view of revised capitalisation as approved by the Commission in this Order, the Commission has computed the RoE for FY 2007-08 and FY 2008-09 on the opening balance of equity and 50% of the equity portion of the approved asset value capitalised during the year, in accordance with the Tariff Regulations as applicable for the distribution business. Accordingly, approved Return on Equity for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Return on Equity (Retail Supply Related) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved after provisional truing up	MYT Order	Revised Estimate	Approved
Regulatory Equity at the beginning of the year	100.38	106.61	106.61	100.38	118.36	115.45
Equity portion of assets capitalized during year	0.00	11.76	8.84	0.00	23.66	7.95
Regulatory Equity at the end of the year	100.38	118.36	115.45	100.38	142.02	123.40
Return on Regulatory Equity at the beginning of the year	16.06	17.06	17.06	16.06	18.94	18.47
Return on Equity portion of assets capitalised during year	0.00	0.94	0.71	0.00	1.89	0.64
Total Return on Regulatory Equity	16.06	18.00	17.76	16.06	20.83	19.11

Thus, total Return on Equity for REL-Distribution business (Wire + Retail Supply) is summarised under following table.

Table: Return on Equity (Wire + Retail Supply) (Rs Crore)

Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved after provisional truing up	MYT Order	Revised Estimate	Approved
Regulatory Equity at the beginning of the year	1003.82	1049.77	1049.77	1008.62	1181.80	1129.66



Particulars	FY 2007-08			FY 2008-09		
	MYT Order	Revised Estimate	Approved after provisional truing up	MYT Order	Revised Estimate	Approved
Equity portion of assets capitalized during year	4.80	132.02	79.89	12.13	152.04	113.66
Regulatory Equity at the end of the year	1008.62	1181.80	1129.66	1020.74	1333.83	1243.32
Return on Regulatory Equity at the beginning of the year	160.61	167.96	167.96	161.38	189.09	180.75
Return on Equity portion of assets capitalised during year	0.38	10.56	6.39	0.97	12.16	9.09
Total Return on Regulatory Equity	160.99	178.53	174.35	162.35	201.25	189.84

4.14 Provisioning for Bad Debts

In the APR Petition, REL-D submitted that the provisioning for bad debts has been considered at 1.6% of receivables for FY 2007-08 and FY 2008-09.

For FY 2007-08 and FY 2008-09, the Commission has retained the approved level of provisioning of bad debts as Rs. 7.17 crore, since no rationale has been submitted for the increase in provisioning.

4.15 Income Tax for FY 2007-08 and FY 2008-09

REL submitted that for FY 2007-08 and FY 2008-09, the income tax has been estimated at the prevalent corporate tax rate of 33.99%, and is estimated at Rs 91.93 Crore and Rs. 103.63 crore, respectively, as against the income tax of Rs. 65.24 crore allowed by the Commission for FY 2007-08.

The Commission subsequently asked REL to submit the detailed income tax computations for REL-G, REL-T and REL-D, after considering the 80 IA tax benefits, and other tax exemptions as applicable, including tax depreciation, for FY 2007-08 and FY 2008-09. REL, in its reply, submitted the revised workings for income tax in which it has computed tax by adding back the book depreciation and reducing Tax depreciation on WDV basis under provisions of the Income Tax Act. REL, in its revised submissions, also added back the normative interest on loan and normative interest on working capital to the taxable income while computing the income tax and submitted that these normative expenses are not eligible as expense for arriving at the profit before tax on which income tax will be computed. REL also submitted that the income tax computed under this method is Rs. 98.2 crore and Rs. 116.59 crore for FY 2007-08 and FY 2008-09, respectively.



The Commission agrees with REL's submission that normative interest on loan and normative interest on working capital are not actual expenses and hence, will not be eligible as deductible expenses while computing the income tax. The method of adding back book depreciation and deducting tax depreciation for computing the taxable profit is also correct, and has been accepted by the Commission.

The regulatory profit before tax has been considered as the RoE, grossed up for income tax, since the RoE is also taxed as a part of the income, and the Licensee is entitled for post-tax return of 16%.

Based on the above principles, the Commission has estimated the income tax of REL-D on stand alone basis by considering the income and expenses in accordance with the ARR approved after provisional truing up for FY 2007-08 and revised estimates for FY 2008-09. The income tax projected by REL in its APR Petition, tax projected in REL's additional submission, and the income tax approved by the Commission after provisional truing up is shown in the Table below:

Table: Income Tax approved by the Commission for REL-D (Rs Crore)

Sl.	Particulars	FY 2007-08		FY 2008-09	
		Revised Estimate	Approved after provisional truing up	Revised Estimate	Approved
1	Profit Before Tax	270.45	264.13	304.88	287.59
2	Add: Depreciation as per APR	69.48	69.48	76.26	72.31
3	Less: Depreciation as per Income Tax	(158.23)	(158.23)	(171.26)	(171.26)
4	Add: Normative Interest on Long Term Loan	84.33	64.79	105.45	77.73
5	Add: Normative Interest on Working Capital	22.85	25.91	27.69	24.10
6	Total	288.88	266.08	343.02	290.48
7	Income Tax on Total	98.19	90.44	116.59	98.73

4.16 Non-Tariff Income for FY 2007-08 and FY 2008-09

REL submitted that the non-tariff income for FY 2007-08 and FY 2008-09 is estimated at Rs 59 Crore, for each year, and that it is difficult to predict the movement of items under non-tariff income.



The Commission has accepted REL's revised projections of Non-Tariff Income, and will undertake the truing up of Non Tariff Income based on audited accounts during Performance Review for the second year of Control Period, i.e., FY 2008-09.

4.17 Demand Side Management (DSM) Expenses for FY 2008-09

The Commission has approved the DSM budget for undertaking DSM expenses through a separate process, to the extent of Rs. 23.45 crore. Of this, Rs. 9.84 crore will be met through the funds available under the LMC fund collected from the consumers earlier, and the balance expense of Rs. 13.61 crore has been considered in the ARR of FY 2008-09.

4.18 Annual Revenue Requirement of REL-D for FY 2007-08 and FY 2008-09

Based on analysis of each element discussed above, the Aggregate Revenue Requirement of REL-D for FY 2007-08 and FY 2008-09 as approved by the Commission in its MYT Order, as estimated by REL-D in the APR Petition and as approved by the Commission in this Order is given in the following Tables:

Table: Aggregate Revenue Requirement for FY 2007-08 (Rs Crore)

Sl.	Particulars	FY 2007-08		
		Revised Estimates	MYT Order	Approved after provisional truing up
1	Power Purchase Expenses	3,063.28	2,879.50	3,082.24
2	Operation & Maintenance Expenses	528.70	427.96	483.32
2.1	Employee Expenses	275.39	192.56	246.29
2.2	Administration & General Expenses	103.03	91.01	99.36
2.3	Repair & Maintenance Expenses	150.28	144.39	137.67
3	Depreciation, including advance against depreciation	69.48	82.88	69.48
4	Interest on Long-term Loan Capital	84.33	44.69	64.79
5	Interest on Working Capital and on consumer security deposits	36.56	20.18	39.63
6	Bad Debts Written off	9.48	7.17	7.17
7	Other Expenses	-	-	-
8	Income Tax	91.93	65.24	90.44



Sl.	Particulars	FY 2007-08		
		Revised Estimates	MYT Order	Approved after provisional truing up
9	Transmission Charges intrastate	189.55	189.55	189.55
10	SLDC Charges	1.55	1.55	1.56
11	Contribution to contingency reserves	11.74	11.39	11.74
12	Total Revenue Expenditure	4,086.59	3,730.11	4,039.91
13	Return on Equity Capital	178.53	160.99	174.35
14	Aggregate Revenue Requirement	4,265.11	3,891.10	4,214.26
15	Less: Non Tariff Income	59.03	51.81	59.03
16	Aggregate Revenue Requirement from Retail Tariff	4,206.08	3,839.29	4,155.23

Based on provisional truing up of various elements for FY 2007-08 as discussed in above paragraphs, the Aggregate Revenue Requirement for FY 2007-08 works out to Rs 4155.23 Crore as against the amount of Rs 3839.29 Crore approved in the MYT Order. This increase in the Aggregate Revenue Requirement is primarily on account of the increase in the power purchase expenses, which has been necessitated by the higher actual sales in FY 2007-08.

The Revenue Requirement for FY 2008-09, as shown below:

Table: Aggregate Revenue Requirement for FY 2008-09 (Rs Crore)

Sl.	Particulars	FY 2008-09	
		Revised Estimate	Approved
1	Power Purchase Expenses	3,119.50	3,823.10
2	Operation & Maintenance Expenses	555.36	517.35
2.1	Employee Expenses	288.11	265.51
2.2	Administration & General Expenses	108.70	106.84
2.3	Repair & Maintenance Expenses	158.55	145.00
3	Depreciation, including advance against depreciation	76.26	72.31
4	Interest on Long-term Loan Capital	105.45	77.73
5	Interest on Working Capital and on consumer security deposits	41.44	37.85
6	Bad Debts Written off	9.48	7.17
7	Other Expenses	-	-
8	Income Tax	103.63	98.73
9	Transmission Charges intrastate	201.71	221.63
10	SLDC Charges	1.55	1.52
11	Contribution to contingency reserves	13.81	6.47



Sl.	Particulars	FY 2008-09	
		Revised Estimate	Approved
12	DSM Budget		13.61
13	Total Revenue Expenditure	4,228.18	4,877.48
14	Return on Equity Capital	201.25	189.84
15	Aggregate Revenue Requirement	4,429.43	5,067.32
16	Less: Non Tariff Income	59.05	59.05
17	Aggregate Revenue Requirement from Retail Tariff	4,370.38	5,008.27

The Aggregate Revenue Requirement for FY 2008-09 is higher than that projected by REL, mainly on account of the higher sales necessitating higher quantum of power purchase, and higher power purchase expenses on account of non-availability of higher allocation from TPC-G as considered by REL-D in its Petition, and due to non-signing of PPA in a timely manner by REL-D.

4.19 Revenue from existing tariff for FY 2007-08 and FY 2008-09

In the APR Petition, REL has computed the revenue from existing tariffs for FY 2007-08, on the basis of the actual category-wise revenue over the period from April to September 2007, and projected revenue for the period from October 2007 to March 2008 on the basis of the projected sales during this period and the prevailing category-wise tariffs. REL-D has estimated the revenue for FY 2007-08 as Rs. 4112.32 crore, as compared to the revenue of Rs. 3826.75 crore estimated in the MYT Order issued for REL-D by the Commission. For FY 2008-09, REL has estimated the revenue from sale of electricity as Rs. 4250.67 crore, on the basis of the projected sales during this period and the prevailing category-wise tariffs.

In order to have a realistic estimate of the actual sales and revenue during FY 2007-08, the Commission asked REL-D to submit the details of the actual category-wise sales and actual revenue earned through the sales to different consumer categories over the period April 2007 to January 2008, which was submitted by REL-D. As discussed earlier in this Section, the actual sales in FY 2007-08 have been higher than the sales projected in the MYT Order, resulting in requirement for additional power purchase and increase in the power purchase cost. At the same time, the revenue from sale of electricity has also increased correspondingly. Based on the actual revenue earned by REL through sale of electricity over the period from April 2007 to January 2008, the Commission has proportionately considered the revenue as Rs. 4190.09



crore. Based on audited results submitted at the time of APR of FY 2008-09, the Commission will true up the actual expenses and revenue for FY 2007-08, subject to prudence check.

For FY 2008-09, the Commission has estimated the revenue from sale of electricity on the basis of the revised sales projected by the Commission during this period and the prevailing category-wise tariffs. The expected revenue from existing tariffs for FY 2008-09 works out to Rs. 4474.80 crore.



5 TARIFF PHILOSOPHY AND CATEGORY-WISE TARIFFS FOR FY 2008-09

5.1 Applicability of Revised Tariffs

The revised tariffs will be applicable from June 1, 2008 till March 31, 2009. In cases, where there is a billing cycle difference of a consumer with respect to the date of applicability of the revised tariffs, then the revised tariff should be made applicable on a pro-rata basis for the consumption. The bills for the respective periods as per existing tariff and revised tariffs shall be calculated based on the pro-rata consumption (units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in the respective period falling under the billing cycle).

The Commission has determined the tariffs and revenue from revised tariffs as if the revised tariffs are applicable for the entire year. The Commission clarifies that any shortfall in actual revenue vis-à-vis the revenue requirement approved after truing up, due to the applicability of the revised tariffs for only ten months of FY 2008-09, will be trued up at the end of the year.

The Commission will undertake the Annual Review of REL-D's performance during the last quarter of FY 2008-09. REL-D is directed to submit its Petition for Annual Review of its performance during the first half of FY 2008-09, as well as truing up of revenue and expenses for FY 2007-08, with detailed reasons for deviation in performance, latest by November 30, 2008.

5.2 Revenue Gap for FY 2007-08 and FY 2008-09

In the APR Petition, REL-D submitted that the total revenue gap to be addressed through revision in tariffs in FY 2008-09 has the following components:

- a) Gap resulting from the deferment of the recovery of Rs. 138 crore, as per MYT Order dated April 24, 2007.
- b) Gap for FY 2006-07 of Rs. 232 crore due to ATE Judgment dated April 04, 2007.



- c) The carrying cost of Rs. 100 crore on past deferments, as shown in the computations below, of which Rs. 44 crore is for FY 2008-09.
- d) The impact of Rs. 94 crore on account of Annual Performance Review (APR) for FY 2007-08, which includes
- a. Impact due to error of Rs. 64 crore in Energy Balance in MERC Order.
 - b. Impact of wage revision, which was to be considered by the Commission after execution of the wage revision agreement with the Union/Association, and,
 - c. Impact of capital expenditure for which the DPR's were required to be submitted to the Commission.
- e) Most of the additional power requirement due to demand growth is being met through incremental purchase from bilateral power sources, which has made an impact of Rs. 26 crore for FY 2008-09.

REL submitted the computation of carrying cost on the amount of revenue recovery deferred in the MYT Order as given below:

§ The gap of Rs. 264 crore, pertaining to ATE Judgment on REL Appeal for truing up of FY 2004-05 and FY 2005-06, was to be distributed over three years starting from FY 2007-08;

- the deferred recovery amount of Rs. 100 crore was to be spread at Rs. 50 crore in FY 2008-09 and FY 2009-10
- Rs. 164 crore was to be spread over FY 2008-09 and FY 2009-10 at Rs. 88 crore each year

§ FY 2006-07 revenue gap of Rs. 232 crore was spread over three years, requiring the recovery of Rs. 77 crore in each year starting from FY 2008-09.

§ The carrying cost of such distributed gap (including the deferred recovery) should be allowed for recovery

Table: Deemed Regulatory Asset with Carrying Cost (Rs. Crore)

Particulars	FY 2007-08	FY 2008-09	FY 2009-10	Total
Deferred recovery	100	88	88	276
Rs. 100 cr of FY 2007-08 spread over 2 years		50	50	



Deferred recovery		138	138	276
Carrying cost interest		28		28
FY 2006-07 revenue gap	77	77	77	232
Carrying cost interest	16	24	32	72
Total Deferred recovery (138+232)				370
Total carrying cost interest				100

The summary of the revenue gap and recovery mechanism proposed by REL-D in its APR Petition is given in the following Table:

Table: Revenue Gap projected by REL (Rs. Crore)

Sl.	Particulars	Gap	Regulatory Asset	Total Gap
1	FY 2006-07 Truing up		232	232
2	FY 2007-08 provisional truing up		94	94
3	FY 2008-09 (incremental over FY 2007-08)	26		26
4	Sub-total	26	326	352
5	Deferred Recovery		138	138
6	Sub-total	26	464	490
7	Carrying cost interest upto FY 2008-09		44	44
8	Total, with carrying cost	26	508	534
9	% increase at existing tariffs	0.61%	11.95%	12.56%
10	1/3rd applicable for FY 2008-09			4.19%

REL submitted that the impact of tariff determination should not result in a tariff shock for its consumers and in accordance with the National Tariff Policy, REL proposed that the total gap of Rs. 534 crore be spread over a period of three years with 10.25% carrying cost, and be treated as a 'deemed regulatory asset'. REL, hence, proposed an average tariff increase of 4.19% for FY 2008-09, over existing tariff levels.

Based on its analysis, the revenue gap as estimated by the Commission for different years, and the computation of total revenue gap, including the deferred recovery of previous years, is detailed below:

- a) The revenue gap on account of the final truing up of expenses and revenue for FY 2006-07 is Rs. 174.43 crore, which has to be added to the revenue gap projected for FY 2008-09, to determine the total revenue gap.



- b) The negative revenue gap (revenue surplus) on account of the provisional truing up of expenses and revenue for FY 2007-08 is Rs. 34.86 crore (Rs. 4155.23 crore – Rs. 4190.09 crore), which has to be added to the revenue gap projected for FY 2008-09, to determine the total revenue gap.
- c) The revenue gap of FY 2008-09 with existing tariffs is Rs. 535.94 crore (Rs. 5010.74 crore – Rs. 4474.80 crore). It is also clarified that REL-D's approach of considering only the incremental revenue gap in FY 2008-09 is incorrect, and leads to understatement of the total revenue gap. REL-D's approach would have been justified in case the tariffs were being revised for FY 2007-08, rather than FY 2008-09, as is the case here, or it did not wish to pass on the earlier years' increase/gap for future years to its consumers, which is not the case. Hence, the total revenue gap in FY 2008-09 has to be considered, while computing the revenue gap to be recovered through increase in tariffs.
- d) Deferred recovery of Rs. 138 crore, to be recovered in FY 2008-09
- e) As regards the carrying cost of interest on deferred recovery of Rs. 138 crore, in its MYT Petition, while proposing deferment of the revenue gap to avoid tariff shock, REL had not proposed any carrying cost on the same, and accordingly, the Commission's MYT Order also had no mention of the carrying cost. However, in the APR Petition, REL-D has sought carrying cost interest on the amount of deferred recovery, at the rate of 10.25% per annum. While there was no specific mention of allowing carrying cost in the MYT Order, the Commission appreciates that carrying cost will have to be considered, on account of the deferment in the recovery of the approved revenue. The Commission has hence, computed the carrying cost of interest on deferred recovery of Rs. 138 crore, at the rate of 6%, as is the prevalent practice applicable for deferred recovery of the Fuel Adjustment Cost (FAC) under-recovered amount.
- f) The carrying cost of interest on FY 2006-07 revenue gap of Rs. 174.43 crore has also been computed at the rate of 6%.

The summary of the revenue gap for FY 2008-09, as computed by the Commission, is given in the Table below:



Table: Total Revenue Gap determined by the Commission (Rs. Crore)

Sl.	Particulars	Amount
1	FY 2006-07 Truing up	180.43
2	FY 2007-08 provisional truing up	(34.86)
3	FY 2008-09 revenue gap	533.47
4	Sub-total	679.03
5	Deferred Recovery	138.00
6	Surplus received from TPC for FY 2006-07	-41.89
7	Sub-total	775.14
8	Carrying cost interest on deferred recovery	16.56
9	Carrying cost interest on FY 2006-07 truing up	21.65
10	Total Revenue Gap	813.35
11	Average % increase at existing tariffs	18.18%

Thus, the total revenue gap as computed by the Commission, works out to Rs. 813.4 crore, and if the entire revenue gap is passed through in FY 2008-09 itself, the average percentage tariff increase would amount to around 18%, with respect to existing tariffs, which are already quite high, for several consumer categories. With the prevailing level of cross-subsidies, pass through of the entire revenue gap in FY 2008-09 may result in a tariff shock to certain consumer categories. At the same time, a large part of the revenue gap has arisen because of the increase in the power purchase requirement due to the increase in sales vis-à-vis sales projected by REL in its APR Petition, and additional power purchase from expensive sources on account of non-availability of cheaper power from TPC-G as considered in REL's APR Petition. The reasons for the same have been elaborated earlier in this Section.

Under this scenario, the Commission has attempted to solve the problem in a pragmatic manner, and has adopted the following approach for recovery of the revenue gap through tariffs:

- a) The total revenue gap in FY 2008-09 of Rs. 813 crore, has been considered in two parts, viz., Rs. 534 crore (equivalent to the revenue gap projected by REL-D in its APR Petition) and Rs. 279 crore.
 - a. One-third of the revenue gap of Rs. 534 crore has been considered as pass-through to the consumers in FY 2008-09, as proposed by REL-D



- b. Two-thirds of the revenue gap of Rs. 534 crore, i.e., Rs. 356 crore, will be allowed to be recovered in two equal parts over the next two years, viz., FY 2009-10 and FY 2010-11.
- c. The remaining revenue gap of Rs. 279 crore has been considered as recoverable through tariffs in FY 2008-09, since this largely comprises the additional expenditure on account of expensive power purchase, and the Commission does not wish to disallow the power purchase expenses, as power purchase has to be undertaken to meet the requirements of consumers to ensure that there is no load shedding.
- d. Thus, the total revenue gap considered for determination of tariffs for FY 2008-09, works out to Rs. 457.4 crore, which works out to an average tariff increase of 10.22% with respect to existing tariffs.

The summary of the revenue gap considered by the Commission for tariff determination for FY 2008-09, is given in the Table below:

Table: Revenue Gap allowed for FY 2008-09 (Rs. Crore)

Sl.	Particulars	Amount
1	Total Revenue Gap	813.35
2	Average % increase at existing tariffs	18.18%
3	1/3 rd applicable for FY 2008-09	178.00
4	Pass through of the balance revenue gap, primarily on account of expensive power purchase	279.35
5	Total revenue gap passed thru in FY 2008-09	457.35
6	Average % increase at existing tariffs	10.22%

5.3 Tariffs Proposed by REL-D

As mentioned in the previous Section, REL-D proposed an average tariff increase of 4.19% for FY 2008-09. REL proposed that since almost the entire revenue gap is arising out of Regulatory Asset and therefore, for clarity to the consumers, REL-D proposed that the same should be communicated through introduction of a separate charge called 'Regulatory Asset Recovery Charge' of Rs. 0.216 per kWh to all consumer categories, except BPL category. REL further proposed that no other change was proposed in the tariff structure, and the existing energy charges and other charges should be retained, and REL-D be permitted to recover the Regulatory Asset Recovery Charges, in addition.



5.4 Tariff Philosophy

The Commission has determined the tariffs in line with the tariff philosophy adopted by it in the past, and the provisions of law. The tariffs and tariff categorisation have been determined so that the cross-subsidy is reduced without subjecting any consumer category to a tariff shock, and also to consolidate the movement towards uniform tariff categorisation throughout the State of Maharashtra.

As explained earlier in the Order, while ruling on objections filed by certain stakeholders, the Commission has clarified that it is not feasible to have uniform tariffs across different licensees, due to inherent differences, such as revenue requirement, consumer mix, consumption mix, LT:HT ratio, etc. It is also, not appropriate to compare category-wise tariffs across different licensees for the same reasons. However, the Commission has observed that the tariff categorisation and applicability of tariffs is different across different licensees in the State, which is not appropriate. The differences exist because of historical reasons and differences in management policies and approach across licensees. However, within one State, the consumer categorisation and applicability of tariffs should not be significantly different, and the Commission has attempted to achieve this objective in this Order and other Orders for the distribution licensees in the State. There will of course, be some differences, on account of certain consumer categories being present only in certain licence areas, such as agricultural category, power looms, etc., which will exist only in certain licence areas.

The existing Fuel Adjustment Cost (FAC) Charge has been brought to zero, on account of the adoption of the existing fuel costs for projection of the fuel expenses. In case of any variation in the fuel prices with respect to these levels, REL-D will be able to pass on the corresponding increase to the consumers through the existing FAC mechanism, subject to the stipulated ceiling of 10% of average energy charges. The FAC will be charged on a monthly basis, and the details of the computation and recovery from the same will have to be submitted to the Commission for post-facto, on a quarterly basis. It is also clarified that the FAC mechanism will be applicable for both, non-costly sources as well as expensive sources of power purchase.

In the MYT Order, the Commission segregated the standby charges and expensive power charges, which were earlier embedded within the energy charges, and charged to specific categories of consumers. The Commission has continued with this approach, since the genesis for the segregation of the charges still exists, and is in fact, more accentuated on account of the additional purchase of expensive power



having to be undertaken by REL-D, due to unavailability of cheaper power and non-finalisation of any PPA with TPC-G by REL-D. However, it is clarified that these charges are a part of the energy charges, and the Commission has only indicated these charges separately, with the intention of sensitising the consumers about the consequences of the rapid increase in consumption and the ever-increasing demand-supply gap. Thus, the base energy charge determined in this Tariff Order is excluding the cost of standby charge and expensive power.

The two main components of the Reliability Charge are as follows:

- § Stand-by Charges
- § Approved Cost of Expensive power

As compared to consumers in other parts of the State, consumers in Mumbai have had the privilege of uninterrupted power supply for many years, on account of the existence of a standby power agreement with MSEDCL. This ensures that the city does not face any load shedding in case of an emergency situation in the licensee area. The annual cost implication of the standby arrangement for REL-D is around Rs 222 Crore. The average rate of standby charges works out to 27 paise/kWh, and the same has been levied on all consumers for their entire consumption, except BPL category consumers.

Due to increasing energy consumption in its license area and no additional generation capacity, REL-D has been purchasing expensive short-term power to meet this demand. Power purchase from Unit 4 of TPC-G and procurement from external sources, has been considered under expensive power, and the total power purchase expense from these sources is around Rs 1600 Crore in FY 2008-09, which has been levied to specified consumer categories.

The Commission has made the Reliability Charge applicable in the following manner:

- § The stand by charge would be levied uniformly across all categories of consumers except BPL consumers at the rate of 27 paise per unit.
- § The cost for expensive power would be levied on all consumers except the Below Poverty Line (BPL) and LT-1 (Residential) consumers consuming less than 300 units, so as to prevent tariff shock for these consumers.

The demand-supply situation in the city of Mumbai is in a fine state of balance, with the licensees barely managing to meet the demand, through a combination of own generation and costly power purchases from outside the State. However, the proportion of expensive power purchase from outside the State, is increasing very



rapidly, which not only increases the cost, but also increases the uncertainty of supply, since many times, these contracts are on 'as available' and 'day-ahead' basis. If the demand continues to grow at the current rate, then it is likely that the city of Mumbai, including REL-D's consumers, will have to face load shedding during system peak hours, even after paying the Reliability Charges. Hence, the Commission has continued to determine the tariffs such that there is an in-built incentive to consumers to reduce their consumption, as the impact on the bills is designed to increase as the consumption increases.

The Commission has reduced the fixed charges/demand charges applicable for different consumer categories, and correspondingly increased the energy charges, so that the bills are more directly linked to the consumption. Economic theory states that the recovery of fixed costs through fixed charges should be increased, so that a reasonable portion of the fixed costs are recovered through the fixed charges. However, the ability of the Licensees to supply cheap power on continuous basis has been eroded due to the stressed demand-supply position in recent times, and hence, the Commission has reduced the fixed charges. This will provide certain relief to the consumers who have lower load factor, as the consumers will be billed more for their actual consumption rather than the load, and the licensees also have an incentive to ensure that continuous 24 hour supply is given to the consumers. As and when sufficient power is available and contracted by the licensees, the fixed charges can again be increased, and energy charges reduced correspondingly.

The applicability of the BPL category tariffs has been modified slightly such that BPL category will be available only to such residential consumers who have a sanctioned load of upto and less than 0.1 kW, and have consumed less than 360 units per annum in the previous financial year. The eligibility criteria has thus, been modified from a monthly limit of 30 units to an annual limit of 360 units, so that it leaves some flexibility in consumption with the BPL consumer. The applicability of BPL category will have to be assessed at the end of each financial year. In case any BPL consumer has consumed more than 360 units in the previous financial year, then the consumer will henceforth, be considered under the LT-1 residential category. Once a consumer is classified under the LT-1 category, then he cannot be classified under BPL category.

The Commission has continued with the practice of charging higher tariffs for residential consumers having monthly consumption above 300 units per month and above 500 units per month, since, the Commission feels that in the residential category, such consumption should be classified as luxurious use, and an economic



signal in terms of higher tariff has to be given to such consumers to encourage them to make efforts for energy conservation. The tariff for domestic category with a monthly consumption upto 300 units has been increased nominally.

In view of the ATE's decision in this regard, the Commission has done away with LT-IX category, the separate consumer categorisation for shopping malls and multiplexes,. All these consumers will henceforth, be classified under LT-2 commercial category, as was being done earlier. Further, three new sub-categories have been created under LT-2 category on the basis of sanctioned load, viz., 0 to 20 kW, 21 kW to 50 kW, and above 50 kW sanctioned load. Further, based on the data submitted by REL-D, it appears that the consumption of commercial category consumers having sanctioned load above 20 kW load is increasing very rapidly, which in a way, is contributing to the increased quantum of costly power purchase. Hence, the Commission has determined the tariffs for these two sub-categories at higher levels.

The existing HT-II Industrial category has been renamed as HT-I Industrial category, in order to ensure consistency with the nomenclature applicable for other licensees. The existing HT-I Group Housing Society category has also been renamed as HT-III Group Housing Society category, in order to ensure consistency with the nomenclature applicable for other licensees.

The Commission has created a new category, viz., HT-II Commercial, to cater to all commercial category consumers availing supply at HT voltages, and currently classified under the existing HT-II Industrial or LT-IX (multiplexes and shopping malls). This category will include Hospitals getting supply at HT voltages, irrespective of whether they are charitable, trust, Government owned and operated, etc. The tariff for such HT-II commercial category consumers has been determined higher than the tariff applicable for HT-I industrial, in line with the philosophy adopted for LT commercial consumers. Such categorisation already exists in other licence areas in the State, and is hence, being extended to REL licence area also.

The Commission has created a new category, viz., LT IX, which will include all crematoriums and cremation and burial grounds, irrespective of whether these are electric crematoriums, or otherwise, and the tariffs have been specified at lower levels. However, this lower tariff will be applicable only to the portion catering to such activities, and in case part of the area is being used for other commercial purposes, then a separate meter will have to be provided for the same, and the consumption in this meter will be chargeable under LT-II Commercial rates.



The Commission has ensured that the HT tariffs are lower than the LT tariffs, as the cost of supply is lower than the cost of supply at lower voltages, due to the lower losses at higher voltages, and the lower network related costs since the electricity does not have to stepped down to lower voltages.

The Commission has ensured that the average billing rate for HT Group Housing societies is lower than the average billing rate for LT residential category, since the Group Housing societies take supply at single point and supply it to the individual residences using their own network.

The Time of Day (ToD) tariffs will be applicable compulsorily to all HT consumer categories, LT II category above 20 kW sanctioned load and LT IV category consumers having TOD meters, as well as optionally available to LT – II category consumers having sanctioned load below 20 kW as well as LT III consumers, who have TOD meters. The TOD tariffs have been modified as follows:

§ The following time slots have been created, viz., (a) 2200 to 0600 hours, (b) 0600 to 0900 hours, (c) 0900 to 1200 hours, (d) 1200 to 1800 hours, and (e) 1800 to 2200 hours, to bring the ToD tariffs in line with those applicable in the rest of the State.

§ Additional peak hour tariff will be payable for consumption during the peak hours in the State, viz., 0900 to 1200 hours – morning peak, and 1800 to 2200 hours – evening peak, in the following manner:

- 0900 to 1200 hours : Additional 0.50 Rs/kWh
- 1800 to 2200 hours : Additional 1.00 Rs/kWh

§ For consumption during night off-peak hours, viz., 2200 to 0600 hours, a rebate of 0.75 Rs/kWh will be available

§ Neither additional tariff nor rebate will be applicable for consumption during 0600 to 0900 hours and 1200 to 1800 hours

Additional demand charges of Rs 20 per kVA per month would be chargeable for the stand by component, for CPPs, only if the actual demand recorded exceeds the Contract Demand.

The Billing Demand definition has been retained at the existing levels, i.e.,

Monthly Billing Demand will be the higher of the following:

- (a) Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours;



- (b) 75% of the highest billing demand/Contract Demand, whichever is lower, recorded during the preceding eleven months;
- (c) 50% of the Contract Demand.

The computation of average cost of supply (CoS) is given below:

Table: Average Cost of Supply for FY 2008-09

Sl.	Particulars	Excluding Expensive Power	Including Expensive Power
1	Total Revenue Requirement (Rs. Crore)	3370	4970
2	Total Sales (MU)	8424	8424
3	Average Cost of Supply (Rs / kWh)	4.00	5.90

The existing cross-subsidy and the reduction in cross-subsidy considered by the Commission, excluding the reliability charges, are given in the Table below:

Category	Average Cost of Supply (Rs./unit) (a)	Average Billing Rate (Rs./unit)		Ratio of Average Billing Rate to Average Cost of Supply (%)		% Variation w.r.t Avg. CoS (f) = (e)-(d)	% increase in tariff (g) = (c)/(b)-1
		Existing Tariff (b)	Revised Tariff (c)	Existing Tariff (d) = (b)/(a)	Revised Tariff (e) = (c)/(a)		
LT Category							
LT I - Residential	4.00	3.84	3.93	84%	99%	15%	2.3%
LT II - Commercial upto 20 kW		6.32	6.90	139%	174%	35%	9.1%
> 20 kW upto 50 kW		7.88	7.99	173%	202%	29%	1.4%
> 50 kW		7.88	8.47	173%	214%	41%	7.5%
LT III - LT Industrial upto 20 kW		5.33	5.26	117%	133%	16%	-1.3%
LT-IV - LT Industrial >20 kW		5.11	4.63	112%	117%	5%	-9.4%
LT-V - Agriculture		1.29	1.27	28%	32%	4%	-1.5%
LT-VI - Street Lighting		6.86	6.51	151%	164%	14%	-5.2%
LT-VII (A) Temporary - Others		10.88	10.86	239%	275%	35%	-0.2%
LT-VIII - Advertisement & Hoardings		14.41	14.39	317%	364%	47%	-0.1%
HT Category							
HT I - Group Housing	4.00						
HT II - Industrial		4.09	3.24	90%	82%	-8%	-20.9%

The above Table shows increase in the cross-subsidy levels for certain consumer categories, despite excluding the reliability charges, because the revenue gap is so huge that the Commission had no alternative but to increase the tariffs for all



consumer categories. However, if reliability charges are not considered, then the tariff increase for most categories appears reasonable.

The existing cross-subsidy and the reduction in cross-subsidy considered by the Commission, if the reliability charges are also considered, are given in the Table below:

Category	Average Cost of Supply (Rs./unit) (a)	Average Billing Rate (Rs./unit)		Ratio of Average Billing Rate to Average Cost of Supply (%)		% Variation w.r.t Avg. CoS (f) = (e)-(d)	% increase in tariff (g) = (c)/(b)-1
		Existing Tariff (b)	Revised Tariff (c)	Existing Tariff (d) = (b)/(a)	Revised Tariff (e) = (c)/(a)		
LT Category							
LT I - Residential	5.90	4.00	4.25	63%	73%	9%	6.3%
LT II - Commercial							
<i>upto 20 kW</i>		6.32	7.40	100%	126%	26%	17.0%
<i>> 20 kW upto 50 kW</i>		8.68	9.74	137%	166%	29%	12.2%
<i>> 50 kW</i>		8.68	10.97	137%	187%	50%	26.4%
LT III - LT Industrial upto 20 kW		5.78	6.51	91%	111%	20%	12.6%
LT-IV - LT Industrial >20 kW		5.91	6.63	94%	113%	20%	12.2%
LT-V - Agriculture		1.29	1.27	20%	22%	1%	-1.5%
LT-VI - Street Lighting		7.31	7.51	116%	128%	12%	2.7%
LT-VII (A) Temporary - Others		11.68	13.36	185%	228%	43%	14.4%
LT-VIII - Advertisement & Hoardings		15.21	16.89	241%	289%	48%	11.0%
HT Category							
HT I - Group Housing	5.90	4.54	4.24	72%	72%	0%	-6.7%
HT II - Industrial		6.26	6.60	99%	113%	14%	5.5%

The above Table shows increase in the cross-subsidy levels for certain consumer categories, because the revenue gap is so huge that the Commission had no alternative but to increase the tariffs for all consumer categories. However, even after considering the reliability charges, the tariff increase in the given circumstances appears to be quite reasonable.

While the tariffs have been determined such that the revenue gap considered for the year is met entirely through the revision in tariffs, it is likely that the actual revenue earned by REL may be higher than that considered by the Commission, on account of tariff changes such as introduction of demand charges for LT commercial category, as well as creation of the new HT-II Commercial category, which could be offset to some extent by the night off-peak rebate introduced by the Commission, depending on the shift in consumption. Any additional revenue/shortfall in revenue due to the



impact not being assessed at this stage, will be trued up at the time of final truing up for FY 2008-09.

5.5 Revised Tariffs with effect from June 1, 2008

Sl.	Consumer category & Consumption Slab	Tariffs			
		Fixed/ Demand Charge	Energy Charge (p/kWh)	Reliability Charge (p/kWh)	
				Standby Charge	Expensive Power Charges
	LOW TENSION CATEGORIES				
1	LT I - Residential				
	<i>Below Poverty Line (BPL)</i>	Rs. 3 per month	40		
	<i>Other Residential</i>				
	0-100 units	Rs. 30 per month	145	27	
	101-300 units	Rs. 50 per month ^{ss}	375		
	301 to 500 units		575		100
	Above 500 units (balance units)	Rs. 100 per month ^{ss}	650		150
2	LT II - LT Commercial				
(a)	0-20 kW	Rs. 200 per month	575	27	50
(b)	> 20 kW and < 50 kW	Rs. 150 per	700		175
(c)	> 50 kW	kVA per month	800		250
3	LT III - LT Industrial below 20 kW load	Rs. 200 per month	480	27	125
4	LT IV - LT Industrial above 20 kW load	Rs 150 per kVA per month	400	27	200
5	LT V - Agriculture	Rs. 15 per HP per month	80	27	
6	LT VI - Streetlight	Rs 150 per kVA per month	590	27	100
7	LT VII – Temporary Supply				
(a)	Others	Rs. 200 per month	1050	27	250
(b)	Religious		140		100
9	LT VIII - Advertisement & Hoardings, incl. floodlights & neon signs	Rs. 200 per month	1355	27	250
	<i>TOD Tariffs (in addition to above base tariffs) - for LT II (b) and (c), and LT IV category</i>				
	<i>0600 hours to 0900 hours</i>		0		



Sl.	Consumer category & Consumption Slab	Tariffs			
		Fixed/ Demand Charge	Energy Charge (p/kWh)	Reliability Charge (p/kWh)	
				Standby Charge	Expensive Power Charges
	<i>0900 hours to 1200 hours</i>		50		
	<i>1200 hours to 1800 hours</i>		0		
	<i>1800 hours to 2200 hours</i>		100		
	<i>2200 hours to 0600 hours</i>		-75		
	HIGH TENSION CATEGORIES				
6	HT I – Group Housing Societies	Rs 100 per kVA per month	275	27	100
7	HT II - Industries	Rs 150 per kVA per month	430	27	175
8	HT III – Commercial	Rs 150 per kVA per month	600	27	250
	<i>TOD Tariffs (in addition to above base tariffs) for HT II and HT III categories</i>				
	<i>0600 hours to 0900 hours</i>		0		
	<i>0900 hours to 1200 hours</i>		50		
	<i>1200 hours to 1800 hours</i>		0		
	<i>1800 hours to 2200 hours</i>		100		
	<i>2200 hours to 0600 hours</i>		-75		

Notes:

1. Fuel Adjustment Cost (FAC) will be applicable to all consumers and will be charged over the above tariffs, on the basis of the FAC formula prescribed by the Commission, and computed on a monthly basis.
2. \$\$: Fixed charge of Rs. 100 per month will be levied on residential consumers availing 3 phase supply. Additional Fixed Charge of Rs. 100 per 10 kW load or part thereof above 10 kW load shall be payable.

5.6 Wheeling Charges and Loss Compensation

The Commission, in the MYT Order for FY 2007-08 has approved wheeling charges at HT level as Rs 118.40 per kVA per month and wheeling loss of 2.40%, and for LT level, wheeling charges were approved as Rs 273.86 per kVA per month and wheeling loss was specified as 12.66%.



REL-D, in its APR Petition, sought approval of wheeling charges for FY 2008-09 at HT level as Rs 100.33 per kVA per month and wheeling loss of 2.37%, and for LT level, REL sought approval of wheeling charges at Rs 189.65 per kVA per month and wheeling loss of 15.45%.

The Commission, in its MYT Order, has observed that separate accounting of network related costs and supply related costs is essential for un-bundling of cost and tariff components and forms pre-requisite for appropriate determination of wheeling charges and affects open access transactions as mandated under Electricity Act 2003. Further, network costs needs to be segregated in terms voltage level (at least at HT and LT level). The Commission had asked REL to submit voltage-wise segregated wire cost component of ARR during annual performance review.

Accordingly, REL-D had furnished its workings for wheeling charges and also furnished annual revenue requirement for network related costs and retail supply related costs for FY 2008-09, separately. REL also submitted voltage-wise (HT and LT level) opening GFA of its distribution assets. The Commission has considered the same as the basis for determination of network related costs for the purpose of determination of wheeling charges for FY 2008-09.

Accordingly, approved network related annual revenue requirement for REL-D amounts to Rs 821.34 Crore. The total ARR of the Wires business as computed above has been apportioned to HT and LT on the basis of voltage-wise Opening GFA as per submissions of REL, and the HT cost has further been apportioned to LT category, since the HT system is also being used for supply to the LT consumers. Thus, the wheeling charge applicable to consumers connected on the **HT network** during FY 2008-09 works out to **Rs. 122 per kW per month** and that for consumers connected to **LT network** works out to **Rs 140 per kW per month**.

In addition, wheeling loss in kind shall be applicable for wheeling transactions entailing drawal at HT level at the rate of **2.4%** and that for drawal at LT level at the rate of **9.3%** equivalent to technical loss of REL-D's distribution network.

Approved Wheeling Charges and Wheeling loss at HT and LT level for FY 2008-09 is summarised in the following Table.



Item Description	Wheeling Charge (Rs/kW/month)	Wheeling Loss (%)
HT level	122	2.4%
LT level	140	9.3%

5.7 Cross-subsidy Surcharge

The cross-subsidy surcharge for eligible open access consumers will continue to be zero, in continuation of the Commission's decision in this regard in the previous Tariff Order.

5.8 Incentives and Disincentives

Power Factor Calculation

Wherever, the average power factor measurement is not possible through already installed meter, the following method for calculating the average power factor during the billing period shall be adopted-

$$\text{Average Power Factor} = \frac{\text{Total}(kWH)}{\text{Total}(kVAh)}$$

Wherein the kVAh is the square root of the summation of the squares of kWh and RkVAh

Power Factor Incentive (Applicable for all HT categories, LT III and LT V categories)

Whenever the average power factor is more than 0.95, an incentive shall be given at the rate of 1% (one percent) of the amount of the monthly bill including energy charges, reliability charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties for every 1% (one percent) improvement in the power factor (PF) above 0.95. For PF of 0.99, the effective incentive will amount to 5% (five percent) reduction in the monthly bill and for unity PF, the effective incentive will amount to 7% (seven percent) reduction in the monthly bill.

Power Factor Penalty (Applicable for all HT categories, LT III and LT V categories)

Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of 2% (two percent) of the amount of the monthly bill including energy charges, reliability charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties



for the first 1% (one percent) fall in the power factor below 0.9, beyond which the penal charges shall be levied at the rate of 1% (one percent) for each percentage point fall in the PF below 0.89.

Prompt Payment Discount

A prompt payment discount of one percent on the monthly bill (excluding Taxes and Duties) shall be available to the consumers if the bills are paid within a period of 7 days from the date of issue of the bill.

Delayed Payment Charges (DPC)

In case the electricity bills are not paid within the due date mentioned on the bill, delayed payment charges of 2 percent on the total electricity bill (including Taxes and Duties) shall be levied on the bill amount. For the purpose of computation of time limit for payment of bills, "the day of presentation of bill" or "the date of the bill" or "the date of issue of the bill", etc. as the case may be, will not be excluded.

Rate of Interest on Arrears

The rate of interest chargeable on arrears will be as given below for payment of arrears-

Sr. No.	Delay in Payment (months)	Interest Rate p.a. (%)
1	Payment after due date upto 3 months (0 - 3)	12%
2	Payment made after 3 months and before 6 months (3 - 6)	15%
3	Payment made after 6 months (> 6)	18%

Load Factor Incentive

The Commission has introduced a Load factor incentive for consumers having Load Factor above 75% based on Contract Demand. Consumers having load factor over 75% upto 85% will be entitled to a rebate of 0.75% on the energy charges for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges for every percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges for that consumer. This incentive is limited to HT I and HT II categories only. Further, the load factor rebate will be available only if the consumer has no arrears with REL-D, and payment is made within seven days from the date of the bill or within 5 days of the receipt of the bill, whichever is later. However, this incentive will be applicable to consumers where



payment of arrears in instalments has been granted by REL-D, and the same is being made as scheduled. REL-D has to take a commercial decision on the issue of how to determine the time frame for which the payments should have been made as scheduled, in order to be eligible for the Load Factor incentive.

The Load Factor has been defined below:

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$

Maximum consumption possible = Contract Demand (kVA) x Actual Power Factor x (Total no. of hrs during the month less planned load shedding hours*)

* - Interruption/non-supply to the extent of 60 hours in a 30 day month has been built in the scheme.

In case the billing demand exceeds the contract demand in any particular month, then the load factor incentive will not be payable in that month. (The billing demand definition excludes the demand recorded during the non-peak hours i.e. 22:00 hrs to 06:00 hrs and therefore, even if the maximum demand exceeds the contract demand in that duration, load factor incentives would be applicable. However, the consumer would be subjected to the penal charges for exceeding the contract demand and has to pay the applicable penal charges).



6 APPLICABILITY OF ORDER

This Order for FY 2008-09 shall come into force with effect from June 1, 2008, and shall continue to be in force till March 31, 2009.

The Commission will undertake the Annual Review of REL-D's performance during the last quarter of FY 2008-09. REL-D is directed to submit its Petition for Annual Review of its performance during the first half of FY 2008-09, as well as truing up of revenue and expenses for FY 2007-08, with detailed reasons for deviation in performance, latest by November 30, 2008.

The Commission acknowledges the efforts taken by the Consumer Representatives and other individuals and organisations for their valuable contribution to the APR and tariff determination process.

The Commission would also like to put on record, the efforts of its advisors, M/s ABPS Infrastructure Advisory Private Limited.

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman



(P B Patil)
Secretary, MERC



APPENDIX 1

List of Persons who attended the Technical Validation Session held on January 3, 2008

S.No	Name
REL Officials	
1	Shri Krishna Shenoj
2	Shri Kapil Sharma
3	Shri Kunal Kant
4	Shri Abhishek Srivasatav
5	Shri G.Srinivas Rao
6	Shri Ganesh Balasubramanian
7	Shri Sharad Nath
8	Shri Kishore Patil
9	Shri Prafulla Varhade
10	Shri A C Tambekar
11	Shri S. Shankaran
12	Shri Mohan Limaye
13	Shri A Shahi
14	Shri P.S. Pandya
15	Shri R.R. Mehta
16	Shri P.S.Jalkoti
17	Madam Biyami
18	Shri P.M Huntle
19	Shri A.R.Waghmbar
20	Shri M.S.Rao
21	Shri P.V. Chawanh
22	Shri Vikas Sonar
23	Shri Sheyans Naval
Others	
24	Shri A.D.Mahajan
25	Shri S Dixit
26	Dr. A. Pendse
Consultants to Commission	
27	Shri Suresh Gehani
28	Shri Palaniappan M
29	Shri S.R.Karkhanis
30	Shri S.D. Chaudhari
31	Shri P. Phokmare
32	Shri M.N. Bapat
33	Shri A.N. Vaze
34	Shri Anand Kulkarni



APPENDIX 2

List of Objectors

S.No	Name	Designation	Institution
1	Shri Shriram Patankar		Brihan Maharashtra Apang Vikas Sanghtana
2	Paramount Silk Mills (P) Ltd.	Director	
3	Shri V.H. Wagle	Senior Manager,(Regulations)	The Tata Power Company Ltd.
4	Shri Bhavesh J. Shah	Secretary	Seepz Gems & Jewellery Mfrs. Association
5	Shri Girish Mittal		Individual
6	Shri Vikas D. Pawar		Republican Party of India
7	Shri K.V. Mehta	Executive Officer	The Association of Hospitals
8	Shri Suhas Bane	President	Janata Dal (Secular), Mumbai
9	Shri A.R. Bapat	Chartered Engineer	Individual
10	Shri Satya K. Srivastava	Chief Financial Officer	Spencer's Retail Ltd.
11	Shri S.A. Purani	Addl. G.M. (ES)	BEST Undertaking,
12	Shri K.S. Ramaswami		Individual
14	Shri I.C. Gupta	General Manager	Sanghi Oxygen (Bom) Pvt. Ltd.
15	Smt. Phalguni Dholkia	Assistant Manager – Legal	Shopper's Stop Ltd.
16	Shri S.N. Rao	Manager	Permanent Magnets Ltd.
17	Shri Raman Jain	Chairman	Montex Group
18	Sr. Lissy	Secretary	Holy Spirit Hospital
19	Shri Sachin Bhise		Individual
20	Shri Mohan I. Kewalramani		Individual
21	Shri K.B. Mansharamani	President	Vivekanand Education Society
22	Shri N. Ponrathnam		Vel Induction Hardenings
23	Shri Suryakant Lade	President	Siddhivinayak Blind Handicapped Sanstha
24	Shri Harish B. Shetty	President	Maharashtra Manav Seva Sangh
25	Shri Sandeep N. Ohri	Co-ordinator – Bijlee	Bombay Small Scale Ind. Association
26	Shri Bankim Mistry		Bharat Traders
27	Shri S.N. Bathia,	Secretary	The Sidhpura Co. op. Inld. Estate Ltd.



S.No	Name	Designation	Institution
28	Shri Navin M. Shetty,		The Sidhpura Co. op. Indl. Estate Ltd.
29	Shri Pramod Mujumdar		Energy Study Group
30	Shri Opinder Singh Badhan	Secretary	Virwani Industrial Premises Co.op. Society Ltd.
31	Shri Bhayander		Stainless Steel Mfrs. & Traders Association
32	Shri Sabyasachi Ray	Executive Director	The Gem & Jewellery Export Promotion Council
33	Shri K. Sampath		Teleflo Instrument Co. Pvt. Ltd
34	Shri K.F. J. Paul		Individual
35	Shri Jude G. Tandon		Stafford Infrastructure & Mktg. Co.
36	Shri P.B. Samant		Individual
37	Shri Vasant Shetty	Vice President	Indian Hotel & Restaurant Association
38	Shri Mahesh I.		Excel Electric Industries
39	Shri Rajesh V. Darak		Individual
40	Shri Joseph Jacob		Anoop CHS Ltd.
41			Asmita Anita Complex CHS Ltd.
42	Shri Abdul Razak Khan		Asmita Heritage III CHS Ltd.
43	Shri Shakir Ali		Sachinam CHS Ltd.
44	Shri Jamil Ahmed		Saryu Sargam CHS Ltd.
45	Shri Nandkumar P. Narvekar		Individual
46	Shri Shahood Anwar Naqvi		Individual
47	Shri Iqbal A. Rajput		Individual
48	Shri Sayed Rizwan Ali		Narinder Park Jupiter CHS Ltd.
49	Shri Akhlaq H. Parkar		Abhishek CHS Ltd.
50	Poonam Sagar Complex (39.40) CHS Ltd.		
51	Avishkar CHS Ltd.		
52	Shri M. Q. Mistry		Tirupati Balaji CHS Ltd.



53	Shri Mohd. Haroon Hussain		New Sachinam Tower CHS Ltd.
54	Shri Navneet Z. Vora		Individual
55	Shri Vijay Z. Vora		Individual
56	Shri Deepak Z. Vora		Individual
57	Shri Sandeep A. Sarfare		Individual
58	Shri R.G. Chainani		Brilliant International
59		Secretary	Juhi Narendra Park CHS Ltd.
60	Shri Y. D. Bahl		Blue Dart Express Ltd.

List of Objectors who attended the Public Hearing on February 14, 2007

S.No	Name of Person / Official	Designation	Institution
1	Shri Ashok Pendse		Mumbai Grahak Panchayat
2	Shri Shriram Patankar		Brihan Maharashtra Apang Vikas Sanghtana
3	Shri Vikas D. Pawar,		Republican Party of India
4	Shri K.V. Mehta	Executive Officer	The Association of Hospitals
5	Shri Suhas Bane	President	Janata Dal (Secular), Mumbai
6	Shri Satya K. Srivastava,	Chief Financial Officer	Spencer's Retail Ltd
7	Shri S.A. Puranik	Addl. G.M. (ES)	BEST Undertaking,
8	Shri K.S. Ramaswami		
9	Shri S.N. Rao,	Manager	Permanent Magnets Ltd.
10	Shri Raman Jain,	Chairman	Montex Group
11	Sr. Lissy	Secretary	Holy Spirit Hospital
12	Shri Mohan I. Kewalramani		
13	Shri K.B. Mansharamani	President	Vivekanand Education Society,
14	Shri N. Ponrathnam		Vel Induction Hardenings,
15	Shri Suryakant Lade,	President	Siddhivinayak Blind Handicapped Sanstha
16	Shri Sandeep N. Ohri	Co-ordinator – Bijlee	Bombay Small Scale Ind. Association
17	Shri Navin M. Shetty,		The Sidhpura Co. op. Indl. Estate Ltd



S.No	Name of Person / Official	Designation	Institution
18	Shri Pramod Mujumdar		Energy Study Group,
19			Shree Bhayander Stainless Steel Mfrs. & Traders Association
20	Shri Sabyasachi Ray	Executive Director	The Gem & Jewellery Export Promotion Council
21	Shri K. Sampath		Teleflo Instrument Co. Pvt. Ltd
22	Shri K.F. J. Paul,		
23	Shri Jude G. Tandon		Stafford Infrastructure & Mktg. Co
24	Shri P.B. Samant,		
25	Shri Joseph Jacob,		Anoop CHS Ltd.
26			Asmita Anita Complex CHS Ltd.
27	Shri Abdul Razak Khan		Asmita Heritage III CHS Ltd.,
28	Shri Shakir Ali,		Sachinam CHS Ltd.

