

Tata Power Delhi Distribution Limited



TATA POWER-DDL

True up of FY 2013-14

And

ARR for FY 2015-16

Volume I

Tata Power Delhi Distribution Limited

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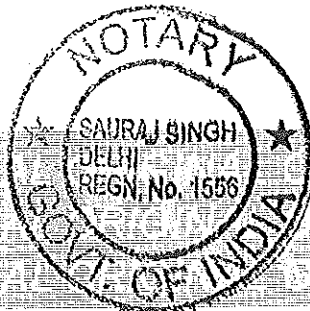
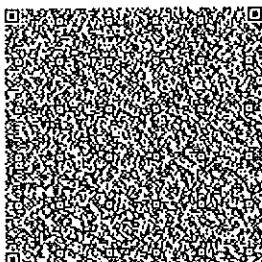
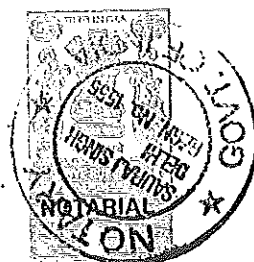
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Purchased by	: TATA POWER DELHI DISTRIBUTION LTD
Description of Document	: Article Others
Property Description	: NA
Consideration Price (Rs.)	: 0 (Zero)
First Party	: TATA POWER DELHI DISTRIBUTION LTD
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BEFORE THE HON'BLE DELHI ELECTRICITY REGULATORY COMMISSION

FILE NO:

CASE NO:

IN THE MATTER OF:

PETITION NO. _____ OF 2014

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Page 2

IN THE MATTER OF:

Petition for Approval of Annual Revenue Requirement (ARR) for the FY 2015-16, Revised ARR for FY 2014-15, True up for FY 2013-14 and Final true up for period FY 2008-13

AND

IN THE MATTER OF:

Relevant Provisions of the Electricity Act, 2003 read with Delhi Electricity Reforms Act, 2000 and DERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (as extended) read with DERC Comprehensive Conduct of Business Regulations, 2001

AND

IN THE MATTER OF:

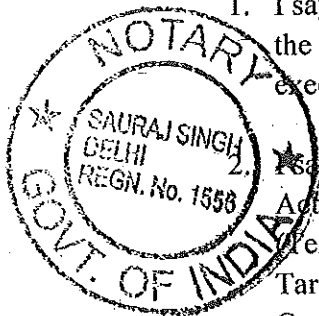
Tata Power Delhi Distribution Limited (Formerly known as North Delhi Power Limited) having its registered office at NDPL House, Hudson Lines, Kingsway Camp, Delhi-110 009

[Signature]
Petitioner

**AFFIDAVIT ON BEHALF OF PETITIONER/ TATA POWER DELHI
DISTRIBUTION LIMITED (TPDDL)**

I, Hemant Goyal, son of Sh. K.K. Goyal, aged about 46 years, residing at 76C, Pocket A-10, Kohinoor Apartments, Kalkaji Extension, New Delhi, do hereby solemnly affirm as stated hereunder:


1. I say that I am working as GM (Finance) with Tata Power Delhi Distribution Limited, the Petitioner in the above matter, and duly authorised by the said Petitioner to execute the said affidavit on its behalf.



I say that the present Petition is being filed by the Petitioner in terms of the Electricity Act, 2003, Delhi Electricity Reforms Act, 2000 read with the Hon'ble Commission's Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (as extended), MYT Regulations, 2007, DERC Comprehensive Conduct of Business Regulations, 2001 to seek approval of the Hon'ble Commission for undertaking determination of (i) ARR for the FY 2015-16,

(ii) Revised ARR for FY 2014-15, (iii) True up for FY 2013-14 and; (iv) Final true up for the period FY 2008-13.

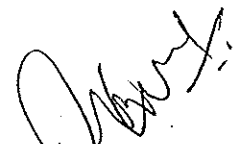
3. I say that the statements made and data presented in enclosed petition are true to the best of my knowledge and as per the records of the Petitioner Company and information, estimations received and believed to be true. Further, no material information has been concealed in this aforesaid Petition.


DEPONENT

VERIFICATION:

I, the Deponent above named, do hereby verify that the contents of my above affidavit are true to my knowledge and belief and no part of it is false and nothing material has been concealed there from.

Verified at New Delhi on this 11 DEC 2014 day of 2014


DEPONENT

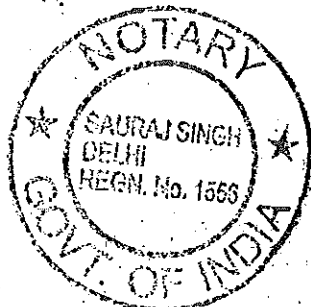
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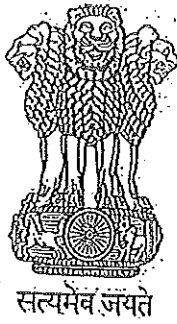
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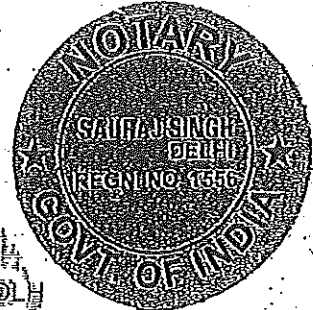




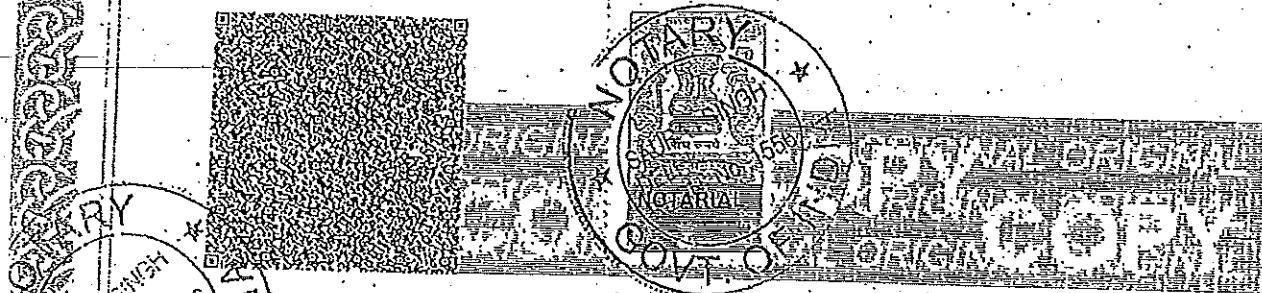
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Unique Doc. Reference	SUBIN-DL DL-SHCIL138531886884921
Purchased by	TATA POWER DELHI DISTRIBUTION LTD
Description of Document	Article 48(c) Power of attorney - GPA
Property Description	NA
Consideration Price (Rs.)	0 (Zero)
First Party	TATA POWER DELHI DISTRIBUTION LTD
Second Party	NA
Stamp Duty Paid By	TATA POWER DELHI DISTRIBUTION LTD
Stamp Duty Amount (Rs.)	100 (One hundred only)



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POWER OF ATTORNEY

Know all men by these presents that, I, Praveer Sinha S/o Late Mr. A K P Sinha, R/o N-66, Panchsheel Park, New Delhi- 110017, being the Chief Executive Officer & Executive Director and constituted attorney (hereinafter referred to as "Executant") of Tata Power Delhi Distribution Limited a company

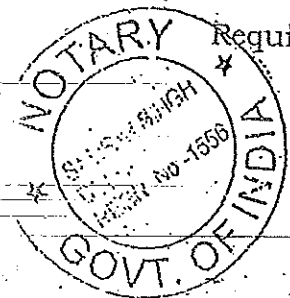
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incorporated under the Companies Act 1956 and having its Registered Office at NDPL House, Hudson Lines, Kingsway Camp, Delhi 110 009 (hereinafter referred to as "TPDDL") do and hereby nominate and appoint Mr. Hemant Goyal S/o Sh. K K Goyal, Resident of 76-C, Pocket A/10, Kalkaji Extension, New Delhi- 110019, aged about 45 years presently working for gain with TPDDL as General Manager (Finance and Accounts) vide Employee No. 90965 as the lawful attorney (hereinafter referred to as the "Attorney") to do the following acts, deeds and things as hereinafter contained:

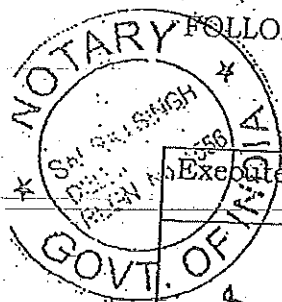
1. To do all such acts, deeds and things necessary in connection with submission of ARR, Tariff petition and related filings, clarifications, additional submissions, furnishing of information of any nature in State commission (DERC), and any other matter related or incidental to such filing thereof, any submission of financial statements, certificates, audited information, books of accounts and other information related to finance and accounts of TPDDL, further to file applications, petitions, returns, statements, submissions, information through forms, formats, in soft form (CD;DVD) and to furnish any other document as may be required by the Commission from the company.
2. To do all other lawful acts and deeds necessary and incidental thereto and to appear, represent the company before Commission in all matters including issue of License, Tariff Fixation and Aggregate Revenue Requirement.

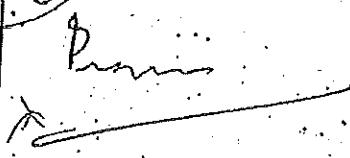
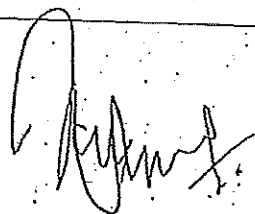


Sl. No. 207/013
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3. This Power of Attorney shall remain in force until revoked or till the time said Attorney is in employment of TPDDL and is responsible for the acts, deeds and things of the nature hereinbefore mentioned.
4. In case of subsequent revocation of this authorization the same shall not affect, any acts, deeds or things lawfully executed by the Attorney in due and bonafide exercise of the powers hereby conferred.
5. Any execution or verification by the Attorney of any document, agreements or affidavits before execution of this authorization as may have been validly and lawfully executed by, shall also be ratified by TPDDL.

IN WITNESS WHEREOF THE EXECUTANT HEREBY SCRIBES HIS HAND ON
THIS _____ DAY OF _____ 2013 IN THE PRESENCE OF THE
FOLLOWING WITNESSES



Executed By	Accepted By	Specimen Signatures of the Attorney" identified and attested by the "Executant"
		
Mr. Praveer Sinha	Mr. Hemant Goyal	
Executant	Attorney	
CEO & ED- TPDDL	General Manager Employee	
	No : 90965	

Witness :

Witness:

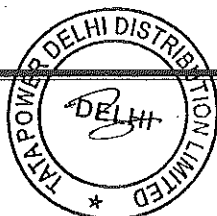
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PETITION SEEKING (i) TRUE UP OF ARR for FY 2013-14, the second year of current MYT Control Period 2013 to 2015, (ii) Approval of REVISED ARR FOR FY 2014-15 AND (iii) ANNUAL REVENUE REQUIREMENT FOR FY 2015-16 (iv) and final true up of FY 2008-2013 IN TERMS OF THE DELHI ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF WHEELING TARIFF AND RETAIL SUPPLY TARIFF) REGULATIONS, 2011 (hereinafter referred as MYT REGULATIONS) extended for FY 2015-16 AND IN TERMS OF THE DELHI ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF WHEELING TARIFF AND RETAIL SUPPLY TARIFF) REGULATIONS, 2007 read with ELECTRICITY ACT, 2003 & THE DELHI ELECTRICITY REFORM ACT, 2000 and DERC (COMPREHENSIVE CONDUCT OF BUSINESS REGULATIONS), 2001

THE PETITIONER RESPECTFULLY SHOWETH:

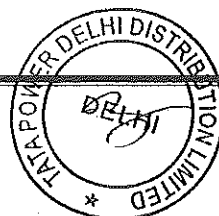
1. The Petitioner Tata Power Delhi Distribution Limited formerly known as North Delhi Power Limited was incorporated under the provisions of the Companies Act, 1956 with its corporate office at NDPL House, Hudson Lines, Kingsway Camp, Delhi - 110 009. During financial year 2011-12, the Company applied for change in its name from North Delhi Power Limited to Tata Power Delhi Distribution Limited. Subsequently, a fresh certificate of incorporation consequent to the change in name to Tata Power Delhi Distribution Limited (the Company) was issued by the Registrar of Companies, N.C.T of Delhi & Haryana on 29 November, 2011 under section 23(1) of the Companies Act, 1956.

The Company primarily engaged in the business of distribution of electricity in North and North-West Delhi was set up in terms of Delhi Electricity Reforms (Transfer Scheme) Rules 2001. The undertaking of the erstwhile Delhi Vidyut Board (DVB) engaged in distribution and retail supply of electricity in the North & North-West districts in the National Capital Territory of Delhi together with the personnel employed therein were transferred to the Company with effect from 1 July, 2002 which also marked the commencement of commercial operations for the Company.



The Company has been granted a License under section 20 of the Delhi Electricity Reform Act, 2000 (Act No. 2 of 2001) by the Delhi Electricity Regulatory Commission (DERC) on 11 March, 2004. The License is valid for a period of twenty five years. During the period 1 July, 2002 to the date of grant of License, TPDDL was a deemed Licensee.

2. In terms of License TPDDL w.e.f. July 1, 2002 has been carrying out electricity distribution and retail supply in its Area of Supply as defined in schedule H, Part-III of the Delhi Electricity Reform (Transfer Scheme Rules), 2001 and the Distribution and retail supply license issued by the Hon'ble Commission. The Petitioner has also undertaken generation of electricity (solar and gas based) through its generation wing.
3. The Hon'ble Commission is a quasi-judicial authority and is empowered to regulate the electricity distribution business and determine tariff under section 62 of the Electricity Act 2003.
4. **After completion of Policy Direction Period and 1st MYT Control Period, the Hon'ble Commission enacted the new MYT Regulations after undertaking the public hearing and stakeholder consultation vide its order dated 02.12.2011 to be effective from 01.04.2012 for next control period comprising 2013-15 which is further extended for FY 2015-16 vide order dated 22.10.2014 by following the due process of law.**
5. The Petitioner has successfully performed and achieved the targets during Policy Direction Period, first Multi Year Tariff control period, during FY 12-13 and FY 13-14 as set out by the Hon'ble Commission in its various tariff orders, Retail supply regulations and other various orders issued time to time.
6. The Hon'ble Commission has provisionally true up ARR up to FY 12-13 and issued tariff order for FY 14-15 in July 2014 and the present petition is being filed for true up of ARR for FY 13-14, review of ARR for FY 14-15 and issuance of tariff order for FY 15-16 and final true up to FY 13.



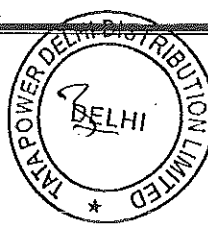
consumers. Therefore, in the interest of the consumers and the company it is requested that the Hon'ble Commission may give realistic plan for early amortization of the same with cost reflective tariff for the year with appropriate additional surcharge/levy/ increase in tariff etc. which will also help lenders to preserve faith on their lending. The early amortization of such huge built up revenue gap would further help in improving the credit rating of the company, ultimately resulting into lower cost of debt and save carrying cost in the benefit of the consumers.

In compliance with the direction of the Hon'ble Commission, the petitioner is submitting in compliance with THE DELHI ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF WHEELING TARIFF AND RETAIL SUPPLY TARIFF) REGULATIONS, 2007 and 2011, the present petition seeking:

- (i) True up of FY 2013-14
- (ii) Approval of revised ARR for FY 2014-15 and
- (iii) Determination of Wheeling tariff and Retail supply tariff for FY 2015-16
- (iv) Final true up to FY 2013
- (v) A realistic amortization plan to liquidate recognized revenue gap up to FY 12-13 and yet to be true up of revenue gap for FY 2013-14

This present Petition's filing is subject to the outcome of various review/ appeal/ writ petitions pending adjudication before various judicial Forums. This present Petition seeks the following reliefs from the Hon'ble Commission:

- (i) Final true up of some of the issues which have been provisionally approved in various previous tariff orders.
- (ii) Ensuring timely recovery of accumulated revenue gap up to FY 2013-14 along with carrying cost in a time bound manner in accordance with Hon'ble ATE directions and as per National Tariff Policy.
- (iii) Midterm Recognition and Allowing Recovery of revised Revenue Gap of Petitioner having arisen in FY 14-15.



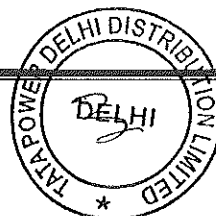
Against the various orders issued by the Hon'ble Commission in past, the Petitioner being aggrieved on some issues had preferred appeals/ writ/review petitions (collectively to be called as appeals) before different judicial Forums including the Hon'ble Commission itself, the Hon'ble ATE, the Hon'ble High Court and the Hon'ble Supreme Court. Against these appeals some appeals have already been disposed off and some others are remaining pending to be adjudication.

The Hon'ble Commission is requested to consider/implement the orders already issued by various judicial Forums before the issuance of tariff order for FY 15-16. In the event of order(s) being declared after the issuance of the tariff order, it is submitted that the impact of the same be allowed forthwith along with the carrying cost. **This suggested approach as stated above shall be in the Petitioner and the Consumer's interest since it will avoid any delays caused in giving timely effect to Judgments of the Superior courts and reduction in grant of carrying costs to utilities.**

It is submitted that the Petitioner is filing this petition in accordance with the applicable Regulations, various judgments given by judicial authorities, past practice and with justified reasons for which the Petitioner requests the Hon'ble Commission to consider the same.

It is submitted that since some of the issues were provisionally allowed in various previous Tariff Orders, therefore in accordance with prevalent Regulation, the Petitioner is seeking Final True up of all provisional matters up to FY 2012-13 along with the true up of FY 2013-14, so that determination of Retail Tariff for upcoming years can not only become cost reflective for the year but is also able to liquidate past revenue gap in the benefit of consumers and Discoms.

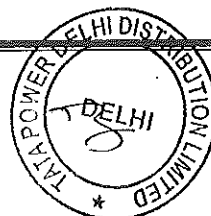
It is submitted that the Hon'ble Commission has provisionally trued up the revenue gap up to FY 12-13 and present petition is being filed for true up of FY 13-14. The Hon'ble Commission has recognized revenue gap of Rs. 3847 Cr and on revenue gap for FY 13-14, yet to be true up, on which huge carrying cost is also borne by



- (iv) Approval of Annual Revenue Requirement for FY 2015-16 and consequent tariff adjustment requirement as proposed herein for recovering projected Revenue Gap for and/up to FY 15-16;
- (v) continuance and enhancement of deficit revenue recovery surcharge @ 8% presently or at such percentage as determined by the Hon'ble Commission for ensuring recovery of past revenue gaps in a time bound manner; and
- (vi) Revise and continue the levy of newly proposed power purchase price adjustment mechanism on net power purchase basis on quarterly basis in the interest of consumers to save the burden of increasing carrying cost;
- (vii) Immediate Implementation of the issues decided in various Appeals, and any other judgment, if tendered by the Hon'ble ATE/ High Court/ Supreme Court before finalization of ARR determination exercise for FY2015-16.
- (viii) Allowance of O&M expenses so as to sustain already achieved AT&C losses, further reduction in the same and to meet performance parameters as issued by the Hon'ble Commission to serve the consumers better.
- (ix) Consider the new initiatives proposed and undertaken by the Petitioner and allow the same.
- (x) Allowance of all uncontrollable expenses, if incurred, on arms-length price irrespective of related party

7. This Petition includes the following documents:

- (i) Affidavit verifying the Petition and the Power of Attorney for filing the same.
- (ii) Computation of Revised Revenue Gap up to FY 14-15 and true up of FY 13-14 based on audited accounts and detailed computation with explanatory notes.

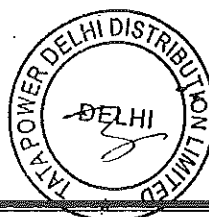


- (iii) Detailed Forms for Annual Revenue Requirement pertaining to controllable and uncontrollable factors for FY 15-16 along with explanatory notes.
- (iv) Detailed computation and applicable forms for final true up to FY 2013
- (v) Demand Draft No. 241141 dated 12/11/2014 drawn on ICICI Bank for Rs. 1,00,000/- as Filing Fee in favour of Secretary, Delhi Electricity Regulatory Commission.

It is further respectfully submitted that the present Petition is being made keeping the following context /factors in mind:

- (i) The Hon'ble Commission has issued tariff order for FY 2014-15 on 23.07.2014 and vide its para 5.2 of the said order, Hon'ble Commission has recognized revenue Gap of Rs. 3,847.03 Cr up to FY 2012-13 for the Petitioner which consists of some issues which have been provisionally approved and vide its para 5.14 & 5.15 projected revenue surplus to the tune of Rs. 516.93 Cr (including recovery on account of 8% Deficit Revenue Recovery Surcharge) based on revised tariff on standalone basis in FY 14-15.
- (ii) The Hon'ble Commission vide para 5.15 & 5.16 of its tariff order dated 31.07.2013 had projected a revenue surplus of Rs. 893.66 Cr on standalone basis for FY 13-14, as against yet to be trued up actual revenue gap of Rs. 1146.77 Cr largely due to lower power purchase price projected at Rs. 4.73 per unit as base cost as against Rs. 5.67 per unit and non-allowance of full requisite fuel surcharge amount.

Given below is the bird eye view in respect of Revenue Gap projected vis-à-vis Revenue Gap approved by the Hon'ble Commission from FY 2007-08 to FY 2012-13.



(Rs Cr)

Financial Year	Revenue Surplus/(gap) projected by DERC (without 8% deficit surcharge)	Trued-Up Revenue (Gap)/Surplus * (without 8% deficit revenue surcharge) including impact of ATE order	Difference between projected surplus vis-a-vis actual gap/surplus
	A	B	C= B-A
2007-08	19.85	(186.66)	(206.51)
2008-09	207.72	49.44	(158.28)
2009-10	211.08	(692.00)	(903.08)
2010-11	---	(876.49)	(876.49)
2011-12	(397.39)	(943.85)	(546.46)
2012-13	391.57	(312.32)	(703.89)
2013-14**	477.94	(624.44)	(1,102.38)

* Figures as approved by the Hon'ble Commission subject to final true up

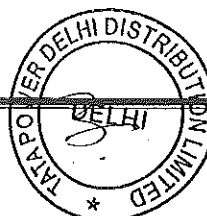
** subject to final true up

From the above table, it can be observed that there has been a big difference in projected revenue surplus vis-a-vis actual revenue gap as approved by the Hon'ble Commission. This mismatch is leading to addition of revenue gap for each year despite of the fact that the Hon'ble Commission has continuously given tariff hike in last four years and estimated that such increase would have generated the surplus after meeting the ARR requirement for respective year and further reduces the accumulated revenue gap of past years.

It is worth to mention that due to determination of retail tariff based on provisionally trued up figures the aforesaid tariff hike is not even sufficient to recover the ARR requirement for that respective year resulting into financial burden both on the Consumer and the Petitioner.

Therefore, it is respectfully submitted that timely true up of all components of ARR will help to fix the cost reflective tariff so that there is no addition in revenue gap.

The Hon'ble Commission in its Tariff Order dated July, 2012 has introduced 8% Deficit Revenue Recovery Surcharges for the recovery of past cumulative revenue gap and carrying cost and continued the same rate of 8% for FY. 2014-15 also.



Given below is the bird eye view of the projected 8% deficit revenue recovery surcharge vis-à-vis the actual amount of deficit revenue recovered and y-o-y carrying cost for the respective years since FY 2007-08

(Rs Cr)

Year	Projected	Realized	carrying cost now (sought) as per this petition	under recovery of carrying cost
	A	B	C	D= C+B
2007-08			(40.77)	
2008-09			(63.66)	
2009-10			(123.29)	
2010-11			(264.09)	
2011-12			(498.87)	
2012-13	284.38	237.32*	(727.87)	(409.55)
2013-14	415.72	390.70*	(913.03)	(522.33)
2014-15	453.08	455.30^	(1,071.57)	(616.27)
2015-16		492.38^	(1,239.85)	(747.47)

*Actual realized

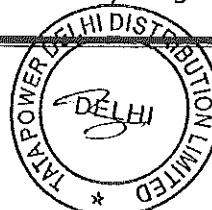
^ projected at existing tariff

From the above table it can be seen that

1. The realization of 8% deficit recovery revenue surcharge is even not enough to recover the carrying cost for the respective year.
2. The very purpose of introducing 8% Deficit recovery surcharge is defeating as the carrying cost is more than the amount realized on account of deficit revenue recovery surcharge, resulting into non liquidation of past accumulated revenue gap, in contrast to the same, leading to further accumulation of carrying cost.

It is further to be kindly noted that due to huge difference in projected revenue surplus for each year of tariff determination v/s trued up revenue gap coupled with non-liquidation of large revenue gap, credit rating agency ICRA has been reluctant to improve the credit rating for past many years, which has created more difficulty in further raising of funds and better negotiation of cost of debt in the large interest of the consumers.

The Petitioner seeks to highlight the alarming revenue gap figures having been acknowledged by the Hon'ble Commission itself in its Tariff Order dated 23.07.2014. These figures are further likely to go up as the July 2014 tariff



order contained provisional true up of some of the ARR component like capitalization and its corresponding other component etc.

The buildup of revenue gap for all discoms since FY 2007-08 is given in the table below:-

(Rs Cr)

Revenue Gap	BRPL#	BYPL#	TPDDL#	Cumulative Revenue (Gap) of TPDDL	Cumulative Revenue Gap of all three Discoms
Upto FY 2007-08	(592.12)	(114.46)	(369.48)	(369.48)	
FY 2008-09	(28.87)	90.20	10.42	(359.06)	
FY 2009-10	(1,077.11)	(486.08)	(763.71)	(1,122.77)	
FY 2010-11	(1,564.09)	(1,128.51)	(988.73)	(2,111.50)	
FY 2011-12	(2,075.30)	(1,307.76)	(1259.06)	(3,370.56)	
FY 2012-13	(678.18)	(848.56)	(476.47)	(3,847.03)	
Total revenue gap *	(6,015.67)	(3,795.17)	(3,847.03)		(13,657.87)

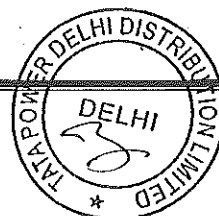
* This gap does not include the revenue (gap)/surplus arising on account of the impact of all the appeals filed before the ATE/SC etc. but not disposed off, which shall be additional.

Including impact of provisional True-up of capitalization with corresponding carrying cost etc.

7. The above build-up of the huge revenue gap is in spite of the fact that the Delhi distribution utilities have been able to significantly bring down AT&C losses in the city to levels well below those in most other States. The AT&C losses at the end of FY 2012-13 as against the losses at the time of unbundling, based on which bids for privatization were invited are given below:-

Particulars	TPDDL	BRPL	BYPL
Opening Loss Levels in 2002 – "A"	48.1%	48.1%	57.2%
Current Loss Levels in FY 2012-13 – "B" *	10.73%	17.74%	21.14%
Reduction in AT&C loss levels C= A-B	37.4%	30.4%	36.06%
% Reduction in AT&C loss level	78%	63%	63%

* As approved in Tariff Order July 2014



It goes without saying, had the utilities not able to reduce AT&C Losses at such levels, the revenue gaps would have been much higher, making the operations / tariff levels completely unviable.

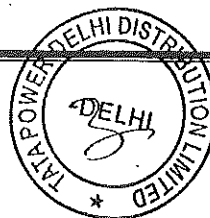
It is further to bring to the kind notice of the Hon'ble Commission that on one hand petitioner is facing severe difficulty in raising the funds for repayment of existing loans along with carrying cost and financing of additional revenue gap and on other hand non realization of past accumulated revenue gap put adverse pressure on financial position of the company.

Considering that the Hon'ble Commission has already recognized a Revenue Gap of around Rs. **3,847.03** Cr up to FY 2012-13 vide para 5.2 of the tariff order dated July, 2014 which is required to recovered in maximum 3 yrs. period as per mandate of National Tariff Policy it would imply an annual recovery of around Rs. 1300 Cr apart from carrying cost.

This percentage surcharge ought to be in line with Hon'ble ATE Judgment in OP 1 of 2011 thereby ensuring that the Petitioner not only recovers the carrying cost on the Regulatory Asset during the year but also 1/3rd of the outstanding Regulatory Asset principle so as to avoid the problem of cash flow to the distribution licensees such as the Petitioner.

Given the above critical scenario, still we tide over the present financial crisis that has resulted due to non-recovery of past accumulated revenue gap over a long time and now as a pre- condition required by the lenders for further lending, it is requested that the Hon'ble Commission should give a realistic clear road map of revenue gap recovery trajectory so that lenders can get comfort and may like to assist in financial crunch time. The faster recovery of accumulated revenue gap shall also help in reducing the burden of carrying cost to the consumers.

It is worthwhile to point out that creation of revenue gap is mainly due to non/provisional true up of power purchase cost on timely manner. However, the Hon'ble Commission has, in the Tariff determination Regulations explicitly stipulated that the Distribution Licensee shall be permitted to recover its net cost of power (i.e.



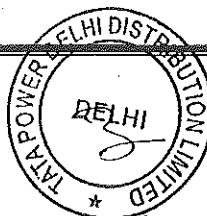
purchase from various sources including trading/ Bilateral / own generation, etc. net of sale of surplus); consequently, it would be appropriate to allow PPAC on variation on entire cost. The annual True up of Power purchase cost (which is an uncontrollable parameter as per MYT Regulations) needs to be undertaken and such costs be trued up without making provisional true up. The relevant Regulation is reproduced below:

Regulation 5.24 of Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling and Retail Supply Tariff) Regulations, 2011 also stipulates as follows:

"Distribution Licensee shall be allowed to recover the net cost of power it procures from sources approved by the Commission, viz. Intra-state and Inter-state Trading Licensees, Bilateral Purchases, Bulk Suppliers, State generators, Independent Power Producers, Central generating stations, non-conventional energy generators, generation business of the Distribution Licensee and others, assuming maximum normative rebate available from each source for payment of bills through letter of credit on presentation of bills for supply to consumers of Retail Supply Business"

Secondly, it is submitted that the Hon'ble Commission may consider allowing an automatic quarterly adjustment based on the formula specified by the Hon'ble Commission with a subsequent detailed verification of the adjustment surcharge by the Hon'ble Commission. This would ensure that the PPAC gets adjusted from first of every quarter which presently either is not allowed fully or gets delayed due to the requirement of prior verification and approval from the Hon'ble Commission. In the event of any variance in the PPAC as subsequently verified/ validated by the Hon'ble Commission could be adjusted in the subsequent quarter's PPAC.

Hence, it would be prudent if the Hon'ble Commission approves Power Purchase Price Adjustment (PPAC) mechanism considering all the elements of net power purchase cost, it would send correct and timely economic signals of actual prevailing cost of power being supplied to consumers. Needless to mention, that such an adjustment will also help Discoms in managing their Cash-flows better and would



help in reducing the cost of debt in long term. This would also obviate the need for large tariff increases in future.

The Hon'ble Commission would like to recall that rate of power banking @ 4/- per unit on normative was fixed during the start of first MYT control period, when net power purchase cost used to be in the same range to compensate the petitioner for additional working capital blocked for power banking transactions. It is submitted that after fixing the normative rate of power banking @ Rs. 4/- unit, now the net power purchase cost has increased considerably and touched to the range of Rs. 5.70 per unit – Rs 6.00 per unit, hence in line with the current power purchase scenario, the Hon'ble Commission is requested to kindly consider revision of power banking rate in the range of 6/- per unit so that petitioner is suitably compensated for additional increased working capital required for power banking.

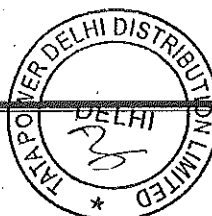
It is worth to mention that the Hon'ble Commission in its tariff order of July 2014, has given direction to give first priority to power banking in case of surplus power, therefore, petitioner in line with the direction of Hon'ble Commission, the petitioner seeks to consider revision in rates of power banking.

Further it is submitted that the petitioner has been representing and doing advocacy on certain issues which are critical in nature, hence, the Hon'ble Commission is requested to kindly give consideration to all such critical issues at the time of issuance of Tariff Order for FY 2015-16. The detailed submissions on these issues have been given in relevant section of the petition.

9. Fixing Norms for FY 2015-16

The very purpose for setting a fixed Control Period is to have a reality check, create consistency, and make medium term planning and how the variable factors have changed vis-à-vis assumed for the said Period. Thereafter, take the corrective measure if required for setting the target for next Control Period.

In this regard, we refer to the MYT Regulations, 2011 with respect to review at the end of Control Period



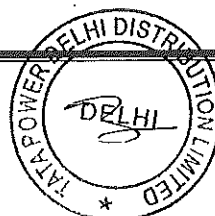
"Review at the end of the Control Period

7.10 *Towards the end of the Control Period, the Commission shall seek the review if the implementation of the principles laid down in these Regulations has achieved their intended objectives. While doing this, the Commission shall take into account, amount other things, the industry structure, sector requirements, consumer and other stakeholder expectation and Licensee's requirements at that point in time. Depending on the requirement of the sector to meet the objects of the Act, the Commission may revise the principles for the next Control Period.*

7.11 *The end of the Control Period shall be the beginning of the next Control Period and the licensee shall follow the same procedure unless required otherwise by the Commission. The Commission shall analysis the performance of the License with respect to the target set out at the beginning of the first Control Period and based on the actual performance, expected efficiency improvements and other factors prevalent; determine the initial values for the next Control Period." (Emphasis supplied).*

It would be seen from the above that actual performance becomes the base for setting the initial values for only the next Control Period. However, the performance of TPDDL has brought down the AT&C losses beyond the targets given by Hon'ble Commission. However, the losses have come down to such levels which require consistent and strenuous efforts for sustaining the same, TPDDL needs commensurate changes in allowance of O&M expenses and other related provisions to first assure the support required to achieve the sustenance and further possible reduction, if any.

However, it is submitted that the Hon'ble Commission while fixation of the target for FY 2011-12 the period for which MYT Regulations, 2007 were extended has used the hybrid approach (i.e. fixation of O&M expenses on normative basis and AT&C trajectory considering actuals scenario). Aggrieved by the said approach, the Petitioner had filed an appeal 14 of 2012 before the Hon'ble ATE.



The Hon'ble ATE in its Judgment dated 28th November, 2013 in the Appeal 14 of 2012 TPDDL vs. DERC has decided that *"This approach taken by the Delhi Commission is not correct. It should have adopted either the normative AT&C losses trajectory or O&M expenditure as per 2007 MYT Regulations or actual."*

Therefore in line with the Judgment of Hon'ble ATE in Appeal no 14/2012 the Petitioner now submitting this Petition based on given below approach.

Our proposal for setting up of various parameters for FY 2015-16 is as follows:

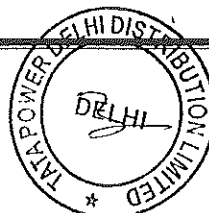
A. Fixation of AT&C loss level for FY 2015-16

The Hon'ble Commission while laying down the AT&C targets for the extended MYT control period FY 2011-12 had adopted the approach of allowing normative O&M expenses on one hand while adopting the actual level of AT&C loss achieved by Licensees on the other hand. The said approach was erroneous and TPDDL earnestly submitted the concerns in this regard and challenged this approach in the Appeal No. 14/2012 against Tariff Order of FY 2011-12. It is pertinent to mention that the Hon'ble Appellate Tribunal for Electricity vide its judgment dated 28.11.2013 in Appeal No. 14 /2012 TPDDL vs. DERC agreed with TPDDL contentions and declared this approach of the Hon'ble Commission as erroneous and struck it down.

The Relevant extracts of the said judgment are reproduced below:

Para 186: While fixing the targets for the AT&C losses, the Delhi Commission has considered actual AT&C losses achieved during the previous year. However, while fixing the O&M expenses, the Delhi Commission has ignored actual expenses and indexed the normative expenses as per 2007 MYT Regulations.

187: This approach taken by the Delhi Commission is not correct. It should have adopted either the normative AT&C losses trajectory or O&M expenditure as per 2007 MYT Regulations or actual. The Delhi Commission



cannot adopt a method under which the Appellant is at loss under all the circumstances.

188: This issue is decided accordingly in favour of Appellant.

In compliance to the Judgment of Hon'ble ATE in Appeal no. 14 of 2012 TPDDL vs. DERC, the Hon'ble Commission in its Tariff Order dated July 2014 has taken of the view that ***the AT&C Loss target is now revised on normative basis at 15.325%, instead of revising the O&M expenditure on actual basis as claimed by the Petitioner.***

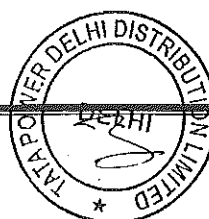
It is further clarified that while setting the AT&C loss trajectory for second control period (i.e. for FY 2012-13 to FY 2014-15) in its second MYT order dated July 2012, the Hon'ble Commission has taken the base year AT&C loss target of 13% which has to be further reduced by 1.50% over the next MYT control period (i.e. 0.50% reduction for each year of the second control period)

Given below is the approved AT&C loss trajectory as per Tariff order July, 2012

Particulars	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Base year AT&C Target		13.00%	12.50%	12.00%
Approved reduction in y-o-y AT&C loss over the previous year AT&C loss target in second control period		0.50%	0.50%	0.50%
Approved AT&C Target	13.00%	12.50%	12.00%	11.50%

It is worth to mention that while computing the AT&C overachievement incentive for FY 2012-13 in its Tariff order dated July, 2014, the Hon'ble Commission has not given the subsequent impact of such revision in AT&C loss trajectory for next control period.

Now due to revision in Base year AT&C target for FY 2011-12 i.e. from 13% to 15.325% by the Hon'ble Commission, the AT&C loss trajectory for second control period should also be revised, as the y-o-y AT&C loss targets has to be reduced from the previous year AT&C loss target.



The revised AT&C trajectory as now sought is given below:

Revised AT&C loss reduction trajectory due to revision in base year AT&C loss level

Particulars	FY 11-12	FY 12-13	FY 13-14	FY 214-15
Revised Base year AT&C Target		15.325%	14.825%	14.325%
Approved reduction in y-o-y AT&C loss over the previous year AT&C loss in second control period		0.50%	0.50%	0.50%
Revised AT&C Target should be	15.325%	14.825%	14.325%	13.825%

In line with the earlier approach as adopted for FY 2011-12 by the Hon'ble commission, the Petitioner has proposed AT&C loss reduction by 0.50% over the previous year target.

Given below is the proposed AT&C Target for FY 2015-16

Particulars	FY 2015-16
Revised Base year AT&C Target – "A"	13.825%
Reduction proposed from the revised base year AT&C target – "B"	0.50%
Proposed AT&C Target (A-B)	13.325%

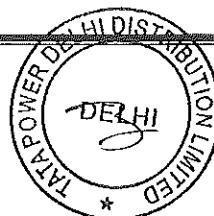
B. Fixation of O&M expenses for FY 2015-16

The Hon'ble Commission may kindly take cognizance of the fact that one important provision /aspect of the MYT Regulations 2011 having a significant bearing in tariff determination exercise is treatment of O&M expenses which comprise of

- a) Establishment Costs,
- b) Repair & Maintenance, and
- c) Administrative & General Expenses

In this regard, It is respectfully submitted that:

- a) Extension of MYT Regulation for another one year means all the O&M including establishment expenses for extended year are allowed based on the actual O&M expenses of last year of immediately previous control period.
- b) In this respect it is submitted that there are some uncontrollable variables that needs to be accounted for at the time of fixation of O&M expenses, example of the same is given below:-
 - i) Salary of FRSR employees
 - ii) Industry/Economy comparable growth to non FRSR employee
 - i) Consumer base increase



- ii) Sales Growth
- iii) Inflation
- iv) Performance Assurance guidelines of the Hon'ble Commission
- v) Increase in electrical network length
- vii) Fast changing technologies, hence rapid obsolescence of various communication and control equipment, IT hardware etc. leading to exorbitant maintenance cost
- viii) other uncontrollable items such as increase in statutory levies, substantial wage revision, change in accounting policies issued by ICAI, new initiatives, force majeure etc.

For example, Service Tax rate was increased from 10.30% to 12.36% in FY 12-13 and also almost all the services are now covered within the scope of Service Tax. Similarly, the increase in the salaries of FRSR employees due to DA increase, other circulars issued by the GoNCTD are beyond the control of the DISCOM and therefore should be allowed on actuals.

While the Hon'ble Commission is well aware of the fact that there does exist uncontrollable factors in the running of Distribution business, the Hon'ble Commission has chosen to restrict the same to purchase and sale of power only. A more pragmatic view needs to be adopted by the Hon'ble Commission while defining uncontrollable factors in the tariff determination, including allowance of O&M expenses which are affected by various external factors and need to be considered at the time of O&M fixation by the Hon'ble Commission.

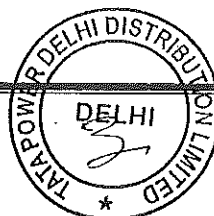
It is worth mention that in addition to above, the benchmarking approach considered and adopted by the Hon'ble Commission in MYT Regulation 2011 is in itself erroneous. It is a settled principle that the benchmarking exercise can only be undertaken amongst equals and not unequals in terms of performance, consumer base /mix, efficiency etc. No consideration has been given to other performance parameters or factors attributable for such difference in expenses. The

O&M expense and performance levels are directly linked to each other and the benchmarking exercise needs to take care of both the parameters. Thus, the benchmarking exercise needs to be more pragmatic and real.

TPDDL has already reached at a level of AT&C loss reduction where sustenance of same is very challenging; hence there should not be any reduction in the O&M expenses by reducing the same with efficiency factor. Further the Hon'ble Commission has been allowing normative increase, hence in case of normative increase, efficiency is already taken care of. The reduction for efficiency arises once the actual expenses are allowed which need to be reduced in lesser proportion to increase in services/consumers.

The Inflation (weighted average of CPI/WPI) has increased by an average of 8.3% from FY 2006-07 till FY 2013-14. The Hon'ble Commission will appreciate the fact that the company has always worked towards bringing efficiency in its operations which is evidenced by the successful reduction in AT&C loss levels and enhanced consumer delight. However TPDDL would like to clarify while working out the sought O&M expenses for FY 15-16, due consideration has been given towards efficiency in seeking O&M expenses by applying only 50% weightage to the increase in consumer base and load growth. Fixation of the present levels of efficiency factor hampers the business and performance parameter and also is acting as a penalty against TPDDL for serving its consumers better and such efficiency factor is resultantly eroding the return on equity of the company.

Further, additional expenses if any incurred for the large benefit to the consumers, which is over and above normative expenditure should be allowed on actual basis after cost benefit analysis.



The detailed proposal for fixation of O&M expenses is given under relevant chapter of ARR for FY 2015-16.

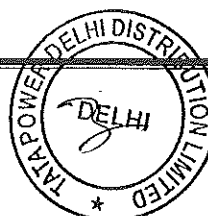
- (C) It is stated that various provisions of the Electricity Act, 2003 like Sections 45 and 46 read with Section 61 of the Electricity Act, 2003 as well as the National Tariff Policy confer upon TPDDL, certain rights and legitimate expectations with respect to the recovery from the consumers, of costs incurred by it in carrying out the distribution business effectively, along with a guaranteed rate of return. Such rights should not be defeated by delegated legislation in a manner that is not contemplated under the Electricity Act, 2003.

The provisions of the MYT Regulations 2011 in present form impose restrictions that are not sanctioned by the Act and that are not justifiable having regard to the objects and purpose of the Electricity Act 2003. As per our view the MYT Regulations 2011 impose unreasonable, unfair and arbitrary conditions upon TPDDL business, which are unfounded in the scheme of the Electricity Act, 2003 and have no rational nexus with the objects and purpose of the Act, tariff policy etc.

C. Increase in statutory levies/duties due to implementation of Companies Act, 2013

The Ministry of Law and Justice (Legislative Department) *vide* its notification dated 30th August, 2013 in "The Gazette of India" has published the Companies Act, 2013.

TPDDL wants to clarify that due to implementation of new Companies Act, 2013 the company has to incur additional expenditure in relation to some statutory provisions for which the corresponding expenditure were not part of the Base Year expenses. Owing to later developments in various applicable laws/statutory levies, Regulation 5.3(d) of MYT regulations, 2011 stipulates



that all legitimate expenditure in relation to these to be allowed as a part of O&M expenses.

From the above it is clear that any expenses due to change in law or any statutory levies should be allowed on actual basis being uncontrollable in nature.

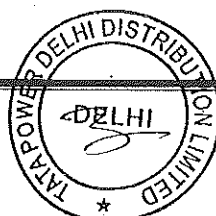
The major expense under this head is in relation to Corporate Social Responsibility. As per applicable provisions of the Companies Act, 2013, the petitioner has to incur 2% of average profits of past three year. Due to its statutory binding the petitioner is requesting the Hon'ble commission to allow the proposed expenditure as a part of ARR for FY 2015-16 which are further subject to true up on actual basis.

D. Liquidation of Revenue Gap

An amortization schedule with annual recovery amounts of the recognized Revenue Gaps plus carrying Costs on unrecovered Revenue Gaps is required, based on which the Lenders can consider refinancing of existing loans based on matching tenor and repayment profiles.

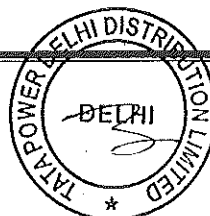
It is further submitted that the Hon'ble Commission has gracefully accepted the findings, ratio given by the Hon'ble ATE in its recent judgment dated 11.11.2011 in the matter titled OP No. 1 of 2011 titled as "**Tariff Revision (Suo moto action on the letter received from Ministry of Power)**". The judgment has dealt with sensitive and crucial aspects governing the electricity distribution sector specifically.

The Hon'ble Tribunal issued various binding directions, while reminding that the Electricity Act 2003 has conferred necessary powers on the Tribunal to ensure the statutory functions of the SERC's as contained under Electricity Act, 2003 are performed by them.



Out of all, some important following **directions** have been issued by Hon'ble ATE in its aforesaid order, which is reproduced below for the guidance of the Hon'ble Commission:

- a) *Every state commission has to ensure that Annual performance Review, true up of past expenses and Annual Revenue Requirement and tariff determination is conducted year to year basis as per time schedule specified in the regulations*
- b) *It should be the endeavor of every State Commission to ensure that the tariff for the financial year is decided before 1st April of the tariff year. Consider making the tariff applicable only till the end of the financial year so that the licensees remain vigilant to follow the time schedule for filing of the application for determination of ARR/tariff.*
- c)
- d) *In determination of ARR / tariff, the revenue gaps ought not to be left and Regulatory Asset should not be created as a matter of course except where it is justifiable, in accordance with the Tariff Policy and the Regulations. The recovery of the Regulatory Asset should be time bound and within a period not exceeding three years at the most and preferably within Control Period. Carrying cost of the Regulatory Asset should be allowed to the utilities in the ARR of the year in which the Regulatory Assets are created to avoid problem of cash flow to the distribution licensee.*
- e) *Truing up should be carried out regularly.....*
- f) *Fuel and Power Purchase cost is a major expense of the distribution Company which is uncontrollable. Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62(4) of the Act. The Fuel and Power Purchase cost*



adjustment should preferably be on monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula / mechanism in place must within 6 months of the date of this order must put in place such formula / mechanism.

Para 66: The said directions are to be strictly adhered to and periodical reports of the compliance to be sent to the Secretary, Forum of Regulators by 1st June of every Financial Year, who will send the status report to the Hon'ble ATE and publish it on their respective websites.

It is further submitted that the similar observation have also been expressed in the report of 13th Finance Commission and economic survey of India 2010-11 which are reproduced below.

".....The key reasons for the increasing gap can be summarized as follows:

(iii) *Absence of timely tariff increases has increased the gap and has impaired utility operations further. Some states have not raised tariffs for the past eight to nine years in spite of increasing deficits.*

"(3) **Revising Tariffs to More Economic Levels :** *The previous two steps will not be enough without a strong political economy decision by all States to revise electricity tariffs to economic levels and reduce subsidies and cross-subsidies. India currently has some of the lowest and most uneconomic average electricity tariffs in the world--8 cents/kwh at retail level, compared to about 12-15 cents/kwh in countries much better-endowed with coal or gas energy (Canada, South Africa, the USA), and 19-20 cents/kwh elsewhere (much of Europe,*

*developing countries). The current tariffs levels are unsustainable, cannot elicit needed investments, drain resources, and are not targeted at the poor. Instead, lifeline metering and supply measures with explicit subsidies that are more carefully targeted are possible. Consumers prefer reliable supplies over subsidized and unreliable supplies. The evidence in India itself clearly suggests that better performing **States have more economic pricing (till they reach a threshold level) and lower cross-price subsidies and distortions in tariffs (with industrial supply price ratio to domestic tariffs rationalized). Better tariff setting thus goes hand-in-hand with better performance.**" (Economic Survey of India)*

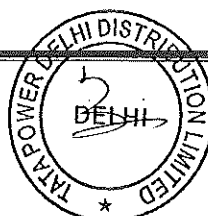
Prayer

In view of the above, TPDDL respectfully prays that the Hon'ble Commission may be pleased to:

- a. **Admit the Petition:** TPDDL requests the Hon'ble Commission to kindly admit the petition for true up of FY 13-14 and ARR of FY 15-16. Any clarifications, additional information, details sought by the Hon'ble Commission shall be provided as and when directed by the Hon'ble Commission; and/or
- b. **Direct for speedy recovery trajectory** of the Revenue Gaps already determined up to FY 2012-13 as per tariff order dated 23.07.2014 and recognized revenue gap of FY 13-14 along with carrying costs up to the date of recovery. Delay in its recovery is adversely impacting the petitioner's ability to effectively carry on its operations; and/or
- c. **Approve the ARR for the FY 2015-16**, based on the submissions made in this Petition and determine the retail tariff adjustments for the same period as proposed; and/or



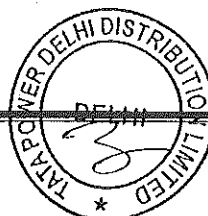
- d. Approve the final true up to FY 2013
- e. In the event of any issues raised by TPDDL in Appeal or Petitions referred above get adjudicated prior to issuance of the Tariff Order, by the Hon'ble ATE/ Hon'ble High Court/ Hon'ble Supreme Court and the Hon'ble Commission, the impact of the same may be taken into consideration along with carrying cost while effecting Truing Up exercise and ensuring recovery of large revenue gaps.
- f. The filing of the Petition shall not be treated as curtailment of any right or claim of the Petitioner, which it is permitted to recover in terms of its License and Orders of the Hon'ble Commission, Hon'ble ATE (including the principle of parity / equality in treatment of Discoms but excluding the matters where the Hon'ble Tribunal has exclusively granted relief to the Petitioner only) and or any other proceedings relevant to the entitlement of the Petitioner.
- g. The Petitioner is filing the present Petition to ensure prompt determination of tariff as to truing up of expenses up to FY 2013-14. Though the Petitioner has made all efforts and has tried diligently to ensure a comprehensive Petition, it may be possible some aspects/components/claims have not been dealt in detail and/or may have been inadvertently omitted. Such lack of detail/omission, if any, is only inadvertent and due to time constraints and ought not to be treated as a waiver of any entitlement. The Petitioner craves leave of this Hon'ble Commission and reserves its rights to supplement the present Petition with additional facts, additional affidavits, additional submissions and claims, if any. Nothing presented in the Petition should be treated as restricting, estopping, waiving or limiting the rights of the Petitioner to claims and entitlements which it is permitted to recover under law.
- h. Allow the Petitioner to continue recovery through revenue gap surcharge @8% or such other enhanced rate from consumers as deemed fit by the Hon'ble Commission;



- i. Revise PPA formula on net power purchase cost basis and continue levy of PPA surcharge mechanism on quarterly basis in line with submissions contained herein
- j. An amortization schedule with annual recovery amounts of the recognized Revenue Gaps plus carrying Costs on unrecovered Revenue Gaps, based on which the Lenders can consider refinancing of existing loans
- k. To give due consideration to the issues enumerated above which have been represented through various letters from time to time.
- l. Any other order(s) it may deem fit.

Tata Power Delhi Distribution Limited

Petitioner
New Delhi



Bird's eye view of the issues presently sub judice in various judicial authorities.

The Tariff Orders passed by the Hon'ble Commission in past years were challenged by the Petitioner before the Hon'ble Appellate Tribunal for Electricity ["ATE"]. The details of said Tariff Orders and resultant Appeals are provided below for information and convenience of the Hon'ble Commission.

Year of Tariff Order & Appeal No.	Date of Tariff Order/ Date of Judgment	Appeal No.	Date of judgment /Status
2007-08	23.02.2008	52/2008	31.05.2011
2010-11	28.05.2009	153/2009	30.07.2012
2011-12	26.08.2011	14/2012	28.11.2013
2012-13	13.07.2012	171/2012	Reserved for Judgment
2013-14	31.07.2013	271/2013	Pending before the Hon'ble ATE
2014-15	23.07.2014	246/2014	Appeal filed with ATE
Review Petition with the Hon'ble Commission			
2013-14	31.07.2013	39/2013	Pending with the Hon'ble DERC
Appeal in Supreme Court			
52/2008	31.05.2011	7910/2011	Pending before the Supreme Court
14/2012	28.01.2014	4343/2014	Pending before the Supreme Court
Appeal in High Court:			
Writ on MYT regulations	02.12.2011	2203/2012	Pending before the High Court

The Hon'ble Commission is requested to implement and consider the financial impact along with carrying cost for those issues decided by any of above judicial authority in favour of the petitioner or conceded by the Hon'ble Commission in such proceedings, if any, before issuance of Tariff order for FY 2015-16.

