

**OPENING SHEET**  
(To be enclosed at the time of filing)

Appeal / DFR No.	Date of filing	Appellant	Respondents	Counsel of Appellant	Full DD/PO Details	Relief sought briefly accurately for permanent record purpose with provisions of law involved
DFR No. _____/2019	13.02.2019	Maharashtra State Electricity Distribution Company Limited (MSEDCL)	Maharashtra Electricity Regulatory Commission	(ANUP JAIN / UDIT GUPTA) UDIT KISHAN & ASSOCIATES ADVOCATES FOR THE APPELLANT 33, Dakshineswar Building, 10, Hailey Road, New Delhi-110001	D.D. No. 832378 dated 13/2/19 for amount of Rs.1,01,000/- drawn on YES BANK.	(a) Allow the present appeal and partially modify the impugned order dated 24.12.2018 passed by the Ld. MERC in Case No. 321 of 2018  (b) Pass any such order(s) as this Hon'ble Court may deem just and proper

Remarks:-

Signature of Verificant

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BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY,

NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. OF 2019

IN THE MATTER OF:-

Maharashtra State Electricity  
Distribution Company Ltd.

...APPELLANT

V/s.

Maharashtra Electricity Regulatory  
Commission

...RESPONDENT

MASTER INDEX


S.No.	PARTICULARS	PAGE No.
<b>VOLUME - I</b>		
1.	Synopsis and List of Dates	A-E
2.	Memo of Parties	F
3.	Memorandum of Appeal U/s 111 of the Electricity Act, 2003 along with Affidavit.	1-39
4.	<u>ANNEXURE A/1:</u> Impugned final order dated 24.12.2018 passed in Case No. 321 of 2018 by Ld. Maharashtra Electricity Regulatory Commission.	40-70
5.	<u>ANNEXURE A/2 [Part A]</u> A copy of the order dated 03.11.2016 passed by Ld. MERC in Case No. 48 of 2016 filed by Appellant.	71-300
<b>Volume - II</b>		
6.	<u>ANNEXURE A/2 [Part B]</u> A copy of the order dated 03.11.2016 passed by Ld. MERC in Case No. 48 of 2016 filed by Appellant.	301-600
<b>Volume - III</b>		
7.	<u>ANNEXURE A/2 [Part C]</u> A copy of the order dated 03.11.2016 passed by Ld. MERC in Case No. 48 of 2016 filed by Appellant.	601-676

8.	<b>ANNEXURE A/3 [Part A]</b> A copy of mid term review petition filed by the appellant herein on 21.12.2017, as case no. 195 of 2017, as revised on 03.07.2018 before Ld. Maharashtra Electricity Regulatory Commission.	677-900
<b><u>Volume - IV</u></b>		
9.	<b>ANNEXURE A/3 [Part B]</b> A copy of mid term review petition filed by the appellant herein on 21.12.2017, as case no. 195 of 2017, as revised on 03.07.2018 before Ld. Maharashtra Electricity Regulatory Commission.	901-1094
10.	<b>Annexure A/4 [Part A]</b> A copy of order dated 12.09.2018 passed in case No. 197/2017 by Ld. Maharashtra Electricity Regulatory Commission.	1095-1200
<b><u>VOLUME - V</u></b>		
11.	<b>Annexure A/4 [Part B]</b> A copy of order dated 12.09.2018 passed in case No. 197/2017 by Ld. Maharashtra Electricity Regulatory Commission.	1201-1500
<b><u>VOLUME - VI</u></b>		
10.	<b>Annexure A/4 [Part C]</b> A copy of order dated 12.09.2018 passed in case No. 197/2017 by Ld. Maharashtra Electricity Regulatory Commission.	1501-1730
11.	<b>Annexure A/5:</b> A copy of Review Petition filed by Appellant herein on 29.10.2018 as case No. 321 of 2018 before Ld. Maharashtra Electricity Regulatory Commission.	1731-1782
12.	<b>I.A.NO. OF 2019:</b> Application seeking urgent listing of the present	1783-1788

	Appeal under Rule 30 of the Appellate Tribunal for electricity (procedure, form fee and Record of proceeding Rules, 2007.	
13.	Vakalatnama and Authority Letter.	1789-1790

Place: NEW DELHI

Date: 13.02.2019

  
**UDIT KISHAN AND ASSOCIATES**  
ADVOCATE FOR THE APPELLANT  
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## SYNOPSIS

The Appellant herein through the present appeal is partially assailing the impugned order dated 24.12.2018 passed by the Ld. MERC in Case No. 321 of 2018 on the limited five issues, in the backdrop of the following events:

- A. The Appellant herein on 21.12.2017 had filed a Mid-Term Review Petition before the Ld. MERC (Respondent herein) as revised on 03.07.2018 under Section 61 & 62 of the Electricity Act, 2003 for Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised Aggregate Revenue Requirement (ARR) for FY 2018-19 and FY 2019-20. The Truing-up of FY 2015-16 was under MERC MYT Regulations, 2011, while Truing-up of FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20 was under MERC MYT Regulations, 2015.
- B. The Respondent had vide its order dated 12.09.2018 approved the Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20, in certain parameters.

C. When the said original order was challenged by the Appellant in review, the Ld. MERC vide its impugned order dated 24.12.2018 in Case No. 321 of 2018 had partially allowed the said review petition, but still following issues were not addressed in its correct perspective, which compelled the Appellant herein to file the present appeal:

- (i) Non-consideration of revision in definition of billing demand.
- (ii) Non-allowance of Cross subsidy surcharge as per the formula in National Tariff Policy, 2016 (NTP) without putting any ceiling, keeping in view the full recovery of current level of cross subsidy as mandated in the Act.
- (iii) Non-correction of sharing of gains/losses on account of distribution losses for FY 2016-17.
- (iv) Non-allowance of mandatory standby arrangement by Railways & SEZs/Deemed Licensees.
- (v) Non-correction of difference in opening normative equity for FY 2015-16.

LIST OF DATES AND EVENTS

DATES

EVENTS

- 03.11.2016 The Respondent had vide its order dated 03.11.2016 in Case No. 48 of 2016 approved the Truing-up for FY 2014-15, Provisional Truing-up for FY 2015-16 and Multi-Year Tariff for 3<sup>rd</sup> Control Period FY 2016-17 to FY 2019-20. In this Order, as per the Distribution Loss Trajectory approved by the Respondent, Distribution Loss target for FY 2016-17 is 17.76% (excluding EHV Sales).
- 21.12.2017 The Appellant herein had filed a Mid-Term Review Petition before the Ld. MERC (Respondent herein) as revised on 03.07.2018 under Section 61 & 62 of the Electricity Act, 2003 for Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20. The Truing-up of FY 2015-16 was under MERC MYT Regulations, 2011, while Truing-up of FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20 was under MERC MYT Regulations, 2015.

12.09.2018 The Respondent had vide its order dated 12.09.2018 in Case No. 195 of 2017 (MTR Petition) approved the Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20.

29.10.2018 The Appellant herein being aggrieved by some of the parameters, in the manner in which those have been approved, filed a Review Petition before the Respondent as Case No. 321 of 2018 on 29.10.2018 for correction and revision of the said parameters.

24.12.2018 The Ld. MERC vide its impugned order dated 24.12.2018 in Case No. 321 of 2018 partially allowed the review petition to the following extent:

(a) Opening GFA of FY 2015-16 used for calculation of normative O&M Expenses is corrected as Rs. 40,568 Crore;

(b) Input at T<>D periphery for FY 2016-17 is corrected to 1,16,300 MU. Accordingly, Distribution Loss of FY 2016-17 is corrected to 15.33%;



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(c) Rs. 8 Crore on account of "loss of obsolescence of fixed assets and on account of natural calamities" has been allowed for FY 2015-16;

(d) Formula for 'Maximum Consumption possible' used in computation of Load Factor Incentive has been modified to be effective from 1<sup>st</sup> January, 2019;

(e) Rules applicable for "Prompt Payment Discount" would be applicable also to "Discount for Digital Payment";

\_\_\_02.2019 The Appellant herein being aggrieved on limited five issues stated herein below, is preferring the present appeal:

(a) Revision in definition of billing demand.

(b) Cross subsidy surcharge.

(c) Sharing of gains/losses on account of distribution losses for FY 2016-17.

(d) Mandatory Standby arrangement for Railways & SEZs/Deemed Licensees.

(e) Difference in opening normative equity for FY 2015-16.

3/2/19

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BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY,  
NEW DELHI

APPELLATE JURISDICTION

APPEAL NO.      of 2019

MEMO OF PARTIES

**Maharashtra State Electricity Distribution Company Ltd.**

through its Superintending Engineer (TRC),

5<sup>th</sup> Floor, Prakashgad, Plot No. G-9

Anant Kanekar Marg, Bandra (East)

Mumbai-400051

...APPELLANT

V/s.

**Maharashtra Electricity Regulatory Commission**

Through its Secretary,

13th Floor, Centre No. 1,

World Trade Centre, Cuffe Parade

Mumbai - 400005

...RESPONDENT

BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY,  
NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. of 2019

IN THE MATTER OF: *Appeal under Section 111 of the  
Electricity Act, 2003 invoking  
jurisdiction of this Hon'ble Tribunal  
assailing the legality, validity and  
propriety of final order dated  
24.12.2018 passed by Ld. MERC in  
Case No. 321 of 2018 which was a  
review petition against order passed in  
MTR Petition.*

AND

IN THE MATTER OF:-

**Maharashtra State Electricity Distribution  
Company Limited (MSEDCL)**

through its Superintending Engineer (TRC),

Registered office at 5<sup>th</sup> Floor, Prakashgad,

Plot No. G-9, Anant Kanekar Marg,

Bandra (East), Mumbai – 400 051

... APPELLANT

Versus

**Maharashtra Electricity Regulatory Commission (MERC)**

Through its Secretary,

13th Floor, Centre No. 1,

World Trade Centre, Cuffe Parade

Mumbai – 400005

...RESPONDENTS

APPEAL UNDER SECTION 111 OF THE ELECTRICITY ACT, 2003

The Appellant respectfully submits as under: -

1. **DETAILS OF THE APPEAL:**

The Appellant is filing the present Appeal assailing the legality, validity and propriety of the Review Order of the same dated 24.12.2018 ("*Impugned Order*") as passed by Ld. Maharashtra State Electricity Regulatory Commission ("*Ld. State Commission*") in Case No. 321 of 2018 ("*Review Petition*") filed by Appellant against Order dated 12.09.2018 ("*Original Order*") passed by Ld. State Commission in Case No. 195 of 2017 ("*Original Petition*") limited to the five issues to:

(a) allow the present appeal and partially modify the impugned order dated 24.12.2018 passed in Case No. 321 of 2018 by the Ld. State Commission, on the limited five issues raised in Paragraph No. 9.

The Appellant is challenging the Impugned Orders inter alia on the ground that:-

- I. Non-consideration of revision in definition of billing demand.
- II. Non-allowance of Cross subsidy surcharge as per the formula in National Tariff Policy 2016 (NTP) without putting any ceiling, keeping in view the full recovery of current level of cross subsidy as mandated in the Act.

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- III. Non-correction of sharing of gains/losses on account of distribution losses for FY 2016-17.
  - IV. Non-allowance of mandatory stand-by arrangement by Railways & SEZs/Deemed Licensees.
  - V. Non-correction of difference in opening normative equity for FY 2015-16.

A copy of the Impugned final order dated 24.12.2018 passed in Case No. 321 of 2018 by Ld. Maharashtra Electricity Regulatory Commission is annexed hereto and marked as "ANNEXURE A/1".

2. **DATE ON WHICH THE ORDER APPEALED AGAINST IS COMMUNICATED AND PROOF THEREOF:**

The certified copy of the Impugned final order dated 24.12.2018 was issued by Ld. MERC on 09.01.2019 vide Letter No. MERC/Case No. 321 of 2018/0036, which has been received by the Appellant on 25.01.2019.

3. **THE ADDRESS OF APPELLANT FOR SERVICE IS AS SET OUT HEREUNDER:**

**APPELLANT:**

**Maharashtra State Electricity Distribution Company Limited (MSEDCL)**

**Address:** Registered office at 5<sup>th</sup> Floor, Prakashgad,  
Plot No. G-9, Anant Kanekar Marg,  
Bandra (East), Mumbai – 400 051

**E-mail:** setrcmsedcl@gmail.com

**Phone:** 022-26476843

**COUNSEL FOR THE APPELLANT:**

**UDIT KISHAN & ASSOCIATES**

Address: 33, 9<sup>th</sup> Floor, Dakshineswar Building, 10  
Hailey Road, New Delhi – 110001

E-mail: udit@uditkishan.com; anup@uditkishan.com

Phone: 9911179111; 9312989749

4. **THE ADDRESS OF RESPONDENTS FOR SERVICE OF ALL NOTICES IN THE APPEAL ARE AS SET OUT HEREUNDER:**

**Respondent:**

Maharashtra Electricity Regulatory Commission  
(MERC)

Through its Secretary,  
13th Floor, Centre No. 1,  
World Trade Centre, Cuffe Parade  
Mumbai – 400005

5. **JURISDICTION OF THE APPELLATE TRIBUNAL:**

The Appellant submits that the subject matter of the appeal is well within the jurisdiction of this Hon'ble Tribunal in terms of Sections 111 of the Electricity Act, 2003.

6. **LIMITATION:**

It is submitted that as per Section 111(2) of the Electricity Act, 2003 the present Appeal was to be filed within 45 days of the receipt of impugned order dated 24.12.2018; which the Appellant herein had received from the Ld.

MERC after its dispatch by them on 09.01.2019 only on 25.01.2019 and hence the present memo of appeal has been filed well within the period of statutory limitation of 45 days, from the date of receipt i.e., 25.01.2019 of certified copy of the impugned order dated 24.12.2018.

7. **DESCRIPTION OF PARTIES & FACTS OF THE CASE:**

**Description of Parties:**

7.1 Appellant i.e., Maharashtra State Electricity Distribution Company Limited (MSEDCL) is a distribution licensee operating in the State of Maharashtra, having its registered office at 5<sup>th</sup> Floor, Prakashgad, Plot No. G-9, Anant Kanekar Marg, Bandra (East), Mumbai – 400 051.

7.2 Respondent i.e., Maharashtra Electricity Regulatory Commission (MERC) is the State Electricity Regulatory Commission for the State of Maharashtra, exercising powers and discharging functions under the provisions of Electricity Act, 2003.

**Brief Background and Facts of the Case:**

7.3 That the Respondent had vide its order dated 03.11.2016 in Case No. 48 of 2016 approved the Truing-up for FY 2014-15, Provisional Truing-up for FY 2015-16 and Multi-Year Tariff for 3<sup>rd</sup> Control

Period FY 2016-17 to FY 2019-20. In this Order, as per the Distribution Loss Trajectory approved by the Respondent, Distribution Loss target for FY 2016-17 is 17.76% (excluding EHV Sales). A copy of the order dated 03.11.2016 passed by Ld. MERC in Case No. 48 of 2016 filed by Appellant is being annexed herewith and marked as ANNEXURE A/2.

7.4 That on 21.12.2017 the Appellant herein had filed a Mid-Term Review Petition before the Ld. MERC (Respondent herein) as revised on 03.07.2018 under Section 61 & 62 of the Electricity Act, 2003 for Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20. The Truing-up of FY 2015-16 was under MERC MYT Regulations, 2011, while Truing-up of FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20 was under MERC MYT Regulations, 2015. A copy of Mid-Term Review Petition filed by the Appellant herein on 21.12.2017 as Case No. 195 of 2017 as revised on 03.07.2018 before Ld. Maharashtra Electricity Regulatory Commission is being annexed herewith and marked as ANNEXURE A/2.



7.5 That the Respondent had vide its order dated 12.09.2018 approved the Truing-up of FY 2015-16 and FY 2016-17, Provisional Truing-up of FY 2017-18 and approval of Revised ARR for FY 2018-19 and FY 2019-20. A copy of order dated 12.09.2018 passed in Case No. 195 of 2017 by Ld. Maharashtra Electricity Regulatory Commission is being annexed herewith and marked as ANNEXURE A/3.

7.6 That the Appellant herein being aggrieved by some of the parameters, in the manner in which those have been approved, filed a Review Petition. on 29.10.2018 before the Respondent as Case No. 321 of 2018 on 29.10.2018 for correction and revision of the said parameters. A copy of Review Petition filed by Appellant herein on 29.10.2018 as Case No. 321 of 2018 before Ld. Maharashtra Electricity Regulatory Commission is being annexed herewith and marked as ANNEXURE A/4.

7.7 That the Ld. MERC vide its impugned order dated 24.12.2018 in Case No. 321 of 2018 partially allowed the review petition to the following extent:

- (a) Opening GFA of FY 2015-16 used for calculating of normative O&M Expenses is corrected as Rs: 40,568 Crore;

- (b) Input at T<>D periphery for FY 2016-17 is corrected to 1,16,300 MU. Accordingly, Distribution Loss of FY 2016-17 is corrected to 15.33%;
- (c) Rs. 8 Crore on account of "loss of obsolescence of fixed assets and on account of natural calamities" has been allowed for FY 2015-16;
- (d) Formula for 'Maximum Consumption possible' used in computation of Load Factor Incentive has been modified to be effective from 1<sup>st</sup> January, 2019;
- (e) Rules applicable for "Prompt Payment Discount" would be applicable also to "Discount for Digital Payment";

A copy of the Impugned final order dated 24.12.2018 passed in Case No. 321 of 2018 by Ld. Maharashtra Electricity Regulatory Commission is being annexed herewith and marked as **ANNEXURE A/1**.

7.8 That the Appellant herein being aggrieved on limited five issues stated herein below, is preferring the present appeal, seeking partial modification of the impugned order dated 24.12.2018, only to the extent of findings rendered on the following five issues:

- (a) Revision in definition of billing demand.

- (b) Full recovery of current level of cross subsidy through Cross subsidy surcharge as mandated in the Act.
- (c) Sharing of gains/losses on account of distribution losses for FY 2016-17.
- (d) Mandatory Standby arrangement by Railways & SEZs/Deemed Licensees.
- (e) Difference in opening normative equity for FY 2015-16.

8. (A) **FACTS IN ISSUE:**

- I. Whether due to restriction in definition of billing demand, actual recovery from fixed charges is even lower, i.e. around 7%-8% of actual ARR?
- II. Whether Ld. MERC completely failed to take into consideration that OA consumers get benefited unduly due to less CSS which results into tariff hike of common consumers of the Appellant? This will lead to more consumers opting for Open Access thereby entering into vicious cycle.
- III. Whether the Ld. MERC has not correctly appreciated that the Appellant had computed the sharing of efficiency gain/ loss considering 17.76% as the approved distribution loss target (Excluding EHV Sales) against the actual distribution losses (Excluding EHV Sales) in accordance with the

MERC (MYT) Regulations, 2015. However, erroneously the Ld. MERC in its original MTR order dated 12th September 2017, computed sharing of gains/ (losses) considering MYT Loss Trajectory of 13.50% which is approved loss trajectory for FY 2015-16 inclusive of EHV sales?

IV. Whether Ld. MERC failed to appreciate that in order to maintain the grid stability and to avoid financial burden on the Appellant, SEZ/ Deemed Licensees must have a standby arrangement?

V. Ld. MERC failed to appreciate that the deduction of equity of Rs. 350 Cr. in FY 2014-15 has resulted in a different Opening Normative Equity for FY 2015-16 which is covered under the scope of the MTR Order and has impacted the Normative Return on Equity for FY 2015-16 as well as entire third Control Period. Further, it was also not appreciated that the Opening Equity of Rs. 10,244 Cr. for FY 2015-16 includes the said correction. Thus, the Opening Normative Equity for FY 2015-16 ought to have been approved by Ld. MERC.

**(B) QUESTIONS OF LAW:**

(i) Whether linking of restriction in LF Incentive by the Ld. MERC in the original MTR Order with the definition of Billing Demand is error apparent by

Ld. MERC as, though MERC's directive of putting restriction on the eligibility of LF incentive may put a check on the misuse of load factor incentive to some extent, it will still not ensure the recovery of approved revenue from fixed charges?

(ii) Whether the cross-subsidy surcharge needs to be based on the current level of cross subsidy and thus the OA consumers need to compensate the current level of cross subsidy which prevailed during that period, as per the provision of Section 42(2) of the Electricity Act 2003?

(iii) Whether computation of sharing of gains/ (losses) for FY 2016-17 considering MYT Loss Trajectory of 13.50% which is approved loss trajectory for FY 2015-16 inclusive of EHV sales is contrary to the MERC (MYT) Regulations, 2015 wherein the computation of sharing of efficiency gain/ (loss), should have been as per the approved distribution loss target (Excluding EHV Sales) i.e. 17.76% for FY 2016-17?

(iv) Whether the impugned order is correct in non-consideration of the issue with respect to Standby Arrangement for SEZ/Deemed Licensee by stating that standby arrangement is present within the

SEZ/Deemed Licensee area without ascertaining the facts?

(v) Whether Ld. MERC failed to appreciate that instances of over drawal by SEZs/Deemed Licensee are not only detrimental to the stability of the grid but the undue financial burden of such instances is also unnecessarily getting passed onto the consumers of the Appellant for no fault on their part and therefore SEZs/ Deemed License and Indian Railways should be mandated to have standby arrangement?

(vi) Whether the impugned order is correct despite failing to appreciate that the deduction of equity of Rs. 350 Cr. in FY 2014-15 has resulted in a different Opening Normative Equity for FY 2015-16 which is covered under the scope of the MTR Order and has impacted the Normative Return on Equity for FY 2015-16 as well as entire third Control Period?

9. **GROUND WITH LEGAL PROVISIONS:**

The Appellant herein through the present appeal is partially challenging the Impugned Order dated 24.12.2018, on the limited five issues stated herein below

on the following grounds, thereby seeking partial modification of the impugned order dated 24.12.2018 only on the below raised five issues:

**NON-CONSIDERATION OF REVISION IN DEFINITION OF BILLING DEMAND:**

9.1 That as on date the definition of billing demand stands as below:

LT Consumers	HT consumers
Maximum of	Maximum of
65% of the Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours.	Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours.
	75% of the highest Billing Demand/ Contract Demand, whichever is lower, recorded during the preceding eleven months, subject to the limit of contract demand.
40% of the Contract Demand.	50% of the Contract Demand.

9.2 That it was submitted in the original petition by the Appellant before Respondent that the recovery from fixed charges is not happening due to the following reasons:

- a. Fixed/ Demand charges approved by MERC are very low.
- b. Restriction in definition of billing demand (as shown in table above) further limiting recovery in fixed charges.

9.3 That the Ld. MERC in its MYT Orders (Case No. 121 of 2014 for FY 2015-16 and Case No. 48 of 2016 for FY 2016-17 & FY 2017-18) approved revenue from fixed charges which were around 14% - 16% of approved ARR whereas approved fixed costs were around 55% of approved ARR. However, restriction in definition of billing demand is one of the factors because of which, actual recovery from fixed charges is even lower, i.e. around 7%-8% of actual ARR. The same is represented in table as below.

Particular	FY 2016-17		FY 2017-18		FY 2018-19	FY 2019-20
	Approved	Actual	Approved	Provisional	Approved	Approved
Fixed Cost as a % of ARR	53%	54%	55%	51%	54%	56%
Recovery through Fixed Charge as a % of ARR	15%	7%	14%	8%	16%	18%

9.4 Because the Ld. MERC failed to appreciate that many Open Access (OA) consumers are taking undue advantage of present definition of billing demand. Most of the OA consumers opt for partial OA and do not reduce the Contract Demand. However, due to Universal Service Obligation, the Appellant has to be ready with the requisite power by including the Contract Demand of OA consumers which results in the Appellant paying fixed charges for the contracted power thereby increasing burden



of tariff hike on other consumer. This also poses significant challenge to efficient power planning.

9.5 Because the Ld. MERC while passing the impugned order had not taken into consideration the following comparison of billing demand definition of other states as given below:

	MSEDCL	TN	MP	Gujarat	AP	Karnataka (BESCOM)	Chhattisgarh
<b>HT Category</b>							
	Actual Demand	Actual Demand	Actual Demand	Actual Demand	Actual Demand	Actual Demand	Actual Demand
Highest of	75% of max billing demand during last 11 month	90% of Contract demand	90% of Contract Demand	85% of CD	80% of Contract Demand	75% of Contract Demand	75% of CD
	50% of CD			100 kVA			60 kVA
<b>LT Category</b>							
	65% of the Actual Maximum Demand	Contracted demand	Actual Maximum Demand	Actual Maximum Demand	Actual Demand	Maximum Demand recorded	Actual Maximum Demand
Highest of	40% of CD		90% of CD	85% of CD	Contract demand	Sanctioned load	75% of CD
				15KW			15 kW

9.6 Because the Ld. MERC thus failed to appreciate that in most of the states, a consumer is required to pay atleast around 75% to 90% of the Contract Demand irrespective of the actual demand.

9.7 Because the Ld. MERC ought to have considered the submission of the Appellant that though MERC's directive in the original order of putting restriction on the eligibility of LF incentive may put a check on the

misuse of load factor incentive to some extent, it will still not ensure the recovery of approved revenue from fixed charges and thus, the concerns of the Appellant regarding under recovery of revenue still remain unaddressed.

9.8 Because it ought to have been appreciated that for FY 2018-19, the approved revenue from Fixed/ Demand Charges is only 16% of the approved ARR and the approved recovery of fixed cost from Fixed/ Demand Charges is only 29% of the fixed cost.

9.9 Because the basic principles set out by Ld. MERC which itself states that the recovery of fixed costs should be entirely through fixed charges gets defeated, as currently a large portion of the fixed cost obligation is being allowed to be recovered through variable charges. The Appellant's energy sales vary every trimester depending on the seasonal variations due to which there is a change in monthly revenue. However, the obligation towards fixed costs (e.g. fixed charges payable to generators, debt servicing, etc) remains unchanged throughout the year. During the months when the Appellant's energy sales are low, there is a mismatch between fixed cost recovery

and liability as presently a major component of fixed cost is being recovered through variable charges.

9.10 Because in para 9.22.9 of the original MTR order, the Ld. MERC though ruled that the dual impact of revision in the Fixed/Demand Charges along with revision in the definition of Billing Demand would have significant tariff impact/shock for the consumers, the Ld. MERC could have balanced the overall revenue by way of increase in Fixed Charges and corresponding reduction in Energy Charges. Hence, the observation of Ld. MERC that the increase in fixed/ demand charges will result in tariff shock to consumers is not correct.

9.11 Because linking of restriction in LF Incentive by the Ld. MERC in the original MTR Order with the definition of Billing Demand is error apparent by Ld. MERC as, though MERC's directive of putting restriction on the eligibility of LF incentive may put a check on the misuse of load factor incentive to some extent, it will still not ensure the recovery of approved revenue from fixed charges. Thus, the concern of the Appellant regarding under recovery of revenue from fixed charges to cover fixed costs obligation remain unaddressed.

9.12 Because the Ld. MERC completely failed to appreciate that the OA consumers pay less demand charges despite retaining entire Contract Demand (CD) while the Appellant has to be ready with the requisite power including the CD of OA consumers. Since, currently, a large portion of the fixed cost obligation is being recovered through variable charge and as the OA consumers procure less power from the Appellant, they are effectively paying very less towards fixed cost obligation of the Appellant. Thus, appropriate recovery of fixed cost from OA consumers further gets affected resulting in financial burden on common consumers of the Appellant through increase in tariff at no fault on their part.

**NON-ALLOWANCE OF CROSS SUBSIDY SURCHARGE AS PER THE FORMULA IN NATIONAL TARIFF POLICY 2016 (NTP) WITHOUT PUTTING ANY CEILING KEEPING IN VIEW THE FULL RECOVERY OF CURRENT LEVEL OF CROSS SUBSIDY AS MANDATED IN THE ACT.**

9.13 Because the Ld. MERC failed to appreciate that as per the provision of Section 42(2) of the Electricity Act 2003, the cross-subsidy surcharge needs to be based on the current level of cross subsidy and thus the OA consumers need to compensate the current level of cross subsidy which prevailed during that

period in order to avoid the burden of the same getting passed on to other consumers who are with the Distribution Licensee.

9.14 Because based on the report of the committee constituted by CEA on the advice of Ministry of Power to examine the issues related to Open Access, MoP issued a consultation paper on 24th August 2017 wherein it has been proposed that SERCs should determine the CSS based on real cross-subsidy. The said Paper also advocated for implementation of Tariff Policy 2016 in true spirit. The relevant extract of the said Consultation Paper is reproduced below:

*"The Tariff Policy 2016 mandates SERCs to determine roadmap for reduction of cross subsidy and bring tariff at +/- 20% Average Cost of Supply, however it restricts Cross Subsidy Surcharge at 20% of the consumer tariff. In case the consumer tariff is more than 120% of Average Cost of Supply, DISCOM will not be able to recover losses through cross subsidy surcharge in case consumer opts for open access. It is essential for SERCs to implement both Para 8.3 -2 and First proviso to para 8.5.1 of the Tariff Policy 2016 simultaneously. If one of the provision could not be implemented due to some reason, the second provision should also not be implanted to that extent."(Emphasis Added)*

9.15 Because the Ld. MERC completely failed to take into consideration that, OA consumers get benefited unduly due to less CSS which results into tariff hike of common consumers of the Appellant. This will lead to more consumers opting for Open Access thereby entering into vicious cycle.

9.16 Because the Ld. MERC in impugned order failed to appreciate that the principle of CSS being a compensatory charge has also been accepted by this Hon'ble Tribunal while categorically holding that CSS is not only to compensate the DISCOM for the loss of cross subsidy, it is also to compensate the remaining consumers of the DISCOM who have not taken open access. Reference and reliance is being placed upon the Judgment dated 2nd December 2013 in Appeal No. 178 of 2011 by this Hon'ble Tribunal in "Summary of Findings" Para II as below:

*" . . . II The contention of the State Commission that Tariff Policy provide that the CSS should not be so enormous to suffocate the Competition is misplaced. The Act mandated the State Commission to determine the CSS to meet the requirement of current level of cross subsidy. We have to keep in mind that the CSS is paid by the subsidizing consumers only. This Tribunal in catena of cases has held that CSS is compensatory in nature. It is meant for to compensate the loss suffered by the remaining*

subsidized low-end consumers. Thus, in the scenario of mass changeover of consumers, the CSS has also to be such that exodus of subsidizing consumers does not load the remaining low end consumers heavily. The State Commission has to balance the interest of all the consumers, the plea taken by the State Commission in Appeal No. 132/2011 and accepted by this Tribunal in its judgment. The above submission of the State Commission also suggests that it has attempted to suppress the CSS artificially ...("Emphasis Added").

9.17 Because it is the mandate of Ld. MERC to reduce cross subsidies in tariffs so as to bring the tariffs within  $\pm 20\%$  of Average Cost of Supply (ACoS) and once, that is achieved, the Cross Subsidy Surcharge will automatically fall within 20% of ACoS. However, till the time the tariffs are not within  $\pm 20\%$  of ACoS, the Ld. MERC should approve the entire Cross Subsidy Surcharge without putting any ceiling of 20%. In such scenario, restricting CSS to 20% of Average Tariff would result in under-recovery and thus, financially burdening the Appellant.

9.18 Because in the original MTR Order dated 12.09.2018 while approving Cross Subsidy Surcharge, the Ld. MERC took cognizance of Tariff Policy which is only a guiding mechanism and thus cannot take precedence over Section 42(2) of the Electricity Act

which should be referred for computation of Cross Subsidy Surcharge. Thus, as per the Act, CSS should be approved in such a manner that it reflects the actual level of cross-subsidy within the area of supply of Distribution Licensee.

9.19 Because even as per this Hon'ble Tribunal's Judgment dated 2nd December 2013 in Appeal No. 178 of 2011 (supra), CSS is compensatory in nature. CSS is meant to compensate the loss suffered by the remaining subsidized low-end consumers. Moreover, in the scenario of mass changeover of consumers, the CSS has also to be such that exodus of subsidizing consumers does not load the remaining low end consumers heavily.

9.20 Because the Ld. MERC failed to take note that Odisha Electricity Regulatory Commission (OERC) in its order for determination of Retail Supply Tariff for FY 2018-19 in Case No. 79, 80, 81 & 82 of 2017 approved Cross Subsidy Surcharge for EHT consumers which works out to be 27.56% of Average Tariff. The approved CSS is more than ceiling of 20% of the average tariff prescribed by National Tariff Policy.



**NON-CORRECTION OF SHARING OF GAINS/  
(LOSSES) ON ACCOUNT OF DISTRIBUTION LOSSES  
FOR FY 2016-17:**

9.21 Because the Ld. MERC has not correctly appreciated that the Appellant had computed the sharing of efficiency gain/ loss considering 17.76% as the approved distribution loss target (Excluding EHV Sales) against the actual distribution losses (Excluding EHV Sales) in accordance with the MERC (MYT) Regulations, 2015. However, erroneously the Ld. MERC in its original MTR order dated 12th September 2017, computed sharing of gains/ (losses) considering MYT Loss Trajectory of 13.50% which is approved loss trajectory for FY 2015-16 inclusive of EHV sales.

9.22 Because the Ld. MERC also failed to take note that in MYT Order dated 3rd November 2016 the Ld. MERC itself has approved the distribution loss target as 17.76% (excluding EHV sales) for FY 2016-17. The actual distribution loss as computed by the Appellant for FY 2016-17 is excluding EHV sales and hence comparison should have been done w.r.t. loss target excluding EHV Sales as approved in MYT order and not with 13.50%.

9.23 Because it was not appreciated in its right perspective by the Ld. MERC that as per the Regulations 8.4 (a) of MERC MYT Regulations 2015, sharing of gains/ losses should be done during final true up. The relevant extract of the regulations is reproduced below:

*"8.4 Upon completion of the Mid-term Review, the Commission shall pass an order recording:*

*(a) the approved aggregate gain or loss to the Generating Company or Licensee or MSLDC on account of controllable factors for the Years 2015-16 and 2016-17 and provisional Truing-up for the Year 2017-18, and the amount of such gains or such losses that may be shared in accordance with Regulation 11;"*

9.24 However, the Ld. MERC computed sharing of gains/(losses) which was premature and benefit of reduction in tariff has already been passed on to the consumers. Moreover, Ld. MERC considered normative loss of 13.50% which is approved loss trajectory for FY 2015-16 on provisional basis. The approved distribution loss trajectory of 13.50% for FY 2015-16 was including EHV Sales.

9.25 Because that since Distribution Loss Trajectory excluding EHV sales was introduced by Ld. MERC for 3<sup>rd</sup> Control Period in MYT Order, therefore the Ld. MERC in most humble submission committed an error in comparing actual losses excluding EHV with

approved loss trajectory (that too for FY 2015-16)  
including EHV.

**NON-ALLOWANCE OF THE STAND-BY  
ARRANGEMENT FOR SEZ AND RAILWAYS/ DEEMED  
LICENCEES:**

9.26 Because the Ld. MERC failed to appreciate that many of the SEZ & Deemed Licensees do not have standby arrangement and thus the same ought to have been made compulsory for SEZs & Deemed Licensee for supply of power in case of failure of the source generator. During the instances of zero/ curtailed schedule from their source generators, such licensees resort to over-draw power from grid and in such scenario, power purchase planning of the Appellant gets adversely affected. Based on the latest FBSM data available till 31.03.2017, the instances of overdrawl of Indian Railways and few SEZ are tabulated below:

**Instances of Overdrawl from the Grid as per FBSM for FY 2015-16**

Name	Total Nos of Time blocks for which Bills prepared (Time Block)	Net OD Energy (MUs)	Number of Instances of OD		Nos of Instance having OD more than 12% Demand		Nos of Instance having OD more than 100% Demand (Time Block)
			(No. of Time Blocks)	%	(No. of Time Blocks)	%	
Indian Railways	12,192	18.25	4,881	40.0%	714	5.9%	35
Serene	34,363	5.42	18,210	53.0%	7,056	20.5%	0

## Instances of Overdraw from the Grid as per FBSM for FY 2016-17

Name	Total Nos of Time blocks for which Bills prepared (Time Block)	Net OD Energy (MUs)	Number of Instances of OD		Nos of Instance having OD more than 12% Demand		Nos of Instance having OD more than 100% Demand (Time Block)
			(No. of Time Blocks)	%	(No. of Time Blocks)	%	
Indian Railways	35,040	111.42	26,068	74.4%	5,882	16.8%	0
Serene	35,040	3.95	13,526	38.6%	5,559	15.9%	0
Gigaplex	33,313	0.84	15,236	45.7%	7,816	23.6%	52

The details of the time blocks during which schedule of the source generator of M/s Gigaplex (SEZ) was zero and still there was drawal from the grid as shown in table given below:

## Detailed schedule and drawl of M/s Gigaplex for 10.10.2016

All figures in kWh

Time Slot No.	Generator Schedule of Gigaplex	Actual Drawl of Gigaplex	Actual Drawal from Grid	Pool Imbalance
75	0	498	498	(498)
76	0	488	488	(488)
77	0	483	483	(483)
78	0	475	475	(475)
79	0	471	471	(471)
80	0	463	463	(463)
81	0	459	459	(459)
82	0	459	459	(459)
83	0	457	457	(457)
84	0	445	445	(445)
85	0	449	449	(449)
86	0	450	450	(450)
87	0	445	445	(445)
88	0	441	441	(441)
89	0	435	435	(435)
90	0	429	429	(429)
91	0	425	425	(425)
92	0	417	417	(417)
93	0	379	379	(379)

Time Slot No.	Generator Schedule of Gigaplex	Actual Drawl of Gigaplex	Actual Drawal from Grid	Pool Imbalance
94	0	354	354	(354)
95	0	345	345	(345)
96	0	343	343	(343)

Detailed schedule and drawl of M/s Gigaplex for 11.10.2016

*All figures in kWh*

Time Slot No.	Generator Schedule of Gigaplex	Actual Drawl of Gigaplex	Actual Drawal from Grid	Pool Imbalance
1	0	338	338	(338)
2	0	334	334	(334)
3	0	334	334	(334)
4	0	329	329	(329)
5	0	318	318	(318)
6	0	315	315	(315)
7	0	315	315	(315)
8	0	316	316	(316)
9	0	314	314	(314)
10	0	310	310	(310)
11	0	309	309	(309)
12	0	305	305	(305)
13	0	305	305	(305)
14	0	299	299	(299)
15	0	300	300	(300)
16	0	299	299	(299)
17	0	298	298	(298)
18	0	298	298	(298)
19	0	295	295	(295)
20	0	294	294	(294)
21	0	292	292	(292)
22	0	295	295	(295)
23	0	295	295	(295)
24	0	293	293	(293)
25	0	292	292	(292)
26	0	286	286	(286)
27	0	284	284	(284)
28	0	275	275	(275)

Similarly, Indian Railways has also resorted to over drawal from Grid when the schedule of the source

generator of Indian Railways was curtailed which is represented in the tables as given below:

Generator Schedule and Drawal details of Indian Railways on 14 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
65	30,243	30,243	46,375	(16,132)
66	30,243	30,243	49,776	(19,533)
67	30,243	30,243	48,059	(17,817)
68	30,243	30,243	51,267	(21,024)
69	30,243	30,243	43,044	(12,802)
70	30,243	30,243	44,179	(13,936)
71	30,243	30,243	44,584	(14,342)
72	30,243	30,243	48,311	(18,069)
73	30,243	30,243	44,738	(14,495)
74	30,243	30,243	46,030	(15,788)
75	30,243	30,243	45,337	(15,095)
76	30,243	30,243	46,759	(16,516)
77	30,243	30,243	49,585	(19,342)
78	30,243	30,243	48,565	(18,323)
79	30,243	30,243	50,121	(19,878)
80	30,243	30,243	48,841	(18,598)
81	30,243	30,243	48,488	(18,246)
82	30,243	30,243	49,448	(19,206)
83	30,243	30,243	47,192	(16,949)
84	30,243	30,243	44,494	(14,252)
85	30,243	30,243	48,885	(18,642)
86	33,268	33,268	51,918	(18,650)
87	33,268	33,268	50,294	(17,027)
88	33,268	33,268	46,115	(12,848)
89	38,308	38,308	43,652	(5,345)
90	43,348	43,348	44,085	(737)

Generator Schedule and Drawal details of Indian Railways on 15 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
85	30,243	30,243	50,500	(20,258)
86	30,243	30,243	50,490	(20,248)
87	30,243	30,243	48,513	(18,270)
88	30,243	30,243	48,751	(18,509)
89	30,243	30,243	48,908	(18,666)
90	30,243	30,243	47,500	(17,258)
91	30,243	30,243	47,802	(17,560)

Generator Schedule and Drawal details of Indian Railways on 15 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
92	30,243	30,243	46,310	(16,068)
93	30,243	30,243	48,885	(18,643)
94	30,243	30,243	52,593	(22,350)
95	30,243	30,243	48,169	(17,926)
96	30,243	30,243	46,323	(16,080)

Generator Schedule and Drawal details of Indian Railways on 16 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
55	30,243	30,243	46,227	(15,985)
56	30,243	30,243	46,990	(16,747)
57	30,243	30,243	41,958	(11,716)
58	30,243	30,243	46,148	(15,906)
59	30,243	30,243	46,598	(16,356)
60	30,243	30,243	51,431	(21,188)
61	30,243	30,243	46,924	(16,682)
62	30,243	30,243	48,731	(18,489)
63	30,243	30,243	45,520	(15,277)
64	34,275	34,275	46,850	(12,575)
65	34,275	34,275	45,572	(11,297)
66	34,275	34,275	49,138	(14,863)
67	37,803	37,803	55,238	(17,435)
68	40,323	40,323	54,261	(13,938)

Generator Schedule and Drawal details of Indian Railways on 24 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
4	30,243	30,243	46,191	(15,948)
5	30,243	30,243	47,534	(17,291)
6	30,243	30,243	50,544	(20,301)
7	30,243	30,243	46,617	(16,374)
8	30,243	30,243	46,845	(16,602)
9	30,243	30,243	48,508	(18,265)
10	30,243	30,243	46,278	(16,035)
11	30,243	30,243	45,171	(14,928)
12	30,243	30,243	45,969	(15,727)
13	30,243	30,243	50,201	(19,958)
14	30,243	30,243	44,832	(14,589)
15	30,243	30,243	44,347	(14,105)
16	30,243	30,243	48,919	(18,677)

Generator Schedule and Drawal details of Indian Railways on 24 <sup>th</sup> July 16 (kWh)				
Time Slot No.	Generator Schedule	Drawal Schedule of Railways	Actual Drawal from Grid	Pool Imbalance
17	30,243	30,243	46,964	(16,722)
18	30,243	30,243	44,459	(14,216)
19	30,243	30,243	43,589	(13,346)
20	30,243	30,243	41,186	(10,943)
21	30,243	30,243	41,308	(11,065)

9.27 Because it was not appreciated by the Ld. MERC that in order to maintain the grid stability and to avoid financial burden on the Appellant SEZ/ Deemed Licensees must have a standby arrangement.

9.28 Because at present there is no mechanism to ensure whether standby arrangement in the form of DG sets really exists within the SEZ/Deemed licensee area as ruled by Ld. MERC in Original MTR Order and even if such arrangement exists whether it is being used at the time of failure of the source generator. Any over drawal can be seen only at the time of FBSM which is delayed by more than a year and there is no real time monitoring system with SLDC to ensure that such standby arrangement be effectively utilised.

9.29 Because the Ld. MERC completely failed to appreciate that instances of over drawal are not only detrimental to the stability of the grid but the undue financial burden of such instances is also getting passed onto the consumers of the Appellant for no



fault on their part and therefore SEZs/ Deemed License and Indian Railways should be mandated to have standby arrangement.

**DIFFERENCE IN OPENING NORMATIVE EQUITY FOR FY 2015-16 AS SUBMITTED BY THE PETITION AND AS APPROVED IN THE MTR ORDER**

9.30 Because the Ld. MERC failed to appreciate in its right perspective the submission of the Appellant that while scrutinizing the difference in opening equity, it was observed that:

- a) In the Form F4.4 – Funding Details of MYT Petition (Case No. 48 of 2016) submitted by the Appellant, the portion of Internal Accruals in capex for FY 2014-15 was Rs. 1,400 Cr. which was inclusive of Consumer Contribution (CC) of Rs. 350 Cr.
- b) However, while computing equity portion of capex in Form 8 – Return on Regulatory Equity of the MYT Petition, Internal Accrual considered as Rs. 1050 Cr. and Consumer Contribution of Rs. 350 Cr. was again mistakenly deducted from the same.
- c) This has resulted in lower regulatory equity at the end of year for FY 2014-15.

This being an error, the Appellant requested Ld. MERC to consider the revised computation of normative opening equity for FY 2015-16.

9.31 Because the Ld. MERC failed to appreciate that the deduction of equity of Rs. 350 Cr. in FY 2014-15 has resulted in a different Opening Normative Equity for FY 2015-16 which is covered under the scope of the MTR Order and has impacted the Normative Return on Equity for FY 2015-16 as well as entire third Control Period. Further, it was also not appreciated that the Opening Equity of Rs. 10,244 Cr. for FY 2015-16 includes the said correction. Thus, the Opening Normative Equity for FY 2015-16 ought to have been approved by Ld. MERC.

10. **MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:**

The Appellant further declares that Appellant has not filed any other suit, appeal or has initiated any other legal proceeding against the impugned order dated 24.12.2018 passed by the Ld. MERC in Case No. 321 of 2018.

11. **SPECIFY BELOW EXPLAINING GROUNDS FOR SUCH RELIEF(S) AND THE LEGAL PROVISIONS, IF ANY, RELIED UPON:**

The Appellant relies on the submissions/legal provisions and the grounds made in Paragraph 9 above for the relief sought, which are not repeated here for the sake of brevity.

12. DETAILS OF APPEAL/S, IF ANY, PREFERRED BEFORE THIS APPELLATE TRIBUNAL AGAINST THE SAME IMPIGNED ORDER/DIRECTION BY RESPONDENTS WITH NUMBERS, DATES AND INTERIM ORDER, IF ANY, PASSED IN THAT APPEAL:

Not Applicable.

13. DETAILS OF INDEX:

An index containing the details of the documents relied upon is enclosed in the beginning of the Appeal.

14. PARTICULARS OF BANK DRAFT IN FAVOR OF THE ACCOUNTS OFFICER, APPELLATE TRIBUNAL, IN RESPECT OF THE FEE FOR APPEAL:

Demand Draft No. 832375 Dated 13/2/19 Drawn on YES BANK Payable at New Delhi in favour of Pay and Accounts Officer, Ministry of Power for an amount of Rs. 1,01,000/- towards filing fee.

15. LIST OF ENCLOSURES:

ANNEXURE A-1: Impugned final order dated 24.12.2018 passed in Case No. 321 of 2018 by Ld. Maharashtra Electricity Regulatory Commission.

ANNEXURE A-2: A copy of the order dated 03.11.2016 passed by Ld. MERC in Case No. 48 of 2016 filed by Appellant.

ANNEXURE A-3: A copy of Mid-Term Review Petition filed by the Appellant herein on 21.12.2017 as Case No. 195 of 2017, as revised on 03.07.2018 before Ld. Maharashtra Electricity Regulatory Commission.

ANNEXURE A-4: A copy of order dated 12.09.2018 passed in Case No. 195 of 2017 by Ld. Maharashtra Electricity Regulatory Commission.

ANNEXURE A-5: A copy of Review Petition filed by Appellant herein on 29.10.2018 as Case No. 321 of 2018 before Ld. Maharashtra Electricity Regulatory Commission.

16. WHETHER THE ORDER APPEALED AS COMMUNICATED IN ORIGINAL IS FILED? IF NOT, EXPLAIN REASON FOR NOT FILING THE SAME:

Yes.

17. WHETHER THE APPELLANT/S IS READY TO FILE WRITTEN SUBMISSIONS/ARGUMENTS BEFORE THE FIRST HEARING AFTER SERVING THE COPY OF THE SAME ON RESPONDENTS:

No.

18. WHETHER THE COPY OF MEMORANDUM OF APPEAL WITH ALL ENCLOSURES HAS BEEN FORWARDED TO ALL RESPONDENTS AND ALL RESPONDENTS AND ALL INTERESTED PARTIES, IF SO, ENCLOSE POSTAL RECEIPT/COURIER IN ADDITION TO PAYMENT OF PRESCRIBED PROCESS FEE:

It is submitted that the Appellant has not supplied a copy of the appeal to the Respondents.

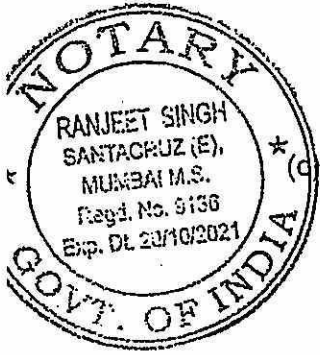
19. ANY OTHER RELEVANT OR MATERIAL PARTICULARS/DETAILS WHICH THE APPELLANT(S) DEEMS NECESSARY TO SET OUT:

The Appellant submits that it would rely on all such documents/submissions, which may be necessary for the proper adjudication of the issues involved in the present Appeal.

20. RELIEFS SOUGHT:

In view of the facts mentioned in paragraph mentioned in paragraph No. 7 above, points in dispute and questions of law set out in paragraph no. 8 and the grounds of appeal stated in paragraph no. 9, the Appellant herein prays for the following reliefs:

- (a) Allow the present appeal and partially modify the impugned order dated 24.12.2018 passed by the Ld. MERC in Case No. 321 of 2018 on the limited five issues raised in Paragraph No. 9 herein above; and/or



Pass such other Order(s) as this Hon'ble Tribunal may deem just and proper.

For Udit Kishan & Associates

Supdt Eng. (TRC)  
M.S.E.D.C.L  
Prakashgad Bandra  
Mumbai - 51  
For Maharashtra State Electricity  
Distribution Company Limited

Counsel for the Appellant

APPELLANT

Date: 02.2019

DECLARATION BY APPELLANT

The Appellant above named hereby solemnly declares(s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon filed herewith are true copies of the original.

For Udit Kishan & Associates

Supdt Eng. (TRC)  
M.S.E.D.C.L  
Prakashgad Bandra  
Mumbai - 51  
For Maharashtra State Electricity  
Distribution Company Limited

Counsel for the Appellant

APPELLANT

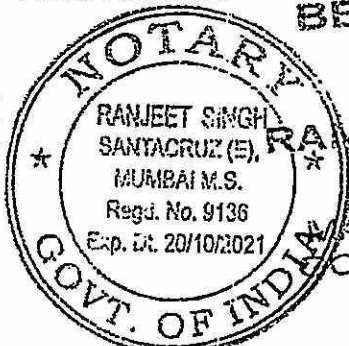
Date: 02.2019

VERIFICATION

I, Milind Madhukar Digraskar, age about 47 years, working as Superintending Engineer, in the Appellant Company and having office at MSEDCL, Prakashgad, Plot No.G-9, Anant Kanekar Marg, Bandra (East), Mumbai 400051 do hereby verify that the contents of Para 1 to 8 are based on the records of the Appellant maintained in the ordinary course of business and believed by me to be true and paras 9 to 21 are believed to be true on legal advice and that I have not suppressed any material facts.

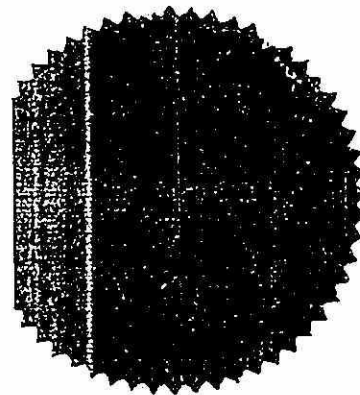
Date: 02, February, 2019  
Place : Mumbai

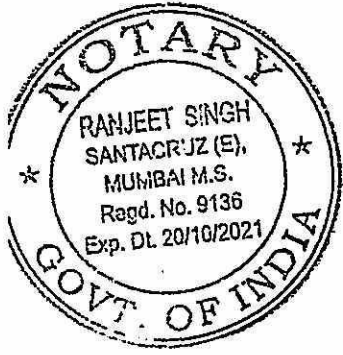
BEFORE ME



Ranjeet Singh  
M.Sc.LL.B  
NOTARY  
MAHARASHTRA  
GOVT. OF INDIA  
1-8 FEB 2019

Supdt Eng. (TRC)  
M.S.E.D.C.L  
Prakashgad Bandra  
Mumbai - 51  
For Maharashtra State Electricity  
Distribution Company Limited  
APPELLANT





BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY,

AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. of 2019

In the matter of:

Maharashtra State Electricity Distribution  
Company Ltd.

...Appellant

V/s.

Maharashtra Electricity Regulatory Commission ...Respondent

AFFIDAVIT

I, Milind Madhukar Digraskar, age about 47 years, working as Superintending Engineer, in the Appellant Company and having office at MSEDCL, Prakashgad, 5<sup>th</sup> floor, Plot No.G-9, Anant Kanekar Marg, Bandra (East), Mumbai 400051, do hereby solemnly affirm and declare on oath as under:-

1. That I am duly authorized by the Appellant Company in the present Appeal to sign and verify the present affidavit and also being well conversant with the facts and circumstances of the case is thus competent to swear this affidavit.
2. I state that I have read and understood the contents of the above appeal filed by the Appellant against impugned order dated 24.12.2018 passed by the Ld. MERC in Case No. 321 of 2018, which have been drafted under my instruction and I state that the facts stated therein are true to the best of my knowledge and belief.
3. I say that the contents of the above appeal filed by the Appellant are based on the information available with the Appellant in the normal course of business and believed by me to be true.





4. I say that the Annexures to the Memorandum of Appeal are the true and correct copies of their original.

For Maharashtra State Electricity Distribution Company Limited

*Rite*  
Supdt Eng. (TRC)  
M.S.E.D.C.L  
Prakashgad Bandra  
Mumbai - 51  
DEPONENT

VERIFICATION

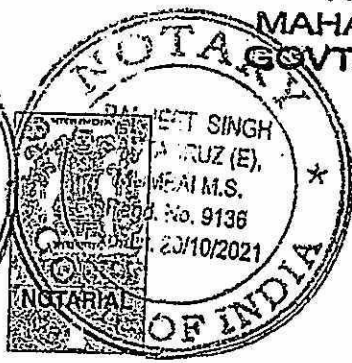
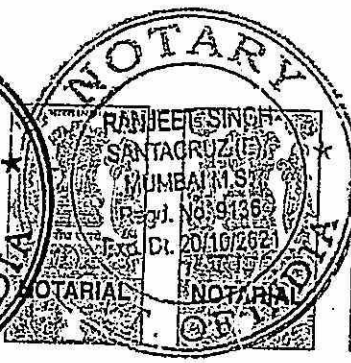
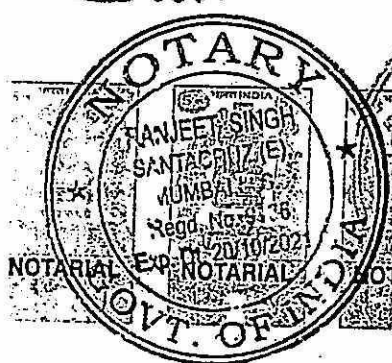
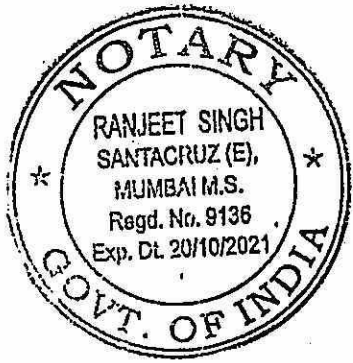
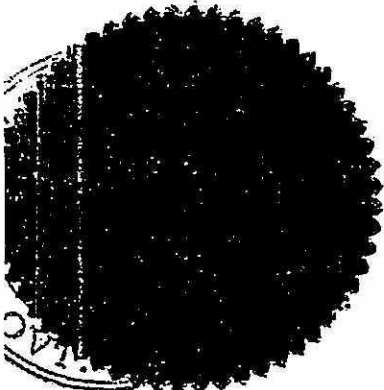
Verified at Mumbai on this the 8<sup>th</sup> day of February, 2019. I, the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

For Maharashtra State Electricity Distribution Company Limited

*Rite*  
Supdt Eng. (TRC)  
M.S.E.D.C.L  
Prakashgad Bandra  
Mumbai - 51  
DEPONENT

BEFORE ME

*Rite*  
RANJEET SINGH  
M.Sc.LL.B.  
NOTARY  
MAHARASHTRA  
GOVT. OF INDIA



8 FEB 2019