UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED

(A Power Distribution & Retail Supply Utility, Govt. of Haryana)

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From

Chief Engineer/RA
UHBVN Panchkula

To

The Secretary HERC
Bays Nos. 33-36, Sector-4
Panchkula

Memo No. Ch-55/SE/RA/N/F-54/Vol-XI (A)
Dated: 16.09.2016

Subject: Filing pursuant to directives of the Hon'ble Commission vide ARR and Tariff Order for FY 2016-17 dated 1st August, 2016 on Fuel Surcharge Adjustment (FSA) recovery along with various issues in the Tariff Order.

The Hon'ble Commission vide Order dated 01.08.2016 on the True-up for the FY 2014-15, APR for FY 2015-16 and Revised ARR of Discoms for FY 2016-17 (HERC/PRO-33 of 2015 & HERC/PRO-35 of 2015) has directed as under, with respect to the Fuel Surcharge Adjustment (FSA):

> *"…the Commission orders that the recovery of FSA pertaining to the FY 2014-15 shall be stopped forthwith. In case any FSA amount pertaining to the FY 2014-15 has been recovered after 31.03.2016, the same shall be quantified and intimated to the Commission by the Discoms within 15 days from the date of this Order.*
>
> *Further, the Commission directs that the Discoms shall submit consumer category wise FSA recovered viz-a-viz that recoverable as per Order dated 19.03.2015 within 15 days so that the same can be reviewed for continuation or discontinuation. In an event the Discoms fail to submit the requisite information/details all FSA(s) being recovered under the ibid Order(s) shall be stopped."*

Accordingly, filing pursuant to above directives of the Hon'ble Commission along with various issues in the Tariff Order is attached herewith for kind information and consideration of the Hon'ble Commission.

DA/As above

Sd/-
Chief Engineer/RA
UHBVN, Panchkula

Filing pursuant to directives of the Hon'ble Commission vide ARR and Tariff Order for FY 2016-17 dated 1st August, 2016 along with various issues in the Tariff Order.

1. Please refer to the following directions of the Hon'ble Commission given in the ARR and Tariff Order for FY 2016-17, dated 1st August, 2016

    "…the Commission orders that the recovery of FSA pertaining to the FY 2014-15 shall be stopped forthwith. In case any FSA amount pertaining to the FY 2014-15 has been recovered after 31.03.2016, the same shall be quantified and intimated to the Commission by the Discoms within 15 days from the date of this Order.

    Further, the Commission directs that the Discoms shall submit consumer category wise FSA recovered viz-a-viz that recoverable as per Order dated 19.03.2015 within 15 days so that the same can be reviewed for continuation or discontinuation. In an event the Discoms fail to submit the requisite information/details all FSA(s) being recovered under the ibid Order(s) shall be stopped."

2. With regards to recovery of FSA pertaining to FY 2014-15 post 31.03.2016, it is submitted that the sales and revenue realized on account of FSA recovery for FY 2016-17 is being collected and compiled from the field offices and will take time to get finalized. The requisite data, as directed by the Hon'ble Commission, shall be provided as soon as the above compilation of sales and revenue data gets finalized.

3. Further, with regards the recovery of FSA determined vide Order dated 19.03.2015,The Information is submitted in the following paras:

4. The National Tariff Policy, publication in Government Gazette dated 6th January 2006, mentions under clause 5 (h) (4) that all uncontrollable costs should be speedily recovered from consumers so that future consumers are not burdened with past costs. The terms 'uncontrollable costs' would include but not be limited to fuel costs, costs on account of inflation, taxes and cess, variation in power purchase unit costs including on account of hydro-thermal mix in case of adverse natural events. The excerpt from the National Tariff Policy, 2006 is presented below

    5(h) (4)

    "…Uncontrollable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. Uncontrollable costs would

include (but not limited to) fuel costs, costs on account of inflation, taxes and cess, variations in power purchase unit costs including on account of hydro-thermal mix in case of adverse natural events…"

Further, under the "Framework for revenue requirement and costs" of the National Tariff Policy, 2006, all power purchase costs shall have to be considered legitimates unless there is violation of merit order principle or power purchase has been undertaken at unreasonable rates. The excerpt is presented below for reference

8.2.1

"...(1) All power purchase costs need to be considered legitimate unless it is established that the merit order principle has been violated or power has been purchased at unreasonable rates. The reduction of Aggregate Technical & Commercial (ATC) losses needs to be brought about but not by denying revenues required for power purchase for 24 hours supply and necessary and reasonable O&M and investment for system up-gradation. Consumers, particularly those who are ready to pay a tariff which reflects efficient costs have the right to get uninterrupted 24 hours supply of quality power. Actual level of retail sales should be grossed up by normative level of T&D losses as indicated in MYT trajectory for allowing power purchase cost subject to justifiable power purchase mix variation (for example, more energy may be purchased from thermal generation in the event of poor rainfall) and fuel surcharge adjustment as per regulations of the SERC..."

5. In continuation to the above, the Haryana Electricity Regulatory Commission has formulated HERC (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012 dated 5th December 2012 vide regulation number HERC/26/2012. The HERC regulation directs Discoms to collect Fuel and Power Purchase Cost Adjustment (FSA) on a quarterly basis in a way that FSA accrued during a quarter is recovered in the following quarter. The FSA shall be calculated on the approved power purchase volume including short term purchase from all approved sources based on the approved loss levels. The detailed excerpt of the HERC MYT Regulation follows

"…66. FUEL AND POWER PURCHASE COST SURCHARGE ADJUSTMENT (FSA)

66.1 The distribution licensees shall recover FSA amount on account of increase in fuel and power purchase costs from the consumers on a quarterly basis so as to ensure that FSA accrued in a quarter is recovered in the following quarter without going through the regulatory process i.e. FSA for the quarter "July to September" is recovered in the following quarter "October to December".

66.2 FSA shall be calculated only in respect of approved power purchase volume including short term power purchase cost, if any, for the relevant year from all approved sources. Drawl of power under UI mechanism, if any, shall be allowed only when it is not in violation of grid discipline and shall be subject to a price cap of average revenue realisation from all consumer categories for that year.

Average revenue realisation = (Total revenue assessed for electricity supply in Rs + Government Subsidy in Rs) / Total sales in Units.

66.3 For the purpose of recovery of FSA, power purchase cost shall include all invoices raised by the approved suppliers of power and credits received by the distribution licensees during the quarter irrespective of the period to which these pertain for any change in cost in accordance with tariff approved by any regulator/ government agency mentioned in regulation 59.4. This shall include arrears/refunds, if any, not settled earlier. In case data of the last month in a quarter is not available for calculating FSA to be levied in the following quarter, the licensee shall use an estimate based on available data of the first two months of the quarter. On availability of the actual figures, the difference on this account shall form part of FSA of the subsequent quarter. If the actual data for any quarter is not made available by the licensee before the end of the following quarter for this adjustment, the FSA finally allowed for that quarter based on actual figures supplied after the prescribed date shall be limited to the earlier estimated amount or the amount based on the actual figures, whichever is lower.

66.4 In case of negative FSA, the credit shall be given to the consumers by setting off the minus figure against the positive figure of FSA being *charged from the consumers. In other words, credit of FSA shall be given only against FSA being charged so that the base tariff determined by the Commission remains unchanged.*

66.5 Only the allowed percentage of transmission and distribution losses for the relevant year as per the approved ARR shall be taken into account for working out FSA.

66.6 The amount of FSA shall be recovered by each distribution licensee by charging a uniform FSA (per kWh) across all consumer categories in his area of license.

66.7 For moderation purposes, the recovery of per unit FSA shall be limited to 10% of the approved per unit 'average power purchase cost' or such other ceiling as may be stipulated by the Commission from time to time. For calculating FSA, variations in quarterly purchase volume from an approved source are allowed subject to an overall ceiling of annual approved volume from that source. In case a portion of the FSA for any quarter is not recovered due to the ceiling of 10%, the under recovered amount shall be added to the FSA for the next quarter.

66.8 Per unit rate of FSA (paisa/kWh) shall be worked out after rounding off to the nearest paisa;

66.9 The distribution licensee shall submit details relating to FSA recovery to the Commission for each quarter in the following format by the end of the following quarter.

Table 1: Methodology for FSA Calculation as per HERC

Sl No	*Description*
(i)	*Approved power purchase volume from approved sources (MU)*
(ii)	*Approved power purchase cost (Rs. million)*
(iii)	*Actual power purchase volume (MU)*
(iv)	*Power purchased (MU) from sources not covered under regulation 66.2 giving source wise details and in case of UI the frequency at which UI drawls were made. (disallowed power purchase)*
(v)	*Actual cost of power purchase from all sources except (iv) (Rs. million)*
(vi)	*Actual cost of disallowed power purchase relating to (iv)(Rs. million)*
(vii)	*Total FSA estimated to be recovered for the quarter(Rs. million)*

(viii)	*FSA per unit (Rs/kWh)being recovered during the following quarter*
(ix)	*Actual FSA recovered/estimated to be recovered out of estimated FSA till the end of the following quarter (Rs. million)*
(x)	*Under/ over recovered FSA (vii-ix) (Rs. million)*
(xi)	*Approved sales (Consumer category wise / month wise) for the quarter (MU)*

Note:

1. All the source-wise details should be supported with requisite documentary evidence / invoices raised by the generators / suppliers of the power.

2. Actual sales to AP consumers are to be calculated in accordance with the methodology approved by the Commission in the ARR for the relevant year. ..."

6. It is submitted that the FSA is a part of tariff and a surcharge levied to meet the increased cost of generation and purchase of electricity. It is stated that under the Electricity Act, 2003 (hereinafter referred as the "Act of 2003" for the sake of brevity) bodies (like State Electricity Regulatory Commissions) have been constituted and are entrusted with the task of determination of tariff and adjudicate the issues regarding FSA along with the related issues.

7. It is pertinent to mention that –

- The power generation companies pass on the increase of cost of power (produced due to increase in coal/fuel prices on monthly basis based on demand and supply of coal) to the distribution companies which gets legitimately passed on to the consumers.
- SERCs of various states revises the tariffs for electricity periodically (every year or once in every two to three years). The new tariff is set based on the cost of production and distribution of electricity. But the prices of fuel or coal changes throughout the year and the utilities have to manage these uncontrollable cost variations by legitimately passing them to the consumers.
- The amount of FSA is an effect of intermittent increase in the power purchase cost.

- However since the FSA amount is more, the recovery spills over a period of 3-4 years. The HERC also in the past when the FSA was levied after the end of the year after HERC approval allowed the recovery of FSA over 3-4 years; though the DISCOMs incurred and paid the entire cost of power purchase on a regular basis during the year itself
- It is submitted that the DISCOMs - Uttar Haryana BijliVitaran Nigam (UHBVN) and Dakshin Haryana BijliVitaran Nigam (DHBVN) apply Fuel Surcharge Adjustment as a pass-through cost to its consumers in accordance with HERC (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012 on a quarterly basis. Accordingly, per unit fuel cost pass through gets calculated based on the norms and guidelines laid down by Haryana Electricity Regulatory Commission.
- The FSA up to 10% of the approved cost of power purchase for the respective financial year is automatically passed through to the consumers; on a quarterly basis by the DISCOMs.
- It is submitted that DISCOMs, have been furnishing the calculations pertaining to FSA, to the Hon'ble Commission. It is submitted that Uttar Haryana BijliVitran Nigam Ltd. has been submitting the details of FSA to the Hon'ble HERC on behalf of both the distribution licensees within the State of Haryana.
- It is further submitted that according to section 62(4) of the Act of 2003, the tariff may not ordinarily be amended more frequently than once in a financial year, except any changes expressly permitted in terms of the fuel surcharge formula specified by the Appropriate Commission. Variation in price of fuel of a generator supplying power to a distribution licensee will affect the Power Purchase Cost of the distribution licensees. Thus the change in Power Purchase Cost due to variation in fuel cost could be permitted by amending tariff in terms of the fuel surcharge formula specified by the State Commission more frequently than once in a financial year.

8. It is hereby submitted that before the order of Hon'ble Commission dated 19.03.2015 following FSA were levied:

i) FSA order dated 14.6.2010

ii) FSA order dated 12.8.2011

iii) FSA order dated 26.6.2012 and dated 29.12.2014

iv) True up of FSA for FY 2011-12

v) True up of FSA for FY 2012-13

vi) True up of FSA for FY 2013-14

9. The consumers of Haryana were paying for these FSA's as per rates based on different Orders/ Regulations of the Commission The Hon'ble Commission vide order dated 19.03.2015 directed that the recovery of these FSA's to be continued at the existing rate till such time the total amount as determined above, is fully recovered.

10. The Hon'ble Commission vide its order dated 19.03.2015 determined the unrecovered amount at the end of FY 2013-14 as Rs. 5,066.82 Crores with a recovery of Rs. 1863.58 Crore from April-2014 to December-2014 leaving a net unrecovered amount of Rs. 3591.52 Crore, which was further based on the prorated sales of the 3rd quarter of FY 2014-15 i.e. Oct-14 to Dec-14.

11. However, the Nigam based on the worked out per unit FSA from the annual audited accounts for FY 2014-15 have re-estimated the recovery from April – 2014 to March – 2015, which works out to Rs. 2297.01 Crores, leaving a net unrecovered amount of Rs. 3271.33 Crore including holding cost as on March, 2015

12. It is estimated that an amount of around Rs 2705.19 Crore has been recovered from per unit FSA as consolidated by Hon'ble Commission vide order dated19.03.2015, leaving a net unrecovered amount of Rs. 805.98 Crore including holding cost as on 31.03.2016.Further, during the 1st quarter the unrecovered amount has been estimated to be around Rs. 657.14 Cr leaving a net unrecovered amount of Rs. 154.92 Crore including holding cost at the end of 1st Quarter of FY 2016-17, i.e. as on 30.06.2016.

13. Further, in addition to above theHon'ble APTEL in its Judgment dated 7th April, 2016 has allowed certain generators like Adani Power, GMR Kamalganga, Sasan Power Ltd and CGPL recoveries on account of force majeure / change in law / date of COD etc.

14. The Licensee in its earlier submissions dated 25.05.2016 and 12.07.2016 vide Memo No. Ch-25/GM/RA/N/F-25/Vol-62 and Ch-37/GM/RA/N/F-54/Vol-XI (A) respectively has submitted before the Hon'ble Commission that the aforesaid Judgment is expected to have an implication of Rs. 1240.90 cr on account of recovery of arrearswhich has now been revised toaround Rs. 1463.955 Cr alongwith an anticipated monthly liability of Rs. 53 Cr in future.

15. In view of Hon'ble APTEL Judgment dated 7th April, 2016, following generators have raised their claims on account of change in law / COD:

Sr.No	Party	Change in Law, Etc.	COD	Expected monthly impact
1	ADANI	2524.44		30.00
2	CGPL	32.90		8.00
3	JPL		648.00	
4	SASAN	127.56	126.00	10.00
5	GMR KAMALNAGA	115.43		5.00
	Total	**2800.33**	**774.00**	

16. It is submitted that the CERC vide its Order dated 25.01.2016 has allowed Jhajjar Power Limited to recover the capacity charges, transit losses etc. in the matter of disputes pertaining to the composite scheme of supply for power accordingly, Jhajjar Power Limited has already submitted a claim of Rs. 648.005 Cr to the Licensee.

17. It is submitted that out of Rs. 2524.44 Cr the Adani power has raised a claim of Rs. 1605.22 Cr on account of Change in law while Rs. 919.22 Cr is on account of compensatory tariff. With regards to claim made towards change in law the amount towards allowed components by CERC and other regulators works out to Rs. 414.06 Cr.

18. Further, with regards to claims of Rs. 127.56 Cr made by Sasan Power on account of change in law, the Licensee has already made a payment of Rs. 105.72 Cr. Against the claim of Rs. 126 Cr on account of COD, the Licensee has made payment of entire amount of Rs. 101.78 Cr excluding the Late payment charges of Rs. 24 Cr.

19. Further, with regards to claims of Rs. 115.43 Cr made by GMR (Kamalganga) on account of change in law, the Licensee has already made a payment of Rs. 115.43 Cr provisionally. Further, GMR has made additional claim of Rs 24.89

Cr for the month of April to June'16 for which payment has already been done.

20. Thus, from the above it is clear that the out of the claimed liability of Rs. 3574.33 Cr, confirmed liability which the Licensee has to pay as on date works out Rs. 1463.96 Cr. which may further increase based on the respective Orders/ Judgments in this regards.

21. It is further submitted that since the aforementioned amount pertain to the power purchase cost of the previous yearsitneeds to be included in the FSAs pertaining to the period before 31.03.2014 which are to be recovered in terms of Order dated 19.03.2015.Further, after considering the confirmed liability of Rs. 1463.96 Cr out of the total anticipated amount of Rs. 3574.33 Cr, the FSA amount pertaining to the period prior to FY 2014-2015 as on 30.06.2016 (at the end of 1st quarter of FY 2016-17) is Rs. 1618.87 Cr (154.92 + 1463.96) which has to be recovered from the consumers under the order dated 19.03.2015.

22. It is submitted that since the above costs are a confirmed liability on the Licenseeand since these claims have already been made by the generators and approved by Regulators,the licensee is bound to pay such costs to generators under law.

23. Also, if the above cost is passed on to the consumers at a later stage i.e. in the ARR of the ensuing years the same will increase the power purchase cost exorbitantly which will further increase the ARR and thereby giving a tariff shock to the consumers. In view of the above the outstanding recovery of FSA as per Order dated 19th March, 2015 are given in the table below:

Table 2: ***Recovery of FSA based on audited accounts of FY 2014-15 and provisional accounts of FY 2015-16 (Rs. Crore)***

	FSA order dt 14.6.2010	**FSA order dt 12.8.2011**	**FSA order dt 26.6.2012 and dt 29.12.2014**	**True up of FSA for FY 2011-12**	**True up of FSA for FY 2012-13**	**True up of FSA for FY 2013-14**	**TOTAL**
Rate of Interest per annum	8%	8%	12.50%	12.5%	12.5%	12.5%	
FSA determined as per order	1,505.29	562.36	1,037.77	1,819.19	1,481.25	1938.09	8343.95
Recovery during FY 2010-11	251.56	0.00	0.00	0.00	0.00	0.00	251.56
Balance unrecovered 31.3.2011	1,253.73	0.00	0.00	0.00	0.00	0.00	1,253.73
Holding Cost for FY 2010-11	110.36	0.00	0.00	0.00	0.00	0.00	110.44
Unrecovered amount at the end of FY 2010-11 incl holding cost	1,364.09	0.00	0.00	0.00	0.00	0.00	1,364.09
Recovery during FY 2011-12	361.43	78.80	0.00	0.00	0.00	0.00	440.23
Balance unrecovered as on 31.3.2012	1,002.65	483.56	0.00	1,819.19	0.00	0.00	3,305.40
Holding Cost for FY 2011-12	94.67	41.84	0.00	113.70	0.00	0.00	250.49
Unrecovered amount at the end of FY 2011-12 incl holding cost	1,097.32	525.40	1,037.77	1,932.89	0.00	0.00	4,593.38
Recovery during FY 2012-13	371.45	119.23	323.52	0.00	353.78	0.00	1,167.97
Balance unrecovered as on 31.3.2013	725.88	406.17	714.25	1,932.89	1,127.47	0.00	4,906.66
Holding Cost for FY 2012-13	72.93	37.26	109.50	241.61	70.47	0.00	532.30
Unrecovered amount at the end of FY 2012-13 incl holding cost	798.81	443.43	823.75	2,174.50	1,197.94	0.00	5,438.43
Recovery during FY 2013-14	426.21	136.79	489.99	647.28	681.88	504.81	2,886.96
Balance unrecovered as on 31.3.2014	372.60	306.64	333.76	1,527.22	516.06	1433.28	4489.55
Holding Cost for FY 2013-14	46.86	30.00	72.34	231.36	107.12	89.58	577.80
Unrecovered amount at the end of FY 2013-14 incl holding cost	419.45	336.65	406.10	1,758.58	623.18	1522.86	5066.82
	36.09%	28.97%	34.94%		29.04%	70.96%	
	35.13%				64.87%		
FSA Recoverable during FY 2014-15							
Recovery during FY 2014-15 upto Sept 2014	**142.25**	**114.17**	**137.72**	**0.00**	**211.34**	**516.46**	**1,121.95**
Unrecovered amount as on Oct-2014	277.20	222.48	268.38	1758.58	411.84	1006.40	
Amount recovered from Oct-14 to Dec-14	**77.36**	**62.09**	**74.89**	**0.00**	**114.93**	**280.85**	**610.12**
Unrecovered Amount as on Dec-14	199.84	160.39	193.48	1758.58	296.91	725.55	3,334.75
Holding Cost	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
Holding Cost from April to Dec-14	29.03	23.30	28.11	164.87	43.13	105.39	393.82

	FSA order dt 14.6.2010	**FSA order dt 12.8.2011**	**FSA order dt 26.6.2012 and dt 29.12.2014**	**True up of FSA for FY 2011-12**	**True up of FSA for FY 2012-13**	**True up of FSA for FY 2013-14**	**TOTAL**
Unrecovered Amount + Holding Cost as on Dec-14	228.87	183.69	221.59	1923.45	340.04	830.94	3728.58
Amount recovered from Jan-15 to March-15	**71.63**	**57.49**	**69.35**	**0.00**	**106.42**	**260.05**	**564.94**
Unrecovered Amount as on March-15	157.24	126.20	152.24	1923.45	233.62	570.89	3163.64
Holding Cost	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
Holding Cost for Dec-14 to March-15	6.03	4.84	5.84	60.11	8.96	21.90	107.69
Unrecovered Amount + Holding Cost as on March-15	163.28	131.05	158.08	1983.55	242.58	592.79	3271.33
FSA Recoverable in FY 2015-16							
Amount recovered from April-15 to March-15							**2,705.19**
Unrecovered Amount as on Mar-15							566.14
Holding Cost							12.50%
Holding Cost for April to Mar-15							239.84
Unrecovered Amount + Holding Cost as on Mar-15							805.98
Amount to be recovered from Apr-16 to June -16							**657.14**
Unrecovered Amount as on Q1 FY 2016-17							148.84
Holding Cost							12.50%
Holding Cost for April to Mar-15							6.07
Unrecovered Amount + Holding Cost as on							154.92
Additional Liability on account of APTEL Judgment dated 7th April, 2016 and various CERC Order							1463.96
Total Amount to be recovered excluding anticipated monthly liability of Rs. 53 crore							**1618.87**

24. Therefore, the total net unrecovered amount at the end of 1st quarter of FY 2016-17 relating to Order dated 19.03.2015 and Hon'ble APTEL Judgment dated 7th April, 2016 is Rs 1618.87 Cr (154.92 + 1463.96)Cr. excluding anticipated monthly liability of Rs. 53 Cr.

25. Moreover, the coal prices have also been increased CIL which will have a direct impact on the landed cost of power purchase which in turn will have to be recovered from FSA. The anticipated additional impact of this increase in coal prices works out to approximately Rs. 849.00 Cr.

Other issues related to Tariff Order:

Losses Approved By Ministry of Power for FY 2014-15

26. It is hereby submitted that Ministry of Power had notified revised AT&C loss trajectory considering Jind Circle in UHBVN vide letter dated 11th August 2014. The Discoms in the ARR petition for FY 2015-16 had projected transmission and distribution loss for FY 2014-15 and FY 2015-16 as 28.58% and 24.79% respectively based on notified AT&C losses of 31.29% and 27.88% for FY 2014-15 and FY 2015-16 respectively. Moreover, the Hon'ble Commission in its tariff order dated 07.05.2015 admitted T&D losses assessed considering AT&C loss trajectory notified by the MoP.

27. The Discoms in petition for True-Up of FY 2014-15 considered T&D loss based on AT&C loss trajectory approved by MoP i.e. 28.58% for UHBVN and 24.48% for DHBVN. However, in its impugned tariff order the Hon'ble Commission has considered T&D losses approved in MYT order dated 29.05.2014 which are lower than the Losses approved by Ministry of Power.

28. The Truing Up of Power Purchase cost of FY 2014-15 based on Losses approved in MYT order dated 29.05.2014 instead of Losses approved by MoP and admitted by Hon'ble Commission in Tariff order dated 07.05.2015 has resulted in disallowance of power Purchase cost and consequently understating of Annual Revenue Requirement of FY 2014-15.

Power Purchase Cost of FY 2014-15.

29. It is hereby submitted that as per MYT Regulation, 2012, variation on account of uncontrollable items shall be treated as a pass-through. The Hon'ble Commission while Truing-Up the Annual Revenue Requirement of FY 2014-15

in its order dated 01.08.2016 admitted actual power purchase cost of Rs 21825 Cr.

30. However, Rs 363 Cr has not been considered while truing up of power purchase cost of FY 2014-15 as the total actual power purchase cost as per the audited account of UHBVN and DHBVN is Rs 22187.75 Cr.

31. Therefore, it is submitted that as power purchase cost is an uncontrollable factor, the Hon'ble Commission should allow Power Purchase cost to the Discoms considering actual audited figures for FY 2014-15.

Fuel Surcharge Adjustment pertaining to FY 2014-15

32. The Hon'ble Commission in the impugned tariff order dated 01.08.2016 has allowed Rs. 1182.43 Cr considering losses approved by the Hon'ble Commission in its tariff order of FY 2014-15 instead of losses approved by MoP. In addition, the Hon'ble Commission has not considered Rs 363 Cr in the Power purchase cost which has led to lower per unit average power purchase cost, thereby, reducing the FSA of FY 2014-15.

Interest Cost of fresh Borrowing of FRP for FY 2014-15

33. As per the FRP scheme, banks will fund the operational deficit of the Discoms to the extent of 100% in FY 2012-13, 75% in FY 2013-14 and 50% in FY 2014-15. Therefore, to bridge the operating losses of the Discoms, fresh funding of loans was allowed under the FRP scheme which was approved in principle by the Hon'ble Commission. Interest on such loans has also not been considered in its impugned tariff order for the FY 2014-15. Therefore it is requested before the Hon'ble Commission to allow interest on fresh funding otherwise the utilities will again land up in a Debt Trap and the prime prerogative of rolling out of the FRP will be negated.

Fixed Cost of Power Purchase of FY 2014-15.

34. It is submitted that the Discoms has done PPA based on long term projections and all the PPA done by the Discoms have been approved by the Hon'ble Commission. The Hon'ble Commission in its impugned tariff order dated 01.08.2016 has approved average power purchase cost i.e. Rs 3.94 per unit which includes per unit fixed cost of power purchase. Further,the Hon'ble Commission has calculated the disallowed cost of power purchase basis of

Total per unit cost of power purchase i.e. Rs 3.94 per unit and Disallowed units.

35. It is pertinent to mention that fixed cost of power purchase is not function of Transmission and Distribution Losses and any reduction in Transmission and Distribution Losses would result in reduction of total variable cost borne by the Discoms and not the fixed cost as fixed charges are paid by the utility to the generators irrespective of any losses or quantum of units purchased. Therefore, the disallowed power purchase cost should be based only on variable cost of power purchase and disallowed unit and the Hon'ble Commission is requested to allow the fixed cost of Power purchase of FY 2014-15 as per the Audited account of both the Discom.

Sharing of Gain and Losses under Incentive and Penalty framework:

36. It is hereby submitted that section 12 of Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012 deal specifically in sharing of Gain and Losses under Incentive and Penalty Framework. As per section 12.4 of the aforementioned regulations, any gain on account of controllable parameter has to be shared between the Discom and the beneficiaries in the ratio of 50:50. The Relevant extract of the aforementioned regulation has been given below:

"In case of gain

The item wise gain shall be shared between the generating company or the licensee, as the case may be, and their respective beneficiaries in the ratio of 50:50. However, the sharing ratio of 50:50 may be revised to a maximum of 60:40 at the time of true-up during mid-year performance review / true-up. The manner of utilization of the additional 10% gain shall be specified by the Commission from time to time.

12.5 In case of loss

12.5.1 The item wise losses on account of controllable factors in case of a distribution licensee shall be dealt with in the following manner:

(a) The loss to the Distribution Licensee on account of Distribution losses, as may be admitted by the Commission after prudence check, shall be dealt with as under:

(i) One-third of the amount of such loss may be passed on as an additional charge in tariff over such period as may be specified in the Order of the Commission; and

(ii) The balance amount of loss shall be absorbed by the Distribution Licensee."

37. The Hon'ble Commission has approved Rs 115.53 Cr as R&M Expense for FY 2014-15 in the tariff order dated 29.05.2014. As per the Audited Accounts of FY 2014-15, the R&M Expense are Rs 55.69 Cr which is lower than the approved R&M expense by Rs 59.84 Cr. Accordingly as per section 12.4 of MYT Regulations, 2012, the gain on account of this should be shared between Discom and Beneficiary in the ratio of 50:50 hence Rs. 29.92 Cr should be allowed additionally to the Discoms.

38. Moreover, the Hon'ble Commission in the impugned order has considered T&D losses approved in the tariff order dated 29.05.2014 i.e. 25.00% for UHBVN and 19.01% for DHBVN for truing up the power purchase cost of FY 2014-15. In the impugned Tariff order dated 01.08.2016 has Hon'ble Commission has disallowed the power purchase cost of Rs 1500.85 Cr. MoP has approved the AT&C losses for UHBVN and DHBVN i.e. 28.58% for UHBVN and 24.48% for DHBVN. Based on MoP approved losses, the Discoms have projected revised Power purchase cost to be Rs17272.44 Cr, disallowing Rs 524.36 Cr. Accordingly as per section 12.5 of MYT Regulations, 2012, the loss on account of this should be shared between Discom and Beneficiary in the ratio of 1:3.Hence, Rs. 174.79 Cr on this account should be allowed additionally to the Discoms given that the losses approved by Ministry of Power are considered by the Hon'ble Commission. However. If the loss approved vide the aforementioned order dated 29.05.2014 are considered by the Hon'ble Commission, the Rs 500 Cr must be allowed to the Discoms as per the Section 12.5 of the MYT regulations, 2012.

Fixed Cost of Power Purchase of FY 2016-17

39. The Hon'ble Commission in the impugned order has allowed Rs 4980.3 Cr as fixed cost of power purchase for FY 2016-17. However, as per the provisional

accounts of FY 2015-16, the actual fixed cost of power purchase borne by the Discoms is Rs 6527.74 Cr.

40. It is pertinent to mention that Hon'ble CERC in Tariff Regulations, 2014 has notified escalation rate for O&M cost i.e. 6.64% per annum. The estimated fixed cost of power purchase escalated at this rate would be equal to **Rs 6961.18 Cr** and in no case can be lower than the actual fixed cost borne by the Discoms in FY 2015-16. Considering the above, it is observed that the fixed cost of power purchase borne by the Discoms as a legal obligation due to PPA being done with the generators and approved by the Hon'ble Commission. The Hon'ble Commissionis therefore requested to allow the fixed cost of Power Purchase of FY 2016-17 based on the actual fixed cost of power purchase of FY 2015-16 as understating of the power purchase cost has direct effect of Annual Revenue requirement of the Discom.

Administration and General Expense of the FY 2016-17

41. The Hon'ble Commission in the impugned tariff order has allowed Rs 78.49 Cr as Administration and General Expense for FY 2016-17. The Hon'ble Commission has calculated A&G Expense of FY 2016-17 by escalating A&G expense by indexation factor of 2.47%.

42. However, the Hon'ble Commission has inadvertently escalated A&G cost of FY 2014-15 only once. Whereas, the same should have been escalated two time to arrive at A&G expense for FY 2016-17. Accordingly the A&G expenses should have been Rs 80.43 Crore.

Interest on working capital of the FY 2016-17.

43. The Hon'ble Commission in its impugned tariff order dated 01.08.2016 for FY 2016-17 has not considered the Interest on working capital of Rs. 1436.50 Crore on account of financial implication of UDAY scheme.

44. The purpose of providing interest on working capital is to service the cash flow necessary for the Petitioner to conduct its business activities namely to take care of the time period between incurring of the cash expenditure by the Nigam and the realization of the revenue by the Nigam.

45. With regards to interest on working capital the Hon'ble Commission in its impugned Order has ruled that it shall consider the same at time of True-up for the FY 2016-17 after taking into consideration of the implementation of

other terms & conditions of UDAY Scheme. However, as pointed above the working capital is necessary for any business to smoothly manage its day to day activities. By not allowing the interest on working capital the Hon'ble Commission has denied the Petitioner of the rightful amount of interest that should have been included in the ARR to give more accurate picture of the expenditures to be incurred by the Petitioner.

46. The Discoms have projected the interest on working loan based on the opening loan balance of FY 2016-17. Therefore, the projected interest cost is an inevitable cost and disallowance of interest on working capital i.e. Rs 1436.50 Cr based on actual loans admitted under UDAY scheme has an impact on its cost of supply and in turn on AP-Subsidy, this will have an impact on the cash flow of the Petitioner and the prime prerogative of rolling out of the UDAY scheme will be negated.

47. Moreover, Truing-up is a process to allow actual expenditure on the basis of actual audited accounts based on prudence check. However, not considering the expenses while approving the ARR simply because the same can be trued up at later stage is against the principle of natural justice. If this principle as adopted by the Hon'ble Commission is considered than the entire process of projecting and approval of ARR will lose its significance since at the end every expense/ revenue is to be Trued-up and going by this principle there may be no need to make any projections at all and if the same is not considered during the ARR approval and considered only at the time of true-up the difference between the approved and actual may be vast which may then lead to accumulation of huge gaps to be recovered from the consumers thus giving them tariff shock.

48. In view of the above, allow Interest on working capital at Rs. 1436.50 Crore on account of financial implication of UDAY scheme may be allowed by the Hon'ble Commission.

AP Subsidy for FY 2016-17

49. The Hon'ble Commission in its impugned order of FY 2016-17 has allowed AP subsidy of Rs 6434.57 Cr against Rs 6800 Cr budgeted by Govt. of Haryana. The Hon'ble Commission in the impugned order has not considered 1436.50 Crore of interest cost on working capital. The Hon'ble Commission has also assumed AP consumption of FY 2015-16 equivalent to AP consumption of FY

2014-15 and thereafter the estimated AP sales has been escalated at a rate of 5% thereby underplaying the AP consumption. Moreover, the Hon'ble Commission has also understated Power purchase cost of FY 2016-17 thereby reducing the average cost of supply. The cumulative effect of the above has resulted in reduced average cost of supply which in turn has led to reduction in AP Subsidy for FY 2016-17.

50. In view of above, it is requested that the Hon'ble Commission may please consider deficiencies of the impugned tariff order and additional liabilities arising out of Hon'ble APTEL judgements on CoD, Changes in Law etc. and allow the Nigam to continue the FSA determined vide order dated 19.03.2015.