

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY

AT NEW DELHI

APPELLATE JURISDICTION

APPEAL No. OF 2012

1. Western Electricity Supply Company of Orissa Ltd. (WESCO),
2. North-eastern Electricity Supply Company of Orissa Ltd. (NESCO),
3. Southern Electricity Supply Company of Orissa Ltd. (SOUTHCO)

A Companies incorporated under the provisions of the Companies Act, 1956, having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar ... Appellants

Versus

Odisha Electricity Regulatory Commission,
Niyamak Bhawan, Unit-VIII,
Bhubaneswar, 751012, Dist: Khurda,
Orissa ... Respondent

APPEAL UNDER SECTION 111 OF THE ELECTRICITY ACT 2003

1. Details of Appeal :

By the present appeal filed under Section 111 of the Electricity Act, 2003 [EA03], the Appellant challenges the Order dated 19th March 2012 passed in Case No. 29, 30 & 31 of 2007 by the Orissa Electricity Regulatory Commission (“OERC”), Respondent No.1 herein, determining the principle of truing up from FY 2000-01 to FY 2010-11 to the extent OERC has erred in (i) Computation of revenue of DISCOMs and adoption of unrealistic distribution loss targets (ii) Calculation of Employee Cost (iii) Computation of Administrative and general expenses (iv) Provision for Bad & Doubtful Debts (v) Other Expenses as set out herein below.

2. Date on which the Order Appeal against is communicated and proof thereof, if any :

The Order Appeal against was received by the Appellant on 20th March, 2012 from OERC along with a covering letter.

3. The address of the Appellant for service is as set out hereunder:

- (i) Postal address including Pin code:
Plot No.N-1/22, Nayapalli, IRC Village, Bhubaneswar, Orissa PIN-751012. All correspondence may be directed to the advocates representing the Appellant.
- (ii) Phone Nos. 06782-269864, 0674-2558737; 0663-2431984, 0674-2558737; 0674-2558737; Mobile : 09437055180, 09437055180, 09437055180
- (iii) Email: wesco@wescoorissa.com; nesco@nescoorissa.com; southco_berhampur@rediffmail.com
- (iv) Fax: 0674-2558343, 0663-2432115; 06782-268336, 0674-2558343; 0674-2558343, 0680-2202261
- (iv) Address of Counsel with phone no., fax no., email:
Mulla & Mulla & Cragie Blunt & Caroe,
207/502, Nilgiri Apartments, 9, Barakhamba road, New Delhi 110001.
Phone: 23321501, 04, 07, 13
Fax: 23321520
Mob: 9871592299
email: h.murtaza@hotmail.com & mullasdelhi@mullas.net

4. The address of the Respondents for service of all notices in the appeal are as set out hereunder:

- (i) Odisha Electricity Regulatory Commission,
Bidyut Niyamak Bhawan, Unit-VIII,
Bhubaneswar 751012, Dist: Khurda, Orissa.
Mobile No. : 09937085217
PhoneNo.0674-2393097
FaxNo.0674-2393306
email: orierc@rediffmail.com

Address of the Counsel : not available

5. Jurisdiction :

The Appellant declare that the said matter, the directions, decisions and Order against which they want redressal is within the jurisdiction of the Hon'ble ATE.

6. **Limitation :**

The Order was passed on 19th March, 2012 and received by the Appellant on 20th March, 2012 under cover of a letter, a copy whereof annexed and marked as **ANNEXURE - 1**. There is a delay of days in filing the appeal and an application for condonation of delay is being filed separately.

7. **Facts of the Cases:**

i. That, the appellants filed their applications vide appeal nos. 77, 78 and 79 of 2006, challenging the **RST Order 2006-07**, which was allowed by Hon'ble ATE directing OERC to carry out truing up on regular basis (Para – 29). The copy of the said Order dated 13th December 2006 is attached as **ANNEXURE - 2**.

ii. That, the OERC in the **RST Order for FY 2007-08** had conducted the truing up exercise for GRIDCO & DISCOMs on a provisional basis. The RST Order for FY 2007-08 was appealed by the appellants which was allowed by the Hon'ble ATE vide Order dated 8th November 2010 in case nos. 52, 53 & 54 of 2007. The copy of the Order is attached as **ANNEXURE - 3**, wherein, Hon'ble Tribunal directed for to take a practical view of the ground realities instead of proceeding on assumption and premises while undertaking truing up exercise (Para - 37 (ii)).

The OERC has done the truing up without implementing the findings of the Hon'ble Tribunal in Case no. 77, 78 & 79 of 2006 and Case no. 52, 53 & 54 of 2007 for consideration of the realistic loss levels.

iii. That, in the RST Order dated 22.03.2005 for FY 2005-06, the OERC had also directed for the receivables audit of all DISCOMs in respect of LT consumers for the period from 1st April 1999 to 31st March 2005. The

receivables audit was conducted under the guidance of the OERC through Chartered Accountants and Cost Accountants approved and appointed by OERC.

- iv. In compliance the DISCOMs submitted a receivables audit report as per the following schedule

WESCO – 6th February 2008

NESCO – 12th February 2008

SOUTHCO – 3rd March 2008

- v. In **RST Order FY 2008-09**, the Hon'ble Commission citing reasons for delay in submission of receivables audit reports by other licensees, namely, CESU and GRIDCO, whereas three DISCOMs submitted the receivable audit, once again provisionally computed the truing up.

- vi. That, in **RST Order FY 2009-10** vide Para 396, the Commission continued the truing up exercise albeit on the provisional basis again. In the said Order, the Commission opined that the issue needs to be deliberated amongst all licensees and other stake holders to arrive at a final statement and that for this purpose the Hon'ble Commission will conduct a separate hearing and eliciting the views of all stake holders, shall pass appropriate Orders in this direction. The truing up exercise was carried out on a provisional basis up to FY 2007-08.

- vii. That, in **RST Order FY 2010-11**, the OERC vide Para 472 of the Order to keep on record about the availability of receivables audit report of all the four DISCOMs along with comments of GRIDCO. In its Order the Commission opined that, since receivables audit has been conducted up to 31st March 2005, it would be much less relevance at a belated time in 2010 and accessing the amount of receivables to a nearer date would be more purposeful. Hence called upon the

licensees to update receivables audit report up to 31st March 2009 in respect of LT consumers citing reasons that, the audit report up to 31st March 2005 was belated and it would be difficult to access exactly the quantum of recoverable and non-recoverable debt. In the said Order the Commission mentioned about the principles of truing up.

- viii. That, in **RST Order FY 2011-12**, in continuation with the practice truing up was conducted up to FY 2009-10 as per the audited accounts with the principles adopted in the previous Tariff Order.
- ix. Again in the **RST Order FY 2012-13**, the Hon'ble OERC continued with the prevailing practice of truing up mentioning there in that, the separate Order to that effect will be passed.
- x. That, OERC passed the 1st truing up Order on 19.03.2012 in Case no. 29, 30 and 31 of 2007 and was issued on 20.03.2012.

8.(a) **Facts in Issue :**

As stated in paragraphs 7 and 9 herein.

(b) **Questions of Law:**

- a. Whether the OERC has erred, in not following the Long Term Tariff Strategy (LTTS) Order dated 8th March 2003 in doing the end of the Control Period review, truing up of the expenses and not following the letter and spirit the National Electricity Policy, Tariff Policy, MYT Order etc. for accurately determining the base line losses and consequently notional revenue.
- b. Whether the OERC has erred in not following its own principle and has inconsistent approach regarding determination of employee's expenses while truing up for the FY 2008-09.
- c. Whether the OERC has erred in adopting an inconsistent approach towards truing up of A&G Expenses and the LTTS and MYT Order is not followed.

d. Whether the OERC has erred in determining the revenue gap of the DISCOMs and treatment of receivables audit filing and provision for Bad & Doubtful Debts.

9 **Grounds of Relied with Legal Provisions :**

9.1 That OERC has erred, in not following the Long Term Tariff Strategy (LTTS) Order dated 8th March 2003 in doing the end of the Control Period review, truing up of the expenses and not following the letter and spirit the National Electricity Policy, Tariff Policy, MYT Order etc. for accurately determining the base line losses and consequently notional revenue.

9.2 OERC has erred in not following its own principle and has inconsistent approach regarding determination of employee's expenses while truing up for the FY 2008-09.

9.3 OERC has erred in adopting an inconsistent approach towards truing up of A&G Expenses and the LTTS and MYT Order is not followed.

9.4 OERC has erred in determining the revenue gap of the DISCOMs and treatment of receivables audit filing and provision for Bad & Doubtful Debts.

9.5 That, the impugned Order in as much as it relates to the truing up of DISCOMs suffers from grave legal infirmities made DISCOMs completely financially unviable, unmanageable and unsustainable, not even in a position to function efficiently with Escrow mechanism in force, no money left with licensees to maintain quality supply, attend breakdowns, take safety measures, cannot discharge statutory dues and is challenged on the following heads:

- a. Computation of revenue of DISCOMs & adoption of unrealistic distribution loss targets leading to notional revenue.**
- b. Employee Cost:**
- c. Administrative and General Expenses**
- d. Provision for Bad and Doubtful Debts**
- e. Regulatory Gap**
- f. Contingency Reserve**
- g. Other Expensees**

9.5.1 Computation of revenue of DISCOMs & adoption of unrealistic distribution loss targets leading to notional revenue:

- i. That, the OERC has considered audited distribution losses for FY 2000-01, losses as per Kanungo Committee Report for FY 2001-02, audited distribution losses for FY 2002-03 & 2003-04, bench mark losses as per Business Plan Order for FY 2004-05 to FY 2007-08 and bench mark losses as per second Business Plan Order dated 20.03.2010 for FY 2008-09, 2009-10 & 2010-11.
- ii. It is humbly submitted that, Hon'ble OERC has erred in truing up adopting bench mark loss levels (projected for five years) as per the Business Plan Order dated 28th February 2005 (for the period FY 2004-05 to FY 2007-08) and Business Plan Order dated 20th March 2010 (for the period FY 2008-09 to FY 2010-11). It can be inferred from the trend that, there has been no consistency in adopting realistic loss levels, thereby defeating the very purpose of truing up.

- iii. That, it is to mention here that, the Business Plan Order dated 28th February 2005 for the 1st control period starting from FY 2003-04 to FY 2007-08 vide Case No. 115 of 2004 was decided on 28th February 2005. The loss reduction targets so fixed required certain specific tasks to be performed by the state Govt. and GRIDCO, which never materialized.
- iv. That, the 1st control period came to an end in FY 2007-08, but contrary to the Long Term Tariff Strategy (LTTS) principles no review was done. The OERC violated the letter and spirit of the LTTS Order and by refusing to review the performance of the DISCOMs and analyze the reasons of such deficiency in performance as per Clause 10.2 of the Order. In the process, the OERC deliberately ignored the prevailing ground realities.
- v. That, it is also submitted that, Business Plan for the 2nd Control Period starting from FY 2008-09 to FY 2012-13 was issued on 20th March 2010 which is almost two years after the start of the 2nd Control Period. This amounts to a retrospective imposition of loss reduction targets and prejudging an issue.
- vi. That, OERC framed the Terms and Conditions for determination of Tariff Regulation under Electricity Act 2003, wherein the method of the fixation of the loss reduction target is provided.

The provision 5(3) of the said regulation is reproduced below;

"5. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX"

(3)Distribution Loss

(a) To set the base line of distribution loss estimate, the Commission may either require the licensee to carry out proper loss estimation studies under its supervision, or initiate a study itself.

(b) The Commission shall approve a realistic and achievable loss target for the year under review based on the opening loss levels, licensee's filings, submissions and objections raised by the stakeholders. This approved loss target will be used for computing sale of power to consumers for that year."

Contrary to the aforesaid regulation, OERC has neither fixed the realistic and achievable Distribution Loss target in the ARR Order every year considering the prevailing level of distribution losses nor given effect to in the truing up Order.

vii. That, the issue of unrealistic loss levels was treated before the Hon'ble tribunal in Appeal No. 77, 78 & 79 of 2006 dated 13th December 2006 and in Appeal No 52, 53 & 54 of 2007 dated 8th November 2010 for FY 2007-08. The Hon'ble Tribunal is pleased to pass such Orders calling for redetermination of losses. The extracts of which are as under:

The Hon'ble ATE in **Appeal No 77, 78 & 79 of 2006** dated **13th December 2006**, have stated as under:

" 27.....We hasten to add that the Commission need not stick to its earlier view, but it shall have a re-look in this respect by taking a practical view of the ground realities instead of proceeding on assumption and surmises. We are sure that Commission will take a re-look of the matter and grant the benefits to the Discoms"

The Hon'ble ATE in its Order dated **8th November 2010 in Appeal No. 52, 53 & 54 of 2007** in the matter of determination of Annual Revenue Requirement & Retail Supply Tariff for the year FY 2007-08 while addressing the issues of estimation of distribution loss targets by the Commission for DISCOMs have stated as under:

"37.

ii) The second issue is relating to unrealistic distribution loss targets. According to the Appellants, the State Commission has fixed unrealistic distribution loss targets without considering the ground realities. This Tribunal in its earlier Judgment dated 13.12.2006 in respect of ARR for 2006-2007 had specifically directed that State Commission to take a relook in this respect by taking a practical view of the ground realities instead of proceeding on assumption and premises while undertaking truing up exercise. According to the learned counsel for the State Commission, the distribution loss targets have been set up in accordance with Long Term Tariff Strategy Order dated 18.06.2003 and Business Plan Order dated 28.02.2005. According to the Appellants the Business Plan also contained provisions for financial restructuring of distribution losses and targets of infusion of funds, which did not take place. The distribution companies were starved of finances as the tariffs approved by the State Commission did not cover the approved costs. Even though Bulk Supply Tariff has been increasing, there has been no increase in retail supply tariff since 2001-2002. In the FY 2007-2008 the approved reduction in the distribution losses with respect of the

previous year was 11.5 % for WESCO, 6.8% for NESCO and 13 % for SOUTHC. As such we feel that the targets set up by the State Commission for the FY 2007-2008 were unrealistic. This point is also decided in favour of the Appellants.

.....

vi) The last issue is relating to the Truing up and amortization of regulatory assets. The truing up cannot be a process where the projections are compared with the projections. According to the Appellants, they had undertaken the audit of the past receivables as per the guidelines of the state Commission and submitted the same to the Commission in the month of March 2008. We, therefore, direct the State Commission to revisit this issue after taking into account the audit of the past receivables of the Appellants."

- viii. However, OERC preferred an appeal in the Hon'ble Apex Court and the same is pending. However, the direction of the Hon'ble Tribunal was not implemented.
- ix. That, further Hon'ble OERC has erred in not adhering to the advice of the 4th State Advisory Committee (SAC) Meeting, wherein it had recognized the difference between the approved and actual loss levels but avoided to adopt the actual loss levels on the pretext that such a move would lead to an increase in tariff by 15-20%. A letter in this context was written by OERC to Dept. of Energy, Govt. of Odisha as well. The copy of the said letter is attached as **ANNEXURE - 4**.
- x. That, it is humbly submitted that, the same issue has also been raised in context of extending the benefits of R-APDRP scheme to the private DISCOMs. DISCOMs relies on a letter written by

the Joint Secretary, Ministry of Power, Govt. of India, addressing to the Secretary, Dept. of Energy, Govt. of Odisha, (copy enclosed as **ANNEXURE - 5**) stressing upon the need to determine loss levels on actual not on notional basis. Relevant extract is as under:

- a. "It is evident that for getting the benefits of APDRP, utilities have to improve AT&C Loss reduction over the base (starting) level not only in project area, but also at utility level. The correct and realistic determination of base (starting) AT&C loss level is very essential to gauge the improvement in loss reduction in subsequent years after implementation of R-APDRP.*
- b. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx*
- c. In view of the above you take up the issue with OERC to determine the yearly loss levels of distribution utilities in Orissa accurately based on ground realities and not on notional basis."*

xi. It is submitted that, on account of adopting normative loss level targets, and revenues calculated in Tariff Order on notional basis i.e. the revenue from sale of power is not sufficient to cover costs and as on 31st March 2011 the accumulated losses as per audited accounts are to the tune of Rs 730.99 Cr., Rs 526.67 Cr. and Rs. 743.04 Cr. for NESCO, WESCO and SOUTHCOP respectively.

xii. It is further submitted that, the bench mark loss (Projected in Tariff/ARR Orders) is used to determine the truing up revenue from sale of power which is notional in nature (not as per

audited accounts) and gives rise to such revenues which are not in existent. The OERC erred in comparing the projection of the loss level with the projected figures without giving the cognigence to the actual audited loss level and the repeated direction of this Hon'ble Tribunal. The OERC has erred by adopting the bench mark arbitrary loss level reductions, notionally hiking up the quantum of sales which again multiplied with the average billing rate to arrive at the total sales in rupees. The consequence of such action is inflated sales on hypothetical (notional) basis and nowhere matching to the ground realities. The amount of notional sales arbitrarily computed for the three DISCOMs are as under:

Notional sale (Audited Vs.Trued Up)

Notional sale (Audited-True Up) of WESCO (Cr.)			
FY	Revenue from Sale of Power (Audited)	Notional Revenue for Sale of Power Arbitrarily trued up	Notional Sales gap assumed by OERC for Truing up
1999-00	412.13	412.13	0.00
2000-01	452.63	452.63	0.00
2001-02	489.44	538.39	(48.95)
2002-03	601.94	601.94	0.00
2003-04	652.41	652.41	0.00
2004-05	730.94	758.28	(27.34)
2005-06	786.75	878.87	(92.12)
2006-07	907.82	945.03	(37.21)
2007-08	1083.51	1272.23	(188.72)
2008-09	1359.58	1534.60	(175.02)
2009-10	1297.89	1549.66	(251.77)
2010-11	1541.37	2019.64	(478.27)
TOTAL			(1299.40)

Notional sale (Audited-True Up) of NESCO (Cr.)			
FY	Revenue from Sale of Power (Audited)	Notional Revenue for Sale of Power Arbitrarily trued up	Notional Sales gap assumed by OERC for Truing up
1999-00	304.50	304.50	0.00
2000-01	328.13	328.13	0.00
2001-02	301.08	325.78	(24.70)
2002-03	366.87	366.87	0.00
2003-04	387.33	387.34	(0.01)
2004-05	469.15	480.03	(10.88)
2005-06	587.87	607.26	(19.39)
2006-07	729.65	748.37	(18.72)
2007-08	896.37	963.76	(67.39)
2008-09	873.51	994.62	(121.11)
2009-10	923.96	1054.34	(130.38)
2010-11	1242.22	1506.25	(264.03)
TOTAL			(656.61)
Notional sale (Audited-True Up) of SOUTHCOP (Cr.)			
FY	Revenue from Sale of Power (Audited)	Notional Revenue for Sale of Power Arbitrarily trued up	Notional Sales gap assumed by OERC for Truing up
1999-00	204.82	204.82	0.00
2000-01	221.71	221.71	0.00
2001-02	251.40	249.62	1.78
2002-03	265.23	265.23	0.00
2003-04	261.31	261.36	(0.05)
2004-05	259.17	265.72	(6.55)
2005-06	278.97	302.95	(23.98)
2006-07	290.68	344.03	(53.35)
2007-08	305.92	398.82	(92.90)
2008-09	327.77	436.76	(108.99)
2009-10	335.93	465.94	(130.01)
2010-11	459.6	640.64	(181.04)
TOTAL			(595.04)

xiii. **Notional Sales:** In the Truing up computation in the impugned Order, the OERC hypothetically added notional sales in the revenue of the Appellant. The Appellant presume that the OERC added the notional sales (revenue) considering the Revenue as a controllable Item, though not billed just to justify no increase in RST for consecutively for nine years i.e FY 2000-01 to FY 2008-09.

It is most respectfully submitted that the aforesaid method of computing the truing up by the OERC is contrary to it's own Order on receivable audit dated 14.01.2011 in Case No. 68, 69, 70 & 71 of 2007. The copy of the Order is enclosed as **ANNEXURE - 6.** The relevant extracts of Order dated 14.01.2011 of the OERC on the Truing up & receivable Audit in Case No. 68, 69, 70 & 71 of 2007 is reproduced below;

“20. Regarding issues at item (b) that is whether to consider the bad debt in truing up exercise and recognize the same as regulatory asset to be passed on to tariff, the Commission would like to address the controllable and uncontrollable parameters of distribution Appellants in line with National Tariff Policy. A table below explains the position :

Controllable	Uncontrollable
Distribution losses and AT&C losses technical and commercial losses.	Power purchase expenses due to increase in fuel costs and change in sales quantum.
Collection efficiency and provisioning for bad and doubtful debts	Sales quantum
O&M expenses	Sales mix

Capital expenditure	Interest rate on long-term loan
Normative percentage of working capital	Interest rate on working capital
	Increase in expenses due to force majeure

....."

The above Order of the OERC clearly and unambiguously state that the sales quantum and sales mix are uncontrollable items of ARR. The revenue is nothing but the combination of the tariff, sales quantum and sales mix. Being all the items of revenue are uncontrollable, the revenue of the Appellant is clearly an uncontrollable item. Thus, the addition of the notional sales is contrary to the Order of the OERC. It is pertinent to note that there is always a view that AT&C loss is controllable only when CAPEX incurred and allowed and charged to revenue by way of depreciation, interest etc. AT&C loss increases in the DISCOMs due to change in unfavorable sales mix and massive rural electrification are not controllable. Moreover, AT&C loss between last year audited account and target fixed for the year based on the above may be controllable. Cumulative gaps of the AT&C loss between ARR and actual for ten years (2 Business Plans) would lead to unrealistic, unachievable targets and far from ground reality. All DISCOMs, therefore, has already become financially sick company due to non-consideration of the ground realities in fixation of AT&C loss. This has resulted that DISCOMs cannot raise any fund, what so ever nature and thereby virtually dragged towards a grinding halt. It is important to note that

only cash collecting utility in the electricity value chain in the Power Sector has been bought to the dead end.

xiv. That, the variation between approved and actual distribution loss targets is as under:

FY	WESCO			NESCO			SOUTHCO		
	APPROVED DIST. LOSS %	ACTUAL DIST. LOSS %	True up loss %	APPROVED DIST. LOSS %	ACTUAL DIST. LOSS %	True up loss %	APPROVED DIST. LOSS %	ACTUAL DIST. LOSS %	True up loss %
2005-06	31	38	31	35	37	35	36	41	36
GAP (Actual Vs. True up)			7			2			5
2006-07	34	36	34	32	33	32	33	43	33
GAP (Actual Vs. True up)			2			1			10
2007-08	25	36	25	24	31	26	35	45	30
GAP (Actual Vs. True up)			11			5			15
2008-09	25	34	25	26	35	25.5	30	48	30
GAP (Actual Vs. True up)			9			9.5			18
2009-10	23	35	23	23	33	23	28	48	28
GAP (Actual Vs. True up)			12			10			20
2010-11	20	39	20	18	33	18	28	48	28
GAP (Actual Vs. True up)			19			15			20
Total Cumm. Gap			60			43.5			83

Distribution sector is solely responsible to collect revenue for fuel, generation and transmission but has been completely

choked in Odisha by considering the normative, arbitrary distribution losses. The cumulative distribution loss gaps in last six years for WESCO 60%, NESCO 44% and SOUTHC0 83% between ARR / trued up Vs. actual, which is far far away from ground realities. The distribution licensees are generally reached to financial halt with no money available for statutory dues, salary and urgent maintenance and expansion of network, threatening serious hazards to the consumers and citizens.

9.5.2 Employee Cost:

- i. It is submitted that OERC has erred in truing up the employee cost. The OERC has set the principle to consider the actual audited employee expenses as per the audited accounts of the licensees, whereas the same has not been followed while truing up the employees cost for the FY 2008-09. A comparison of the employee expenses as per the audited accounts and that is considered for truing up in FY 2008-09 is as below:

EMPLOYEE COST			
FY 2008-09	EMPLOYEE COST AS PER AUDITED ACCOUNT	EMPLOYEE COST ACTUAL AMOUNT CONSIDERED FOR TRUING UP	DISALLOWED AMOUNT
WESCO	282.61	135.58	147.03
NESCO	270.17	127.83	142.34
SOUTHC0	252.55	115.71	136.84

- ii. It can be inferred from the above that while the principle for truing up on the basis of audited accounts as set out at Para - 21 of the impugned Order has been observed for the other years, there has been a inconsistency vis-à-vis FY 2008-09 which need

to be rectified. The financial impact on account of such is Rs 142.34 Cr, Rs 147.03 Cr and Rs 136.84 Crs for NESCO, WESCO and SOUTHC0 respectively, this is mainly due to the wage and salary increase notified by GOI/GOO in sixth pay Commission, which is obviously uncontrollable.

9.5.3 Administrative & General Expenses:

- i. It is submitted that, the Commission took into consideration the audited A&G expenses for few years where the audited expenses is lower than the ARR approved figures i.e. FY 2007-08 to FY 2010-11 in case of WESCO, FY 2007-08 to FY 2009-10 in case of NESCO and FY 2009-10 to FY 2010-11 in case of SOUTHC0, in rest of the years the approved projected figures in ARR are considered for truing up. The OERC erred in truing up A&G expenses by not following consistent procedure and the LTTS/MYT principles. The variation between audited expenses and expenses considered for truing up are as under:

WESCO				
FY	A&G EXPENSES APPROVED IN ARR	A&G EXPENSES AS PER AUDITED ACCOUNT IN TRUE UP ORDER	A&G EXPENSES ACTUAL AMOUNT CONSIDERED FOR TRUING UP	NOT CONSIDERED IN TRUING UP
1999-00	2.79	5.91	2.79	3.12
2000-01	4.01	9.42	4.01	5.41
2001-02	4.21	9.64	4.21	5.43
2002-03	4.42	9.91	4.42	5.49
2003-04	4.73	11.02	4.73	6.29

2004-05	12.51	14.3	12.51	1.79
2005-06	13.39	15.54	13.39	2.15
2006-07	15.78	15.82	15.78	0.04
2007-08	17.48	17.17	17.17	0.00
2008-09	20.91	17.05	17.05	0.00
2009-10	22.81	16.64	16.64	0.00
2010-11	24.79	21.51	21.51	0.00
TOTAL	147.83	163.93	134.21	29.72

NESCO

FY	A&G EXPENSES APPROVED IN ARR	A&G EXPENSES AS PER AUDITED ACCOUNT IN TRUE UP ORDER	A&G EXPENSES ACTUAL AMOUNT CONSIDERED FOR TRUING UP	NOT CONSIDERED IN TRUING UP
1999-00	4.55	4.87	4.55	0.32
2000-01	5.91	8.74	5.91	2.83
2001-02	6.21	8.38	6.21	2.17
2002-03	6.52	7.95	6.52	1.43
2003-04	6.98	7.48	6.98	0.5
2004-05	7.86	8.89	7.86	1.03
2005-06	8.42	9.41	8.42	0.99
2006-07	10.48	10.14	10.14	0.00
2007-08	12.83	9.86	9.86	0.00
2008-09	14.52	11.76	11.76	0.00
2009-10	15.75	15.44	15.44	0.00
2010-11	17.11	18.50	17.11	1.39
TOTAL	117.14	121.42	110.76	10.66

SOUTHCO

FY	A&G EXPENSES APPROVED IN ARR	A&G EXPENSES AS PER AUDITED ACCOUNT IN TRUE UP ORDER	A&G EXPENSES ACTUAL AMOUNT CONSIDERED FOR TRUING UP	DIFFERENCE
1999-00	2.01	4.51	2.01	2.50
2000-01	3.02	6.43	3.02	3.41
2001-02	3.17	6.09	3.17	2.92

2002-03	3.33	7.05	3.33	3.72
2003-04	3.56	7.00	3.56	3.44
2004-05	8.22	11.95	8.22	3.73
2005-06	8.79	14.55	8.79	5.76
2006-07	10.88	16.40	10.88	5.52
2007-08	12.08	13.14	12.08	1.06
2008-09	12.88	10.58	10.58	0.00
2009-10	14.79	12.39	12.39	0.00
2010-11	17.96	12.63	12.63	0.00
TOTAL	100.69	122.72	90.66	32.06

ii. The LTTS Order (Clause 5.6.2) provides that the OERC shall consider the A&G expenses for the Control Period (FY 2003-04 to FY 2007-08) by 7% escalation over the base year (2002-03) audited figures. The OERC erred in not following its own Order. In the truing up, the audited figures for FY 2002-03 is not considered even for FY 2002-03 and for the subsequent years the escalations on audited figures are not considered. Rather, OERC trued up the A&G expenses as per the projected figure approved in the ARR. The OERC erred in comparing the projection with the projection while truing up of A&G expenses ignoring actual expenses.

iii. It is most respectfully submitted that, OERC has allowed additional expenses for activities such as IT Automation, Call centre and expenses towards energy police stations, it has refused to allow expenses relating to certain must to do activities like RTI compliance, AMR installations, building and construction worker's welfares cess, meter replacement cost etc in the Tariff Order; in the truing up; OERC has taken the ARR

figures, thereby, disallowed the actual expenses incurred by the DISCOMs towards afore mentioned activities.

- iv. It is further submitted that, even in the Multi Year Tariff (MYT) Order dated 28th February 2011 for second Control Period (FY 2008-09 to FY 2012-13), which serves as a guiding principle for truing up. In Para -12 of the MYT Order the Commission has assured to allow expenses incurred out of a special measures taken by the DISCOMs, but the same has not been given effect to. The relevant extracts of Para - 12 is reproduced below:

"In view of the submissions and facts the Commission would continue to allow normal Administrative and General Expenses @7% escalated over the base year value during the second control period also. In addition to above Commission would also allow expenses in addition to the normal A&G expenses for special measures undertaken by the DISCOMs towards reduction of AT&C losses and improving collection efficiency, after prudent check."

- v. It is further submitted that, Hon'ble ATE in Case No. 52, 53 & 54 of 2007 had held that additional costs incurred on direction of the Commission ought to have been considered. The relevant Para of the Order is as under:

"In regard to Administrative and General Expenses, the State Commission has also disallowed the additional costs on account of distribution of spot billing on consumers and conducting of energy audit. These activities were initiated by the Appellants as non introduction of the spot billing and not conducting energy Audit were some of the grounds for seeking revocation of the license of the

Appellants by the State Commission. However, the expenditure on carrying out their activities was not allowed in the ARR for FY 2007-2008 even though the Appellants had submitted details of the expenditure to the State Commission. Therefore, findings of the State Commission on this issue can not be held valid. Accordingly, this point is also answered in favour of the Appellants."

vi. That, however the directions of the Hon'ble ATE were not implemented giving the following reasons in Para 419 of RST Order FY 2011-12 which is as under:

"419. The Commission has taken note of the observation made by the Hon'ble ATE in the said order while approving the ARR of Licensee for FY 2011-12. The Commission in this regard has however preferred Civil Appeal against the above judgment of the Hon'ble ATE before the Hon'ble Supreme Court in the appeal, CA no. D 4688 of 2011."

vii. With increase in number of consumers, A&G expenses bound to go up and therefore non-controllable. The very sanctity of the audited account to be considered as a basis for truing up, have been ignored by the OERC.

9.5.4 Provision for Bad and Doubtful Debts:

i. It is submitted that the Hon'ble OERC erred in determining the exact quantum of provision for Bad and Doubtful debts. The cumulative provision for Bad & Doubtful Debts in Tariff Order up to FY 2004-05 as mentioned in table – 4, suffers from factual

infirmity. The approval of the OERC as per Table-4 of the Order is represented below:

Table - 4

(Rs. in Cr.)

Name of the Company	Provision for bad debt allowed by Commission in tariff order upto 2004-05	Total amount PDC and Ghost consumers upto 2004-05	Difference to be adjusted in the True up	Regulatory Gap as per Truing up Exercise upto 2010-11 (para 30 of Table-2)	Approved Gap after adjustment of the PDC and Ghost consumers upto 2010-11
WESCO	88.86	155.39	-66.53	1223.39	1156.86
NESCO	59.57	222.45	-162.88	317.39	154.51
SOUTHCO	40.65	124.75	-84.10	-0.46	-84.56
CESU	104.01	147.86	-43.85	390.43	346.58
Total	293.09	650.45	-357.36	1930.75	1573.39

ii. It is submitted that against the approval of Rs 88.86 Cr, Rs 59.57 Cr and Rs 40.65 Cr for provision of bad and doubtful debts, the OERC trued up the amount of Rs 85.41 Cr, Rs 54.8 Cr and Rs 36.7 Cr for WESCO, NESCO and SOUTHCO respectively as stated in the following table.

FY	WESCO		NESCO		SOUTHCO	
	Approved in Tariff Order	True up Order	Approved in Tariff Order	True up Order	Approved in Tariff Order	True up Order
1999-00	10.60	10.30	8.10	7.61	5.99	5.12
2000-01	12.65	11.32	10.01	8.20	6.38	5.54
2001-02	13.73	13.46	8.61	8.14	6.52	6.24
2002-03	15.42	15.06	9.53	9.17	7.76	6.63
2003-04	17.96	16.31	11.5	9.68	7.2	6.53
2004-05	18.5	18.96	11.82	12.00	6.8	6.64
TOTAL	88.86	85.41	59.57	54.8	40.65	36.7

The appellant humbly submit that the true up figures towards Provision for Bad and Doubtful Debts ought to have been

considered by the OERC in the Table-4 to arrive at the amount of true up. In view of the above, the revised statement at Table-4 would be as under:

Name of the Company	Provision for bad debt allowed by Commission in tariff order upto 2004-05	Total amount PDC and Ghost consumers upto 2004-05	Difference to be adjusted in the True up	Regulatory Gap as per Truing up Exercise upto 2010-11 (para 30 of Table-2)	Approved Gap after adjustment of the PDC and Ghost consumers upto 2010-11
WESCO	85.41	155.39	-69.98	1223.39	1153.41
NESCO	54.8	222.45	-167.65	317.39	149.74
SOUTHCO	36.7	124.75	-88.05	-0.46	-88.51
TOTAL	176.91	502.59	-325.68	1540.32	1214.64

9.5.5 Regulatory Gap:

It is further submitted that there exists a wide variation between regulatory gap up to FY 2010-11, determined by the DISCOMs and that determined by the OERC in the RST Order FY 2011-12 and True up Order dated 19th March 2012. The tabular representation of the same is as under:

WESCO			
FY	GAP AS PER COMMISSION RST ORDER FY 2011-12	GAP AS PER RUING UP ORDER	AS PER DISCOM
1999-00	-21.74	-21.74	-61.31
2000-01	-50.78	-50.78	-110.30
2001-02	8.80	8.85	-129.05
2002-03	36.21	36.36	-51.95
2003-04	48.08	48.19	-44.77
2004-05	32.86	32.83	-29.56
2005-06	123.32	123.32	-22.51
2006-07	107.45	107.45	32.14
2007-08	149.15	149.13	-49.15

2008-09	192.68	192.68	12.17
2009-10	245.89	241.74	-27.60
2010-11		355.33	-126.35

NESCO			
FY	GAP AS PER COMMISSION RST ORDER FY 2011-12	GAP AS PER TRUING UP ORDER	AS PER DISCOM
1999-00	-65.79	-65.79	-94.80
2000-01	-53.43	-53.43	-103.71
2001-02	-83.28	-83.28	-163.27
2002-03	-21.92	-21.92	-133.03
2003-04	-21.31	-21.31	-78.01
2004-05	-64.90	-64.90	-96.56
2005-06	54.67	54.39	25.08
2006-07	70.08	70.07	13.83
2007-08	84.76	87.14	35.63
2008-09	144.02	69.28	0.30
2009-10	168.97	167.07	-29.30
2010-11		180.10	-107.70

SOUTHCO			
FY	GAP AS PER COMMISSION RST ORDER FY 2011-12	GAP AS PER TRUING UP ORDER	AS PER DISCOM
1999-00	-43.60	-55.97	-83.06
2000-01	-50.59	-50.45	-94.23
2001-02	-34.90	-34.85	-79.97
2002-03	-18.49	-18.34	-80.56
2003-04	-39.12	-38.84	-71.57
2004-05	-86.51	-86.51	-95.00
2005-06	4.75	4.75	-32.86
2006-07	-20.76	-26.74	-78.59
2007-08	40.32	43.66	-25.79
2008-09	71.25	67.89	-176.73
2009-10	-45.47	66.16	-47.47
2010-11		128.77	-61.77

The appellant humbly submit that the cumulative loss in the audited accounts of NESCO, WESCO and SOUTHCO is Rs

730.99 Cr, Rs 526.67 Cr and Rs 743.04 Cr respectively, whereas the OERC with notional sales (revenue) and disallowance of legitimate uncontrollable costs arrived at a surplus of Rs 154.51 Cr, Rs 1156.86 and Rs (-)84.56 respectively.

Rs in Cr.

DISCOM	Accumulated Profit/ (Loss) as per Audited Account	Surplus / Gap given as per Truing Up	Difference
WESCO	(526.67)	1156.86	1683.53
NESCO	(730.99)	154.51	885.5
SOUTHCO	(743.04)	(84.56)	658.48
TOTAL	(2000.7)	1226.81	3227.51

9.5.6 Contingency Reserve:

The Appellant most respectfully submits that the OERC need to Truing up the ARR of the Appellant allowing Contingency Reserve as per the audited accounts. The amount disallowed by the OERC is given in the following table;

WESCO			
Year	Audited	True Up	Disallowed
1999-00	0.94	0.94	0
2000-01	1.14	1.14	0
2001-02	1.23	1.23	0
2002-03	1.29	1.29	0
2003-04	1.37	1.37	0
2004-05	0.7	0	0.7
2005-06	3.39	0	3.39
2006-07	1.89	0	1.89
2007-08	0.97	0	0.97
2008-09	2.03	0	2.03
2009-10	2.17	0	2.17
2010-11	2.31	0	2.31
TOTAL	19.43	5.97	13.46

NESCO			
Year	Audited	True Up	Disallowed
1999-00	0.90	0.99	-0.09
2000-01	1.05	1.2	-0.15
2001-02	1.15	1.13	0.02
2002-03	1.27	1.36	-0.09
2003-04	1.38	1.45	-0.07
2004-05	0.72	0	0.72
2005-06	1.7	0	1.7
2006-07	1.79	0	1.79
2007-08	2.76	0	2.76
2008-09	2.04	0	2.04
2009-10	2.39	0	2.39
2010-11	2.77	0	2.77
TOTAL	19.92	6.13	13.79

SOUTHCO			
Year	Audited	True Up	Disallowed
1999-00	0.84	0.84	0
2000-01	0.98	0.98	0
2001-02	1.04	1.04	0
2002-03	1.11	1.11	0
2003-04	1.14	1.14	0
2004-05	1.16	0	1.16
2005-06	1.33	0	1.33
2006-07	1.42	0	1.42
2007-08	1.42	0	1.42
2008-09	1.49	0	1.49
2009-10	1.62	0	1.62
2010-11	1.66	0	1.66
TOTAL	15.21	5.11	10.1

The appellant submits that the OERC has not followed consistent approach in allowing Contingency Reserves to the DISCOMs in different years for different licensees. In some of the years i.e. FY 1999-00 to FY 2003-04 the provision for contingency is allowed, whereas for the FY 2004-05 to FY 2010-11 the OERC disallowed the contingency in truing up.

The Appellant submits that it is more prone to incur the contingencies towards the flood, Cyclone and other natural calamities, OERC discriminated in disallowing the Contingency Reserve to the Appellant whereas allowed the same to Transmission licensee, i.e., OPTCL. Odisha has always in alternative year have either flood or cyclone or draught. There is no fund allowed to reinstate services to the consumers.

9.5.7 Other Expenses:

i. The appellant humbly submit that the OERC erred in truing up the Other Expenses for the FY 1999-00 to FY 2010-11. The details of the disallowed portion are not dealt in the impugned Order. However during analysis of the figures, it is understood that, OERC erred in not considering the component of Delayed Payment Surcharge (DPS) payable to GRIDCO towards Power Purchase dues in truing up of other expenses. Whereas the income of DPS from sale of power to consumer has been taken in truing up of other income. Thus, the OERC has followed inconsistent approach in the truing up exercise. The DPS expenses disallowed by OERC and the DPS income taken by OERC in truing up are given in the following table.

DISCOM	DPS expenses disallowed in Other Expenses	DPS income considered in truing up of Other Income
WESCO	80.01	135.43
NESCO	93.51	53.78
SOUTHCO	36.44	43.43
TOTAL	209.96	232.64

The detail statement showing break-up of the Other Expenses is attached as **ANNEXURE - 7**.

ii. Further, OERC in the impugned Order at Para - 28 stated as under:

"For the purpose of truing the miscellaneous receipt as shown in the audited account has been considered for the purpose of truing up excluding DPS and over-drawl penalty."

The Hon'ble ATE may kindly be perused from the annexure to the Order enclosing the statement of truing up wherein the miscellaneous income allowed in truing up is equal to audited miscellaneous income amount. The audited miscellaneous receipt includes the DPS and Over Drawl penalty which ought to have been excluded in the truing up computation.

iii. Secondly, the appellant submits that in the Securitization Order dated 1st December 2008 in Case no. 115 of 2004 (Ref. Para 20), the OERC has considered the DPS amount up to 31st March 2005 on the BST dues of GRIDCO for Rs 58.72 Cr, Rs 87.20 Cr and Rs 32.02 Cr to WESCO, NESCO and SOUTHCO respectively. The DPS amount has been accounted for the DISCOMs and audited. The OERC ought to have considered the DPS payable to

GRIDCO as per audited account which the OERC has already recognized in its own Order. The copy of the Securitization Order is enclosed as **ANNEXURE - 8**.

iv. In view of the above statement, the appellant humbly submit that the DPS component in the Other Expenses as per audited account ought to have been considered by OERC in truing up of the Other Expenses.

10. Matters not previously filed or pending with any other Court :

Appellant declares that it had not previously filed any writ petition or suit regarding the matter in respect of which this appeal has been made before any Court or any other Authority nor any such writ petition or suit is pending before any of them.

11. Specify below explaining the grounds for such relief(s) and the legal provisions, if any, relied upon :

Same as what is stated in paragraph 9 hereinabove.

12. Details of Interim Application, if any, preferred alongwith Appeal :

Interim application will be preferred and filed subsequently for appropriate interim relief.

13. Details of appeals, if any, preferred before this Appellate Tribunal against the same impugned orders/direction by Respondents with numbers, dates and interim order, if any, passed in that appeal (if known) :

No other appeal is preferred.

14. Details of Index :

An Index containing the details of the documents in chronological order relied upon is enclosed.

15. Particulars of fee payable and details of bank draft in favour of Pay and Accounts Officer, Ministry of Power, New Delhi, in respect of the fee for appeal.

Details of Demand Drafts :

- (a) No. 938160 to 938162 dated 17-05-2012 for Rs. 1,00,000/- each
- (b) No. 938163 dated 17-05-2012 for Rs. 2,000/-
- (c) Name of Bank : Union Bank of India payable at New Delhi in favour of Pay and Accounts Officer, Ministry of Power.

16. List of enclosures :

- 1. Vakalatnama
- 2. Demand Drafts for Rs. 1,00,000/- each and Rs.2,000/-
- 3. Index containing details of documents to be relied upon.

17. Whether the order appealed as communicated in original is filed? If not, explain the reason for not filing the same.

As per the system adopted by MERC, the orders are put on their website and the Orders enclosed have been downloaded from their website.

18. Whether the Appellant is ready to file written submissions/arguments before the first hearing after serving the copy of the same on the Respondents ?

The written submission/arguments will be filed as per the directions of this Hon'ble Tribunal.

19. Whether the copy of the Memorandum of Appeal with all enclosures has been forwarded to all Respondents and all interested parties, if so, enclose postal receipt/courier receipt in addition to payment of prescribed process fee.

The copy of the Memorandum of Appeal shall be served on the Respondents after the hearing of this Hon'ble Tribunal and as per the directions of this Hon'ble Tribunal on issue of notice.

20. Any other relevant or material particulars/details which the Appellant deem necessary to set out :

The Appellant submits that as stated above, it has already entered into an arrangement with one Global.

21. Reliefs sought :

In view of the submission and ground made out by the appellant in the above Para, the appellant humbly prays that Hon'ble ATE may be pleased to be grant the following reliefs to the appellant by issue of such necessary and suitable Orders.

- a. Consideration of realistic loss levels in the truing up computation.
- b. Consideration of disallowed employee cost, A&G expenses provision for bad and doubtful debts, contingency reserve, other expenses and Regulatory Gap in truing up computation.
- c. Following the audited account figure of the licensee.

d. For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this day of May, 2012.

Appellant
Western Electricity Supply Company of Orissa Ltd.

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

The Appellant abovenamed hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals/fair reproduction of the originals/true translation thereof.

Verified at New Delhi on this the day of May, 2012.

Appellant
Western Electricity Supply Company of Orissa Ltd.

VERIFICATION

I, Panguru Gopal Reddy, Managing Director of the Appellant, Western Electricity Supply Company of Orissa Ltd., having its Registered Office at having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar, presently at New Delhi, do hereby verify that the contents of paras 10, 12 to 20 are true to my personal knowledge derived from official record and para 1 to 9, 11 & 21 are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the day of May, 2012.

Appellant
Western Electricity Supply Company of Orissa Ltd.

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

APPEAL No. OF 2012

IN THE MATTER OF :

Western Electricity Supply Company of Orissa Ltd. ... APPELLANT

VERSUS

Orissa Electricity Regulatory Commission
and Others ... RESPONDENTS

AFFIDAVIT

I, Panguru Gopal Reddy, M.D. of the Appellant, Company, having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar, presently at New Delhi, do hereby state on solemn affirmation as under :

1. I say that I am the Managing Director of the Appellant Company above named and as such I am familiar with the facts of the case.
2. I have read and understood the contents of the accompanying Appeal its Annexures and Applications thereto.
3. I say that the facts stated in the Appeal and Applications are based on information derived from the records of the Appellant and believed by me to be true.
4. I say that the Annexures to the Appeal are true copies of their respective originals.

5. I say that nothing herein is false and no material has been concealed there from.

DEPONENT

VERIFICATION

Verified at New Delhi on this the _____ day of May, 2012 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT

d. For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this day of May, 2012.

Appellant
North Eastern Electricity Supply Company of Orissa Ltd.

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

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Verified at New Delhi on this the day of May, 2012.

Appellant
North Eastern Electricity Supply Company of Orissa Ltd.

VERIFICATION

I, Sandesh N. Rane, Managing Director of the Appellant, North Eastern Electricity Supply Company of Orissa Ltd., having its Registered Office at having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar, presently at New Delhi, do hereby verify that the contents of paras 10, 12 to 20 are true to my personal knowledge derived from official record and para 1 to 9, 11 & 21 are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the day of May, 2012.

Appellant
North Eastern Electricity Supply Company of Orissa Ltd.

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

APPEAL No. OF 2012

IN THE MATTER OF :

North Eastern Electricity Supply
Company of Orissa Ltd. ... APPELLANT

VERSUS

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and Others ... RESPONDENTS

AFFIDAVIT

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DEPONENT

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DEPONENT

d. For such other and further relief's as the nature and circumstances of the case may require.

Dated at New Delhi this day of May, 2012.

Appellant
Southern Electricity Supply Company of Orissa Ltd.

Through

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for Appellant
502, Nilgiri Apartments
9, Barakhamba Road
New Delhi 110 001

DECLARATION

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Verified at New Delhi on this the day of May, 2012.

Appellant
Southern Electricity Supply Company of Orissa Ltd.

VERIFICATION

I, Prasant Kumar Choudhury, Managing Director of the Appellant, Southern Electricity Supply Company of Orissa Ltd., having its Registered Office at having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar, presently at New Delhi, do hereby verify that the contents of paras 10, 12 to 20 are true to my personal knowledge derived from official record and para 1 to 9, 11 & 21 are believed to be true on legal advice and that I have not suppressed any material facts.

Verified at New Delhi on this the day of May, 2012.

Appellant
Southern Electricity Supply Company of Orissa Ltd.

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
NEW DELHI

APPELLATE JURISDICTION

APPEAL No. OF 2012

IN THE MATTER OF :

Southern Electricity Supply Company of Orissa Ltd. ... APPELLANT
VERSUS

Orissa Electricity Regulatory Commission
and Others ... RESPONDENTS

AFFIDAVIT

I, Prasant Kumar Choudhury, M.D. of the Appellant, Company, having its registered Office at Plot No - N1/22, IRC Village, Nayapalli, Bhubaneswar, presently at New Delhi, do hereby state on solemn affirmation as under :

1. I say that I am the Managing Director of the Appellant Company above named and as such I am familiar with the facts of the case.
2. I have read and understood the contents of the accompanying Appeal and its Annexures and Applications thereto.
3. I say that the facts stated in the Appeal and Applications are based on information derived from the records of the Appellant and believed by me to be true.
4. I say that the Annexures to the Appeal are true copies of their respective originals.

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DEPONENT

VERIFICATION

Verified at New Delhi on this the _____ day of May, 2012 that the contents of the above Affidavit are true and correct to the best of my knowledge. Nothing material has been concealed nor withheld there from.

DEPONENT