

BEFORE THE ORISSA ELECTRICITY REGULATORY COMMISSION BHUBANESWAR

IN THE MATTER OF

An Application for approval of Annual Revenue Requirement and Retail Supply Tariff for the financial year 2011-12, under Section 62 and other applicable provisions of the Electricity Act 2003 and in conformity with the provisions of OERC (Terms and Conditions for determination of Tariff) Regulations, 2004 and OERC (Conduct of Business) Regulations 2004.

AND

IN THE MATTER OF

North Eastern Electricity Supply Company of Orissa Ltd (NESCO)
Regd. Office-Plot No.N1/22, IRC Village, Nayapalli, Bhubaneswar-
751 012.

-----**Licensee**

The Humble applicant above named respectfully showeth:

Chief Executive Officer, NESCO

CERTIFICATE

Certified that we have not made any change in any row and column of the Formats prescribed by the Commission for the purpose of filing of Annual Revenue Requirement for the FY 2011-12 it is also certified that the hard copy is an exact reproduction of the soft copy attached.

Chief Executive Officer, NESCO

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Regd. Office-Plot No.N1/22, IRC Village, Nayapalli, Bhubaneswar.

-----**Licensee**

Affidavit verifying the application for the Annual Revenue Requirement and Tariff Application

I, Satyendra Kumar Singh, Son of Late Sri Ram Pratap Singh, aged about 65 years, residing at Balasore, presently at Bhubaneswar do hereby solemnly affirm and state as follows:-

I am the Chief Executive Officer of the North Eastern Electricity Supply Company of Orissa Limited (NESCO), Regd. Office-Plot No.N1/22, IRC Village, Nayapalli, Bhubaneswar-751 012.

The statements made above along with the annexures annexed to this application are true to the best of my knowledge and the statements made are based on information and records and I believe them to be true.

Bhubaneswar
Date 30th November 2010

DEPONENT
Chief Executive Officer, NESCO

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1. Executive Summary

North Eastern Electricity Supply Company of Orissa Limited (NESCO), a Distribution and Retail Supply licensee, in Orissa has been carrying out the business of distribution and retail supply of electricity in the five districts of Orissa namely Balasore, Bhadrak, Jajpur, Keonjhar and Mayurbhanj. by virtue of License granted to it vide No.3/99 by the Hon'ble OERC.

This submission is made by the licensee to the Honorable Commission for the determination of Annual Revenue Requirement and the Retail Supply Tariffs for the Financial Year 2011-12.

It is submitted that the licensee is carrying out the business of retail supply of electricity under tremendous financial stress and liquidity strain since its inception.. The same has aggravated during the current Financial year due to direct as well as consequential effect of Power Regulation and inadequate appropriation of Retail Tariff with respect to Bulk Supply Tariff and essential expenses. Due to such liquidity problem, licensee could not deposit the monthly BST Bills within 48 hours to avail 2% rebate. Also it did not allow licensee to bear additional employees cost on account of arrear salary pertaining to the implementation of 6th Pay Commission as well as employees Wage Board in line with the OPTCL / GRIDCO, which has caused labour unrest. As submitted in previous ARR application that due to inadequacy of Retail Tariff causing cash flow problems in previous years and due to non-sharing of revenue of sector surpluses from trading of power and UI in previous years, the proceeds of which were kept aside to be used to offset pre privatisation losses, the licensee finds itself ignored and isolated at the extreme end of the value chain and cost chain. Under the current circumstances, the Licensee is unable to meet its costs at existing tariffs and unless there is an increase in retail supply tariff and decrease in input costs in FY 2011-12 or any grant/ subsidy outlay the licensee will find it extremely difficult to meet its obligations as a distribution licensee. Accordingly the licensee prays that such exigencies be considered while processing this Application.

The licensee submits;

That the Licensee in accordance with the license conditions is required to calculate the total expected revenue from sale of electricity charges in accordance with the provisions of Section 5 Chapter 3 of the OERC (Terms and Conditions for determination of tariff) Regulations 2004, submit to the Hon'ble Commission:

A statement with full details of its expected annual revenue and costs for the current and ensuing financial year for its Licensed Business is enclosed and submitted herewith.

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That the Licensee has submitted a Business Plan and Turnaround Strategy for the Second Control Period (FY2008-09 to FY 2012-2013) which is registered as Case No 42 of 2007 wherein in addition to submissions of estimates for revenues and costs, strategies for a business turnaround was submitted to the Honourable Commission. Hon'ble Commission has passed an Order on dt20-04-2010. The Licensee filed a review petition on dt 06-08-2010 which is admitted by the Hon'ble Commission for hearing.

CAPEX Program

The Govt. of Orissa has declared CAPEX program of Rs.2400 Cr for the Distribution Sector in four year from 2010-11 to 2013-14. The above amount has equal share of counterpart funding by the DISCOMs. The CAPEX allocation with respect to Licensee is submitted below:

Rs in Crore

Financial Year	2010-11	2011-12	2012-13	2013-14	Total
GoO Assistance	300	400	250	250	1200
Discoms Counter Part Funding					
NESCO	12.38	29.62	84	126	252
WESCO	0	39	78	117	234
SOUTHCO	0	41	82	123	246
Total	12.38	109.62	244	366	732
CESU					468

Towards counter part funding, Licensee has arranged / proposed Loan from REC, IDBI as detailed below:

Rs. in Cr.

	Project Cost	Loan amount sanctioned
From REC		
NESCO	42.92	24.67
WESCO	50.76	29.17
SOUTHCO	8.52	4.89
Grand Total	102.21	58.74
From IDBI		
NESCO		20.00
WESCO		20.00
SOUTHCO		
Total		40.00

Tariff proposals and Projections

1.2 Till 2008 the Orissa state has been surplus in availability of Power but during the last year as well as this year, as envisaged by the licensee in their previous ARR applications, the state has faced the power deficit and as a result the Licensee resorted to power regulation as per direction of Hon'ble Commission as well as SLDC besides the agencies in the control of Power resorted to trip the supply directly from their end. This has resulted lower realisation of revenue from the cross subsidising consumers. Even some of the Industrial consumers demanded the proportionate reduction of the demand charges taking into account the load restrictions. The Licensee submits in its application to provide the back to back support in the input power cost from GRIDCO as already submitted through a separate petition before Hon'ble Commission in this regard.

1.3 Licensee submits that in the past due to inadequate tariff (revenue gap in ARR) and non increase of RST for 9 consecutive years, Licensee faced financial crunch which had cascading effect on the performance of the Licensee causing further worsening of the financial health.. Whereas the distribution cost has gone up in line with inflation. The salaries and wages has gone up by 30% with revised pay. Besides annual normal increase of 8% to 10% of DA semiannually. The Licensee submits that the increased financial burden should be shared between the Licensee with improve efficiency and the consumers with increase in tariff. Thereby the Licensee could be financial viable and improve the services to the consumers.

1.4 Considering the surplus power scenario in previous years, the tariff structure has encouraged consumers to avail more power by incentivizing graded tariff based on load factor in HT and EHT categories and charging less monthly minimum fixed charges on CD in LT categories. But with the changed scenario of power shortage and expected load growth in ensuing year after implementation of RGGVY and BGJ Scheme, **Licensee proposes to withdraw incentives available in tariff for higher consumption and increased demand charge, accordingly request Hon'ble Commission to approve the same.**

1.5 That the Licensee has made certain assumptions while projecting its proposals for the FY 2011-12. These projections are based upon the best estimates of the operations and prospective plans of the company at the time of the ARR filing. The actual ARR and the revenue figures would be different from the above estimates due to several external and uncontrollable factors such as power purchase cost and change in consumer mix/ consumption, inflation rate etc.

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1.6 Based on estimated Revenue Requirement and Revenue at existing tariff, the revenue gap for FY 2011-12 works out to Rs 765.84 Crore. The licensee submits that the revenue gap of FY 2011-12 amortisation of regulatory assets amounting to Rs. 21.11 crores and includes uncovered revenue gap for FY 2010-11 on account of truing up as Rs.261.42 Crore.

Revenue Gap

Rs Crore	
Expenditure including Special Appropriation in FY 2011-12	1854.77
Reasonable return for FY 2011-12	12.23
Amortisation of Regulatory Assets	21.11
Truing up of Revenue Gap for FY 2010-11	261.42
Sub Total	2149.53
Revenue from sale of power at existing tariffs in FY 2011-12	1359.38
Non Tariff Income	24.31
TOTAL REVENUE GAP (with existing tariff)	765.84

The licensee humbly requests the Hon'ble Commission to bridge the revenue gap through Increase in Retail Supply Tariff and balanced by combination of Grant/Subsidy from State Government, Reduction in Bulk Supply Tariff in an appropriate manner.

1.7 That the present application is submitted before the Honourable Commission for the approval of the Annual Revenue Requirement and determination of Retail Supply Tariffs for FY 2011-12.

1.8 Prayer

In view of the aforesaid facts and circumstances, the licensee requests that the Hon'ble Commission may be pleased to:

- Take the ARR application and Tariff Petition on record.
- Approve the Annual Revenue Requirement for FY 2011-12 including amortisation of Regulatory Asset and uncovered gap for FY 2010-11 by truing up.

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- Bridge the Revenue Gap for the FY 2011-12 through increase in Retail Supply Tariff, reduction in Bulk Supply Tariff (BST), grant/ subsidy from the Government of Orissa etc.
- Direct GRIDCO to relax Escrow in the following priority keeping in view the consumers' interest and better services.
 - Current Bulk Supply Tariff bills and Depreciation together with Interest (against asset to service loan and replacement of assets) on paripassu basis
 - Employee Expense
 - R&M Expense
 - A&G Expense
 - Balance to servicing towards past liabilities.
- To give effect to the ATE order dated 8.11.2010 on different issues such as fixation of Distribution loss target, truing up considering receivable audit, etc.
- Gridco and GoO may kindly be advised to allow Discoms to hypothecate assets for raising loan as per the Business Plan order dated 20.03.2010.
- Consider the recovery of Sixth Pay Commission & Wage Board arrears in ARR.
- Allow the following Tariff rationalisation measures;
 - Withdrawal of TOD incentive for consumption during off peak hours in view of the power deficit situation.
 - Introduction of KVAH Tariff system for three phase LT, all HT and EHT consumers
 - levy of DPS on LT category consumers including domestic & commercial category consumers
 - Withdrawal of incentive for higher consumption in case of HT/EHT consumers
 - Increase of the demand charges of General purpose HT-more than 70 KVA to Rs.200 per KVA from existing demand charges of Rs.50 per KW
 - Introduction of rebate scheme for payment of BST dues akin to the NTPC rebate scheme
- Dispose the Petition on Fuel Price Adjustment filed on 16th Nov.2010 by the Licensee, along with this ARR petition.

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- Allow the licensee to submit additional documents, modify the present petition, if so required, during course of processing of ARR.
- Any other relief, order or direction which the Hon'ble Commission deems fit.

Background

North Eastern Electricity Supply Company of Orissa Limited (NESCO) is the holder of license No.3/99 granted by OERC under Section 15 of the OERA vide their order dated 31st March, 1999 and has been operating under the license granted by the Commission.

The licensee from time to time has on several occasions has approached OERC for revision in Retail Supply Tariff as the existing tariffs were found to be insufficient to meet the estimated costs.

FY 1999-2000 to FY 2001-02

Tariff orders for the above periods were awarded by OERC in Case No. 23 of 1999 on 30.12.99, case No.32 of 2000 on 19.01.2001 and case No.56 of 2001 on 19.04.2002.

FY2002-03 to FY 2005-06

Proposal for Tariff revision in FY 2002-03 was not submitted in view of the order of the Hon'ble Commission in case no 56/2001 & 7/2002 while approving the Annual Revenue Requirement for the year 2002-03. For the year 2003-04, the Order of the Hon'ble Commission in case No.63/2002 dated 28.06.2003 published on 12.11.2003 has been stayed on 27.12.2003 in view of the review petition filed by the State of Orissa. For FY 2004-05, the Licensee had initially filed its ARR Petition in December 2003 incorporating actuals for the first six months of FY 2003-04 which was subsequently updated and revised. The Licensee submitted the revised ARR and Tariff Application for FY 2004-05 on 23.06.2004. However on the basis of a writ petition filed by the Orissa Consumers' Association before the Hon'ble High Court of Orissa and its subsequent judgment dated 18-10-2004 directing the licensees to make fresh applications in conformity to the provisions of OERC (Terms and Conditions for determination of Tariff) Regulations 2004, particularly Chapter II, III thereof and Chapter VIII of OERC (Conduct of Business) Regulations 2004 and the Electricity Act 2003, the Licensee submitted the ARR and Tariff Application for FY 2004-05 on 28.10.2004. The Hon'ble Commission issued its Order on ARR and Tariff Petition for FY 2004-05 on 26th February, 2005 (Order passed in Case No 140 of 2004). The Commission on 26th February 2005 also issued the Order on ARR and Tariff Petition of GRIDCO for FY 2004-05 (Order passed in Case No. 146 of 2004).

FY 2005-06 to FY 2008-09

The Licensee filed its Petition for ARR and Tariff Determination for FY 2005-06 on 24th November 2004 and the Hon'ble Commission issued its Order on the said Petition on 22nd

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March 2005 (Order passed in Case No. 141 of 2004). The Commission on 26th February 2005 also issued the Order on ARR and Tariff Petition of GRIDCO for FY 2005-06 (Order passed in Case No. 147 of 2004).

Subsequently, on 24th May 2005 the Licensee filed two separate review Petitions on the following Orders passed by the Commission seeking review/modification of the said Orders, which was addressed in the hearings for determination of ARR of FY07.

For FY 06-07, the Licensee filed the Annual Revenue Requirement (ARR) and revision of Retail Supply Tariff (RST) applications which was duly scrutinized, admitted and registered as Case No. 45/2005.

In the meantime, the Orissa Electricity Regulatory Commission (OERC), acting on the Petition filed before it seeking action against the DISCOMs WESCO, NESCO and SOUTHCO under Section 19 and Section 24 (Suspension of Distribution licence and sale of Utility) of the Electricity Act, 2003, heard the parties, including the Investor in DISCOMs (Reliance Energy Limited). After the last hearing held on January 16, 2006, OERC passed the Order on January 27, 2006 stating that the three distribution licensees, i.e., WESCO, NESCO and SOUTHCO are unable to discharge the duties imposed by or under the provisions of the Electricity Act, 2003 (EA 2003) and have persistently defaulted in complying with the directions given by the Commission under the provisions of the EA 2003 and it is necessary in public interest to suspend the licences of these DISCOMs and appoint an Administrator for each such licensee to discharge the functions of the licensee in accordance with terms and conditions of the licence. The OERC vide its said order issued a show cause notice for suspension of licence of WESCO, NESCO and SOUTHCO and appointed three Special Officers in each of the three DISCOMs providing them with the powers of a Director under the Companies Act, 1956 to seek information, documents and details of operation and management of the Companies, etc.

The three DISCOMs, i.e., WESCO, NESCO and SOUTHCO, filed Petitions before the Honourable Appellate Tribunal for Electricity (ATE) being appeal no 29, 30 and 31 of 2006. The ATE in its Order dated 8th February 2006 ruled that appointment of Special Officers significantly interfered with the day-to-day administration of the three DISCOMs and as an interim measure, stayed the Order issued by OERC, but allowed the Special Officers appointed by OERC to collect information and made it clear that they could not interfere in the day-to-day operations of the DISCOMs.

The ATE after several hearings vide its Order dated June 2, 2006 ordered the appointment of **two Special Officers** with absolute powers to take full control of the day-to-day working of the three DISCOMs. The Appellate Tribunal also ordered that a status report with respect to the entire affairs of the three DISCOMs separately, should be filed after the expiry of three months from the date of the Order and to seek further directions from the Appellate Tribunal. The Special Officers appointed by ATE joined the DISCOMs in the month of June 2006. As directed by Hon'ble ATE, the Special Officers submitted the Status Report on entire affairs of DISCOM to ATE on September 18, 2006

In the **Status Report submitted by Special Officers to ATE**, the Special Officers highlighted the key issues requiring immediate attention for smooth operation of WESCO. The brief summary of key findings based on review of entire affairs of three DISCOMs is as follows:

- WESCO, NESCO and SOUTHCO have been able to achieve the reduction in AT&C losses over the last five years (from FY 2001-02 to FY 2005-06) by 13%, 14% and 5% respectively. The AT&C loss reductions achieved are lower than the targets due to various constraints enumerated in the Reports.
- Due to inadequate tariff revision, practically no retail supply tariff revision after FY 2001-02, the DISCOMs were unable to recover the entire costs even based on the Annual Revenue Requirement approved by the Commission in all their tariff orders and as a result the accumulated financial losses have increased. Further, with around 15% increase in BST and no increase in RST for FY 2006-07, it will be unmanageable for DISCOMs to pay the revised BST bills and meet other operating expenses. In such circumstances, DISCOMs operation is not sustainable and financial burden would be mounting.
- The extents of capital investments in three DISCOMs have been much lower considering the size of Distribution Network of each DISCOM. Normally depreciation allowance is redeployed as Capex, but none of the tariff order leaves surplus/comfort to do the capital expenditure.
- Non relaxation of Escrow on timely basis has affected the critical Repairs and Maintenance activities, payment of salary arrears to employees and other activities. It is also another constraint for raising finance by the DISCOMs.
- Even after the recruitment of manpower in large numbers in last two years, still shortage of adequate skilled manpower presents a key challenge not only for maintenance and upkeep related activities but also for undertaking new initiatives such as energy audit, DSM measures etc. involving use of IT. DISCOMs have initiated the process to fill in the vacancies.

The critical issues requiring immediate attention for smooth operation of DISCOMs are summarized below:

- Comprehensive truing up exercise of actual revenue and expenses of DISCOMs and GRIDCO with the revenue and expenses considered by OERC in its Tariff Orders is and treatment of past losses with proper restructuring.
- Mechanism for Escrow relaxation on monthly basis after payment of current BST dues at Old BST rates.
- Proper R&M of distribution network for improving quality of supply. Further, weak transmission infrastructure links at few receiving stations particularly in WESCO and NESCO area need to be urgently upgraded and augmented to improve availability and quality of supply to consumers in these areas and to meet the future growth.
- Implementation of scheme of securitization of past dues as approved by OERC with a practical cash flow analysis to avoid any default from day one.
- Re-examination of Increase in BST for FY 2006-07 with respect to treatment of GRIDCO's Revenue from sale of surplus power and truing up of GRIDCO's ARR at least past 2-3years.
- Recruitment of Senior Level Executives and induction of skilled manpower at field level.
- Capital Investments for strengthening the distribution network to ensure the quality of supply.

The Hon'ble Tribunal passed the final judgment and order on 13th December 2007 allowing the Appeals no 29 to 31 of 2006 filed by the DISCOMs and set aside the OERC order dated 27th January 2006.

The Hon'ble Commission preferred a Civil Appeal before the Hon'ble Supreme Court, challenging the Hon'ble Tribunal order dated 13th December 2006 being Appeal No-946 of 2007. Similarly the petitioner of the original petition before the Hon'ble Commission, Sri Mohanty also filed a Civil Appeal No before the Hon'ble Supreme Court. The Hon'ble Supreme Court of India in their Order dated 05-01-2009 found that there has no warrant for appointment of officers by the OERC to over see the DISCOMS work. At the same time the Hon'ble Court directed Licensee to file their representation/objection before regulatory commission.

Accordingly the Hon'ble Commission started further proceeding in the case no. 35/2005 and the Licensee has filed their writing submission and after hearing the parties the Hon'ble Commission directed DOE GoO and GRIDCO to submit their views by 30-09-2009 on certain issues. The Hon'ble Commission completed the proceeding and reserved the Order. The State Government and GRIDCO have been asked time up to 31-12-2009 which is granted by the Hon'ble Commission.

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The Hon'ble Commission issued its Order on the ARR and Tariff Petition of NESCO for FY 2006-07 (Case No. 45 of 2005) on 23rd March, 2006. In the said Order, the Hon'ble Commission approved the Revenue Gap of Rs 7.78 Crore for NESCO for FY 2006-07. The Hon'ble Commission also issued an Order on the ARR and Tariff Petition of GRIDCO for FY 2006-07 (Case No. 42 of 2005) on 23rd March 2006.

NESCO filed an appeal against the OERC Orders dated 23rd March 2006 on ARR and Tariff Petition of NESCO for FY 2006-07 being the appeal no. 77,78 & 79 of 2006 before the Hon'ble Appellate Tribunal for Electricity (ATE) on 1st May 2006. The major issues highlighted in the Appeal filed with Hon'ble ATE, along with its financial impact on NESCO are as follows:

- A) Disallowance of actual interest cost and repayment of installments accrued due in respect of NTPC Bonds.
- B) Error in computation of miscellaneous income
- C) Underestimation of Simultaneous Maximum Demand (SMD) for FY 2006-07 and hence the demand charges while approving the power purchase cost.
- D) Non computation of revenue, slab wise and category wise as prescribed in the OERC approved tariff formats leading to improper assumptions of higher realization rates at LT, HT & EHT voltage levels while approving the revenue from sale of power for FY 2006-07. Such computation resulted in inflated income of the Discoms without reference to actual revenue.
- E) Need to carry out truing up exercise on a regular basis.

Thus, the NESCO in the Appeal submitted to ATE summarised the total adverse financial impact of above four issues as Rs 214.77 Crore.

The Hon'ble ATE has issued order in the said matter of Appeal No. 77, 78 & 79 dated 13th December, 2006 and communicated the same on 15th December, 2006 addressing the various issues raised by the three DISCOMs on the OERC Tariff Order dated 23.3.2006 on the ARR and Tariff Petitions of WESCO, NESCO and SOUTHCO. The Hon'ble ATE vide its said Order directed the OERC to re-determine the ARR and Retail Supply Tariff for FY 2006-07 within six weeks from the date of ATE Order on the said Appeals and considering the directions given by the Hon'ble ATE on treatment of various cost and revenue elements of NESCO's ARR. The Hon'ble ATE in its Order also stated that **"it may not be necessary to hold a public sitting in this respect"**. The Hon'ble ATE also ordered that till the re-

determination of tariff, the Appellants shall continue to collect the Retail Supply Tariff as already determined by OERC on 23rd March, 2006.

In view of the said ATE Order, NESCO submitted an Application on 5th January 2007 before the Hon'ble Commission to re-determine ARR of NESCO and Retail Supply Tariff for the year FY 2006-07. However, OERC preferred Civil Appeal (No 759 of 2007) on 06.02.2007, challenging the order of the Hon'ble ATE with an interim prayer to Stay on the operation of the order of Hon'ble ATE. Hon'ble Supreme Court heard the matter on 26th February 2007 and admitted the Appeal. Hon'ble Supreme court has passed following orders

“Appeal admitted. Tag with Civil Appeal No.414 of 2007”.

The Hon'ble Supreme Court has not stayed the operation of the Order of the Hon'ble Tribunal.

The Licensee filed their Annual Revenue Requirement (ARR) and revision of Retail Supply Tariff (RST) Applications for FY 2007-08 and Order on the ARR and Tariff Petition of NESCO for FY 2007-08 was issued on 23rd March, 2007. In the said Order, the Hon'ble Commission approved the Revenue Requirement of NESCO as Rs.903.39 Crore and Expected Revenue of Rs.903.48 Crore and miscellaneous receipt of Rs.22.06 Crores while considering the various expenditure and revenue for the year FY 2007-08. The principle set out by the Hon'ble Tribunal in Appeal No. 77, 78 & 79 of 2006 has not been considered by Hon'ble Commission while approving ARR & RST for the year 2007-08.

The licensee preferred appeal before the the Hon'ble Tribunal on the following grounds.

The licensee preferred appeal before the Hon'ble Tribunal on the following grounds.

A. OVER ESTIMATION OF REVENUE

- I. Revenue Computation;
- II. Miscellaneous Income;
- III. Unrealistic Distribution Loss Targets

B. NON APPROVAL OF VARIOUS COSTS

- IV. Interest on the NTPC Bonds
- V. Employee Cost & other cost
- VI. Contingency Reserve
- VII. Truing up

The Hon'ble Tribunal has passed an Order on 08-11-2010 with following directions:

- i. Interest cost paid by Licensee towards NTPC Bond to GRIDCO should be allowed as pass through in ARR of Licensee.
- ii. The target set by the State Commission for the year 2007-08 were unrealistic.

- iii. The slab wise assessment within the same voltage category will give more accurate assessment- over estimation in respect of Licensee for the FY 2007-08 is Rs.52.06 Cr.
- iv. If the cost of meter is not allowed in the ARR, the meter rent shall not be included in the miscellaneous income and unless Licensee is entitled to retain Commission on collection of ED, the income on the Commission may not be included in the miscellaneous income- the impact of the same for FY2007-08 is Rs.4.91 Cr towards meter rent and Rs.0.46 Cr towards commission for collection of ED.
- v. The finding of the State Commission that the requirement of the fund has gone up in the light of the fact that there has a reduction in the employee costs as a result of superannuation is a contradiction in terms. The Hon'ble ATE observed that the increase in number of superannuation's would result in increase in requirement of terminal benefit fund. In the FY 2008-09 the Commission has acted upon the actuarial valuation and given the benefit for the same in the ARR, this benefit should apply to the Licensee in the year FY 2007-08 also. The differential amount works out to Rs. 5.42 Cr.
- vi. The finding of the State Commission in respect of disallowing the costs towards Spot Billing and Energy Audit is not valid. The Cost to be allowed towards Spot Billing for FY 2007-08 is Rs.1.72 Cr. and towards Energy audit is Rs.1.71 Cr.
- vii. The truing up can not be a process where the projections are compared with the projections. Therefore State Commission is directed to revisit this issue after taking into account the audit of the past receivables.

Licensee prays before Hon'ble Commission to consider the same and pass through in the present ARR.

Licensee filed the Annual Revenue Requirement (ARR) and revision of Retail Supply Tariff (RST) applications for the year 2008-09 which was duly scrutinized, admitted and registered as Case No. 66/2007. The Hon'ble Commission issued its Order on the ARR and Tariff Petition of NESCO for FY 2008-09 (Case No. 66 of 2007) on 23rd March, 2008. In the said Order, the Hon'ble Commission approved the Revenue Gap of Rs 1.45 Crore for NESCO for FY 2008-09. The Hon'ble Commission also issued an Order on the ARR and Tariff Petition of GRIDCO for FY 2008-09 (Case No. 61 of 2007) on 22nd March 2008. The licensee preferred an Appeal before the Hon'ble ATE challenging the RST Order of the Commission in similar issues as raised for the previous year which is pending.

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NESCO filed ARR and Tariff application for the FY 2009-10 on 30th Nov.2008 and the Hon'ble Commission issued its Order on the ARR and Tariff Petition of NESCO for FY 2009-10 (Case No. 67 of 2008) on 23rd March, 2009. In the said Order, the Hon'ble Commission approved the revenue requirement of licensee as Rs. 839.42 crore , expected revenue of Rs. 839.80 crore, Miscellaneous Receipt of Rs. 35.79 crores, the Revenue Surplus of Rs 0.38 Crore for NESCO for FY 2009-10. The Hon'ble Commission also issued an Order on the ARR and Tariff Petition of GRIDCO for FY 2009-10 (Case No. 62 of 2008) on 22nd March 2009. The Licensee preferred an Appeal before the Hon'ble ATE challenging the RST Order of the Commission in similar issues as raised for the previous year which is pending.

As narrated in the previous paras, the BSP, Transmission and Retail Supply Tariff for the FY 2006-07 are pending for adjudication before the Hon'ble Supreme Court on the Appeals preferred by GRIDCO, OPTCL and Hon'ble Commission respectively. The Tariff Orders of the Hon'ble Commission for the subsequent years i.e. FY 2007-08, 2008-09, 2009-10 and 2010-11 have been appealed before Hon'ble ATE and Hon'ble ATE has disposed off the appeal pertaining to the FY 2007-08 on 08-11-2010. The remaining Appeals before the Hon'ble ATE are pending for disposal.

ESCROW MECHANISM

(I) Depreciation as source of fund to be availed as 1st priority from Escrow

Account:

Depreciation is a non-cash expense that reduces the value of an asset as a result of wear and tear, age and obsolescence. Most assets lose their value over time (in other words, they depreciate), and must be replaced once the end of their useful life is reached. Because it is a non-cash expense, depreciation lowers the company's reported earnings while increasing free cash flow.

Depreciation is a source of funds. When depreciation is deducted from profits, net income figure gets reduced and the amount of cash will not be reduced. In that way, the company is able to retain part of its cash within the business that could have gone out, had the depreciation not been done.

In other words, depreciation reduces net income on the income statement, but it does not reduce the Cash account on the balance sheet enabling the company for servicing of Loan.

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Servicing of Loan is a priority obligation of the company and thus , the above cash become available in the hands of the Entrepreneur to repay the Loan installment or if need be, to make reserves so as to meet the fund requirement for replacement / creation of future Assets.

At present Discoms are depositing their revenues in the Escrow Account part of which is released by GRIDCO towards the Discoms expenses in the manner and priority fixed by the Hon'ble Commission. The priority of payment from the Escrow Account as decided by the Hon'ble Commission is given as under :

(A) **From Current Revenue**

- a. Current BST dues in full including current Transmission charges, SLDC charges and license fees payable by the Distribution Companies.
- b. Employees cost as approved by the Commission in this tariff order for FY 2010-11 and for subsequent years.
- c. Monthly R&M expenditure as approved by the Commission in the tariff order for FY 2010-11 and for subsequent years.
- d. The monthly obligation for repayment of principal and interest in respect of loan obtained/ to be obtained from the financial institutions for capex program /system improvement.
- e. Average monthly obligation of the defaulted arrear BST as approved by the Commission in the RST order for 2008-09 and 2009-10 and for the subsequently years, if any.
- f. The balance amount towards arrear of BSP dues as approved in the securitization order of the Commission dated 01.12.2008.

(B) **From Arrear Revenue**

The collection to be made out of the arrear outstanding as on 01.4.2010 / beginning of the relevant financial year would be utilized in order of priority as indicated below:-

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- a. 50% of the monthly arrear collection would be utilized towards payment of the balance arrear revised salary worked out up to 31.3.2009.
- b. Balance 50% of the monthly arrear collection would be utilized towards arrear BST dues as approved in the securitization order dated 01.12.2008.

Hon'ble Commission is allowing the Discoms to avail the Depreciation amount in the shape of monthly obligation towards repayment of principal and interest in respect of capex loan as item (d) in the above list.

As per the standard practice, the funding agencies like Banks and Financial Institutions seek 1st charge on the revenue to the extent of monthly installment to be generated from the project to be taken up under their funding. In case of Discoms, the System Improvement for up-gradation activities and the revenue generated from those capex can not be segregated. All the revenue from the existing distribution system along with the new assets created through capex funding are collected and get fully deposited in the Escrow Account unlike the funding for a green field project or a brown field project, where the revenue pertaining to a capex project can be ascertained. Which is not so in the Distribution System improvement works.

Since all the revenues of the distribution companies' are being escrowed, the financing institutions are unwilling to sanction any loan enabling the DISCOMs to take up capex programmes.

It is but natural that with an investment in system improvement and up-gradation, the loss shall be reduced as well as higher revenue shall be generated. Considering that the 1st charge (priority) is given to the FIs and Bank limitedly to the extent of loan servicing liability per month, the balance available revenue shall expectedly be more than the revenue generated at the present level. **In the above circumstances, since Depreciation is source of fund, the Discoms are proposing to give 1st priority of utilization of escrow account for servicing of loan installments or make Investment in capex so as to meet the fund requirement for future Assets which may be capped at Depreciation and interest allowed in the ARR.**

ARR and Tariff proposal 2011-12

As per provisions of Regulation 53 of OERC (Conduction of Business) Regulations, 2004 and Regulation 5 of OERC (Terms and Conditions for determination of Tariff) Regulations, 2004 the Discoms are required to file the applications for determination of Annual Revenue

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Requirement (ARR) and revision of Retail Supply Tariff (RST) for the ensuing financial year with the Commission by 30th November of the current year. Accordingly, WESCO (Petitioner) hereby submits its Application for approval of Annual Revenue Requirement and Retail Supply Tariff for the financial year 2011-12. The Petitioner is filing this Petition under Section 62 and other applicable provisions of the Electricity Act 2003 and in conformity with the provisions of OERC (Terms and Conditions for determination of Tariff) Regulations, 2004 and OERC (Conduct of Business) Regulations 2004.

In addition the licensee, in compliance with the directions of the Hon'ble OERC also submitted its **"Findings from Receivables Audit and Provision for Doubtful Debts from FY00 to FY05 and its truing up through tariff"** being registered as Case no 60 of 2006. The matter is under consideration of the Hon'ble Commission.

The Licensee, in compliance to the direction of the Hon'ble Commission has submitted a **"Revised Business Plan and Turnaround Strategy"** for the Second Control Period starting from FY 09 to FY13. The Hon'ble Commission has passed an Order on dt.20-04-2010 stating following:

- To reduce the AT&C loss during the Business Plan period as approved.
- GRIDCO should take steps to allow the DISCOMs (WESCO, NESCO and SOUTHCO) to create, first charge over the immovable asset as security to REC / PFC on the assets added after 31.3.2001
- Both GRIDCO and DISCOMs shall mutually identify the assets created after 31.03.2001 for Rs.413.23 crore upto 31.3.2008 that are to be hypothecated against the loan to be availed from the financial institutions such as REC & PFC.
- The assets created during 2008-09 and that may be created thereafter can also be hypothecated.
- The State Govt. may allow DISCOMs to pledge the assets created for Rs.254.83 crore out of World Bank loan, to the financial institution such as REC and PFC to avail loan for capital works
- DISCOMs are directed to make provision for the GRIDCO power Bond of Rs.400 crore in their Balance sheet till the matter is decided by Supreme Court.

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- State Govt. and DISCOMs are to take effective co-ordinated action to curb theft of electricity.
- Commission directs all the four DISCOMs to file detailed project reports on the proposed investment incorporating terms and conditions of loan, the total cost involved, details of assets addition due to such investment, technical justification of such investment in various areas, technical loss reduction due to such investment and a cost benefit analysis of the entire project may be submitted to Commission for approval.

Discoms filed a review petition on 6th August 2010 before the Hon'ble Commission being Case No – 123 of 2010 on the following grounds:

- a. The present direction to reflect the NTPC Bond in the Balance Sheet is error apparent as Hon'ble Commission has admitted the fact in para – 69 & 70 of the Order that the matter is subjudice before the Supreme Court.
- b. Further Hon'ble Commission had given contradictory views in Para 45 & 50 of the Order. In Para – 45 Hon'ble OERC has taken actual power purchase figure for FY 2008-09, however for truing up purpose considered the approved ARR figure.

Hon'ble Commission heard the matter on 1st October 2010 and admitted the Case.

In the mean time as directed by Hon'ble Commission Govt of Orissa has formulated an investment plan of Rs 2400 Cr to be invested in the distribution sector during the FY 2010-11 to 2013-14. The likely pattern of investment will be as under

Rs in Crore

Financial Year	2010-11	2011-12	2012-13	2013-14	Total
GoO Assistance	300	400	250	250	1200
Discoms Counter Part Funding					
NESCO	12.38	29.62	84	126	252
WESCO	0	39	78	117	234
SOUTHCO	0	41	82	123	246
Total	12.38	109.62	244	366	732
CESU					468

GoO will provide for a loan of Rs 1200 Cr which would consist of Rs 533.33 Cr loan bearing interest and another Rs 666.67 Cr carrying zero percent interest. As given by GoO the zero interest carrying loan of Rs 666.67 Cr may be converted into grant if the Discoms would able to achieve the performance targets fixed by the GoO.

As seen from the above plan DISCOMs have to provide for a counter part funding of Rs 1200 Crs from Fy 2011-12 to 2013-14. The Counter Part funding will be arranged

by Discoms in the form of Loan. For raising Loan Discoms needs to hypothecate the existing assets. In the Business Plan Order

Hon'ble Commission in Business Plan Order dated 20.04.2010 has directed GRIDCO to release the Discoms assets created after 31.03.2001 for Rs.413.23 crore upto 31.3.2008. Again directed GoO to release the assets created for Rs.254.83 crore out of World Bank loan.

Therefore the success of the above massive investment programme initiated by the GoO is totally depends upon the counter part funding to be provided by Discoms, which can only be possible if both GRIDCO & GoO will release the Discoms assets as directed by Hon'ble Commission. In the meanwhile GRIDCO has written a letter to Discoms to reflect the NTPC Bond payable in the Balance Sheet first then they will release the Assets.

Therefore it is submitted that Hon'ble Commission may direct GRIDCO and GoO to release the above Discoms assets as early as possible, so as to enable Discoms to provide for counter part funding.

1.1. Revenues and Costs

Existing tariffs of NESCO do not cover costs and affect financial viability and sustainability of distribution and retail supply operations. Therefore recovery of costs is of paramount importance to ensure financial viability of Licensee. The Electricity Act, 2003 assures the licensee sufficient revenues to cover all costs and a reasonable return. The application of this principle assumes importance in view of the following considerations:

- a. The financial viability of NESCO is important to maintain continuity in business and stability in supply of electricity and better services to the consumers.
- b. Sound financial health of NESCO would be essential to enable it to raise funds critical for system improvement, thereby benefiting the consumers in the end.

The Petitioner humbly requests the Commission to approve the ARR and Tariff for FY 2011-12 in such a manner to match the expected revenue from the retail supply tariffs with the total Annual Revenue Requirement of the Petitioner as approved by the Commission.

1.2. Review of Operations of the Year 2008-09 to 2010-11

The financial year 2009-10 ended with an actual energy input of 4705.451 MU which was higher by 3.5 % as compared to the input of previous year 2008-09 as per Table below.

Distribution Loss FY 2008-09 to FY 2010-11

	FY2008-09	FY 2009-10	FY 2010-11 (Estt.)
Energy Sales in MU	2973.710	3175.142	3603.214
Energy Purchased in MU	4544.977	4705.451	5177.032
Overall Distribution Loss%	34.571	32.520	29.58

The sale during 2009-10 reached a figure of around 3175 MU which was 6.77 % higher than the sale of the previous year. Based on the above purchase and sale figures, the distribution loss for the year 2009-10 was 32.52 % as compared to 34.57 % for the year 2008-09.

Considering the actual performance till September 2010, the Licensee has estimated distribution loss of 29.58 % in FY 2010-11 which reflects a reduction of 2.94 % over the previous year. Though NESCO has proposed to reduce the distribution losses by more than 2.94 % during FY 2010-11, the distribution loss target of 18.46% as approved by the Commission cannot be achieved due to several reasons listed below:

- **Power Regulation:** Due to Power Regulation in the previous year as well during initial period of current year rational regulation could not be effected on the subsidized and subsidizing category of consumers. Resulting thereby a loss of revenue on account of cross subsidy and margin as already submitted in a petition before Hon'ble Commission and narrated below:

Impact of Power Regulation on the Revenue of the licensee

1. Due to poor availability, of power in the state Hon'ble Commission passed an Order under section 23 of the Electricity Act 2003, on 14/01/2010 declaring protocol for load regulation which was lifted by the Commission vide Order dated 11/05/2010 when the supply position was improved.
2. That, due to power regulation during Jan, 2010 to May, 2010 Licensee's revenues have been severely affected due to imposition of load restriction on one hand and non adherence of Power Regulation Protocol by different agencies on the other. This fact was brought to the notice of the Hon'ble Commission during course of hearing on 31st March, 2010. Appreciating the same, this has been duly

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recorded by the Hon'ble Commission in its Order dated 21.06.2010 in Case No. 40 to 44/2010,as reproduced below.

“ It is observed that , after long interval, the State faced power deficiency situation and it became imminent to issue order dated 14.01.2010 under S.23 of the Electricity Act'2003 for efficient supply and securing equitable distribution of Electricity . But due to lack of proper acquaintance of situation and inadequate experience in power crisis management, the concerned agencies could not be able to find an effective mechanism for proper implementation of power (Protocol) Regulation . At the same time instruction from any authorities like DoE , GoO, SLDC added confusion uncertainties . Perhaps due to the above prevailing situation the proper implementation of power (Protocol) Regulation could not be made as stipulated . The Commission is highly concerned about lack of proper understanding by the concerned authorities, who are responsible for implementation of Power (Protocol) Regulation”

3. Therefore a petition was filed before the Hon'ble Commission stating that such unscheduled, indisciplined and irregular interruptions in the power supply has resulted in the huge financial loss to the Distribution Licensees from February 2010 to May 2010. The loss incurred by the licensees during February,10 to Mar,2010 on account of Demand Charge and Cross Subsidy is as follows:

Rs in Cr

	NESCO
Demand Charge Loss	3.29
Cross Subsidy Loss	4.31
Total	7.60

Similarly, the Loss incurred by the Licensees during April and May, 2010 is given below:

	NESCO
Demand Charges Loss	2.75
Cross Subsidy Loss	3.42
Total	6.17

That due to gap between the scheduled allocation of power by SLDC and the demand of Licensee which may continue all through this year, there is a probable loss to NESCO which is projected to **Rs.49.35 Crores** . The per unit impact comes out to **Paise 14.45/Unit**, as enumerated below.

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Probable Impact of Load Regulation from August'10 to March'11.

		Rs in Crs
		NESCO
Demand Charge Loss		21.65
Cross Subsidy Loss		27.70
Total		49.35
Loss	Paise/ Unit	14.45

That, due to persistent schedule and unscheduled load regulation and setting of RST for different categories of consumers without factoring all the relevant inputs, Licensee suffered revenue in the previous year 2009-10 and also is suffering in current financial year 2010-11. It therefore calls for, **immediate truing up.**

4. That Licensee also submitted before the Hon'ble Commission that the loss of margin for 1st Qtr of FY- 2010-11 in comparison to margin for 2009-10 are depicted in the following table:-

FY 2009-10		Rs in Crore
		NESCO
Revenue Collection		889.83
BST bill		710.32
Margin		179.51
1 st Qtr FY 2010-11		Rs in Crore
		NESCO
Revenue Collection		250.19
BST bill		261.13
Margin		-10.94

5. That, it may kindly be appreciated that whenever there will be imposition of power regulation, it will inevitably lead to loss of margin to the Licensees which may appropriately be addressed while issuing the protocol for power regulation.
6. That, on the contrary during the period of load regulation, GRIDCO made profits in UI exchange to the tune of Rs 240.28 Cr from March,2010 to May,2010 as shown below:

Week	Schedule MWH	Actual MWH	Difference MWH	UI gain Amount Rs in Lacs
01.03.2010 to 07.03.2010	125344	126883	-1538	185.01
08.03.2010 to 14.03.2010	119519	112617	6902	385.50
15.03.2010 to 21.03.2010	111779	102808	8971	537.94
22.03.2010 to 28.03.2010	123157	113686	9471	518.53

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29.03.2010 to 04.04.2010	139915	115869	24046	1169.32
05.04.2010 to 11.04.2010	130633	95852	34781	2220.45
12.04.2010 to 18.04.2010	133668	102008	31660	1963.66
19.04.2010 to 25.04.2010	124781	71565	53216	3611.31
26.04.2010 to 02.05.2010	120460	72329	48131	3115.44
03.05.2010 to 09.05.2010	132509	95469	37040	1476.17
10.05.2010 to 16.05.2010	141401	75134	66267	4464.64
17.05.2010 to 23.05.2010	129266	81208	48058	3163.21
24.05.2010 to 30.05.2010	111547	72934	38613	1217.17
Total			405618	24028.36

NB : Difference MWH (-Over drawal /+ Under drawal)

In addition to the above, GRIDCO has traded around **300 MW** power through bilateral and power exchange during the month of June,2010

7. It may prayed by the Licensee that, unless the impact of Power Regulation is appropriately factored in the tariff, it leads to liquidity crunch and the DISCOMs find difficulty to pay timely /fully the BST bill & Transmission charges to GRIDCO/OPTCL .
8. Therefore Licensee requested before the Hon'ble Commission that there is a need for Power Regulation Protocol corresponding to different levels of Power availability on the following grounds .

That, the power supply situation in Orissa has been passing through a critical stage since about a years' time and the same may continue, may be, for another couple of years for the following reasons:

- (i) There is no prospect of significant additions in generation capacity for the state.
- (ii) Hydro generation is subject to vagaries of monsoon. The rain fall this year has been rather scanty, resulting in depleted reservoirs levels.
- (iii) Thermal Generation Units have higher level of auxiliary consumption and probability of forced outages is more which is not un-common. The generation is also subject to coal availability. NTPC stations have suffered generation because of in-adequate availability of coal.
- (iv) Contribution from CGP depends upon timely payment by GRIDCO and tariff related matters.

Because of the various reasons, the average scheduled availability during different hours of the day vary and remains less than the corresponding demand. During recent past, it was as low as 1800 MW during off peak Hours and 2200 MW during peak hours as against minimum demand of around 2200 MW and 2600MW respectively for the State.

Other factors, such as, inadequate intra-state transmission and distribution infrastructure, which is well known to the Hon'ble Commission, aggravates the reliability and quality of supply. This infrastructural deficiency impacts adversely the operational flexibility causing departures from the load shedding protocol. Whenever there is dip in the generation availability during the real time of operation, SLDC directs opening of transmission lines even without giving prior notice to the Distribution Companies, which paralyzes the supply position to the consumers. The Licensee faces public outcry.

Licensee submit that all these considerations would call for some kind of universal protocol for Power Regulation corresponding to different levels of power availability in the state, so that all the Licensee will carry out the Power Regulation Protocol systematically as per pre-determined allocation of power under different levels of power availability.

- **State Government Support** – The support from State Govt on anti theft initiatives like setting up of Special Police Stations and special Courts have not been materialized so far, as envisaged. Although Special Police Stations for 5 locations have been declared by the Home Department, Govt of Orissa vide Notification No 47514 dated 23.10.2008, apart from the Police Stations at 3 locations viz. Balasore, Baripada and Rairangpur others are yet to be established.
- **Staffing of Police Stations** – The staffing in each of the Energy Police Stations is sanctioned as follows :

Particulars	Sanctioned Strength	Existing Staff Strength		
		Balasore	Baripada	Rairangpur
(i) Inspector	01	01		
(ii) Sub-Inspector	02		01	
(iii) Asst. Sub Inspector	02			
(iv) Head Constable	01	01	01	01
(v) Follower orderly	01			
(vi) Asst. Driver	01			

Particulars	Sanctioned Strength	Existing Staff Strength		
		Balasore	Baripada	Rairangpur
(vii) Constable	12	12	07	07
Total	20	14	09	08

However, till date adequate manpower has not been provided and the police stations are severely constrained by the lack of personnel of appropriate grades, particularly those who are authorized to register complaints.

▪ **Progress of Energy Police Stations –**

	NESCO
FIRs filed during 2009-10	57
FIR Registered 2009-10	57
FIRs filed during 2010-11 (upto Sept'10)	59
FIRs registered	59
Persons arrested	4
Cases pending for Investigation	30
Amount deposited in Govt Treasury by Discoms (Salaries)	-

▪ **Constraints faced with Police Stations**

- **Inadequate Staff** at Energy Police Station
- **Refusal** and reluctance to accept F.I.R's, even by Energy Police Stations in the name of inadequate staff of proper cadre.
- **Absenteeism**- Staffs are found absent due to their preoccupation/ deployment on other assignments (VIP duty, festival duty, law and order etc.), as they are under direct administrative control of the District S.P.
- **Non participation on Enforcement Drives** -Staffs provided at Energy Police Station are generally not associating in the enforcement raids with the Licensee's staff with a plea that they are meant for lodging FIRs only and can not stand as evidence in vigilance/enforcement raids.
- **In the absence of administrative support**, Discoms are finding it difficult to curb theft. As a result, transformers are getting overloaded leading to high instances of transformer failure. Further Discoms are being pressurized from all quarters to replace transformers without insisting on collection of a minimum amount of arrears as due.

▪ **Submission of the Licensee –**

- **Widening the Jurisdiction** -Govt. may take initiation immediately to establish at least one Energy Police Station with adequate staff in each Revenue District

covering the Licensee area. The police officers should be made responsible to associate the Supply engineer for detection of the theft and raid of the consumers premises who are stealing power jointly with the supply engineer.

- **Joint Review by VP & S.P** – Regular review of operations by S.P and VP of Discoms on a monthly basis is required, followed by review at the level of IG in every quarter.
 - **Conducting joint workshops at District level** – involving Discom staff and Police Officials on anti theft legislations
- **SPECIAL COURTS** – The special courts have not been fully functional on the basis of the performance as have been submitted to the Hon'ble Commission from time to time.

Submission of the Licensee

With theft being a widespread phenomenon, the special courts limited to only one in the area of operation district of NESCO is inadequate.

▪ **SOCIO ECONOMIC CHALLENGES**

The licensee humbly submits that in 2 of 5 districts in its area of supply, the percentage of urban population is within 15 to 18% while in other districts it's below 10%. In 2 out of 5 districts consisting of 4 Electrical Divisions, around 75% of the population belongs to the SC and ST Category, a majority of whom belong to the Below Poverty Line (BPL) category. In all the 5 districts in NESCO, more than 60% of the land belongs to small and marginal groups. In addition to that 2 out of 5 Districts are severely affected by the Moists activities leading to severe law and order situation. The problems faced by the licensee are unique as compared to other Discoms and calls for a holistic view and a pragmatic approach. Accordingly the fixing of targets needs to be made on a realistic basis.

LIQUIDITY

- The licensee began the year with negative cash flow due to payment of BST dues at the revised rates whereas effect of increase in RST reflected after one month and further due to severe power regulation resulting thereby Licensee could not make payment of the monthly BST bill in full within 48 hours in entire months and lost 1% rebate which approximates amounting to Rs.0.95 crs p.m.
- Non availability of funds for capital investments till filing of the ARR.
- Lack of adequate maintenance of distribution network,

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- Non timely receipt of payments and Dues from Government Departments and Undertakings inspite of directions by Hon`ble Chairman OERC and by state govt to all departments.

1.3. Performance Estimates in FY 2011-12

During FY 2011-12, the sale of energy has been estimated at 4113 MU. During FY 2011-12, the Licensee proposes to reduce the distribution losses by around 2% from estimated 30% in FY 2010-11 to 28 % in FY 2011-12.

Distribution Loss of FY 2011-12

FY 2011-12	
Energy Sales in MU	4113
Energy Purchase in MU	5686
Overall Distribution Loss %	28

The licensee submits that the technical and commercial loss reduction is single benchmarking parameter for measuring the performance of Distribution Utilities and is directly related to the sustainability of business. The Hon`ble Commission while passing the ARR and tariff Orders have set the rather ambitious loss reduction trajectory when viewed in the context of ground realities such as infusion of the CAPEX as suggested by Kanoongo Committee, non establishment/ effective functioning of energy police station, Special Courts, non availability of RAPDRP funds for privatized entities in the 11th Five Year Plan of Gol etc. Therefore baseline losses for the Second Control period are needed to be determined on a pragmatic basis.

Need for Re determination of Loss Levels

1. Determination of actual baseline losses has been the most contentious issue since privatization. As the matter stands there is big hiatus between the actual field level losses and those approved by this Hon`ble Commission from time to time. Consequently with revenue requirement of the Discoms being determined on the basis of these distribution loss levels, as such a deficit already stands built into the tariff, full recovery of costs through revenues does not take place.
2. Historically at the time of privatization, the T&D loss levels were grossly understated. The baseline loss levels reported in the World Bank Staff Appraisal Report (SAR) of April 1996 and loss reduction trajectory from FY97 to FY03 was far from ground realities. Even the World Bank in its midterm review report dt. 31.10.1998 has admitted the underestimation of the actual loss levels. The mid term review report mentions that ***“Consultation with the Commission on the issue of recognizing the actual system***

loss levels and pass through of prior years' financial losses, given that we all so severely underestimated GRIDCO's system losses in 1996 and set unachievable performance targets". As a matter of fact, loss levels adopted for approving the tariff application in FY98 was estimated at 34.8% when actual loss levels for FY 97 was 49.47%. As a result, tariffs were set on assumed losses which lead to under recoveries in cost and distribution companies in the absence of any subvention from the State"

3. In May 2001, the Govt of Orissa constituted a Committee of Independent Experts under the Chairmanship of Sri Sovan Kanungo, I.A.S (Retd) to review the Power Sector Reforms in the State. The mandate of the Committee was to check as to whether the reforms in the electricity sector had proceeded on the desired lines, the corrective steps, if any, needed to be taken to ensure that the intended benefits of the reforms process flow to the targeted groups and specific steps that need to be taken to promote socially relevant objectives like Rural Electrification, Energisation of L.I. Points, providing electricity to the under privileged sections of the community, etc. Amongst several recommendations, the Committee suggested means of overcoming the cash deficit situation through a mix of tariff hike and interim financing. The Committee estimated an interim financing requirement to the tune of Rs 3240 Cr as a requirement to overcome the crisis, and suggested that World Bank, DFID and Govt of Orissa come out with a package to fill the revenue gap in the intervening years. In a nutshell the Sovan Kanungo Committee established the interrelationship between loss reduction and capital expenditure. The observations of the Committee in its report is as under

" 4.41 Once a decision is taken on the issue of interim financing and its apportionment, the DISTCOs and GRIDCO would need to be pinned down to specific performance parameters and the proposed targets disaggregated DISTCO-wise."

(The cash infusion, for reasons already known, never happened).

4. Hon`ble OERC approved Business Plan for the First Control Period (FY 03 to FY 08) setting performance targets to be achieved over the Control Period along with a co-terminus financial restructuring plan that was to supplement the efforts of the license in achieving such targets. However, the financial restructuring plan never fructified, but the licensees continued with their efforts which led to modest performance improvements over time. With the efflux of time, the First Control Period came to an end and we are already midway into the second year of the Second Control Period (FY 09 to FY 13), however the wide gap between the targets set up the OERC and achievements made by the Distribution Companies persists which is a major cause of concern. The gap between actual losses and targets set are to the tune of 8.6% for Wesco, 9.1% in Nesco and 17.4% in Southco in the first year of the second control period and with continuing addition of APL and BPL category consumers, the gap between actual losses and

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targets is 11.3% in Wesco, 9.2% in Nesco and 20% in Southco in the second year of the Second Control Period. As the matter stands now, there is hardly any cushion for Discoms to meet costs beyond the Bulk Supply Price and Transmission costs, as illustrated below

Rs.in crs.

April to Oct 10	BST Bill	Employees Exp	Total	Retail Billing	Collections	Surplus beyond BST	Surplus beyond BST & Employee Expenses
	A	B	C=A+B	D	E	F=E-A	G=E-C
Nesco	644	86	730	727	622	(22)	(108)

Reasons non-withstanding, there is a need to revisit the loss figures and take into account the existing ground realities.

5. Under such compelling circumstances, it would be pertinent to revisit opening T& D loss levels for FY 11 of the Second Control Period in line with the Tariff Policy and further more, particularly when an investment programme of Rs 2400 Cr has been approved by the State Cabinet in their 10th meeting held on 05.10.2010. This investment is inclusive of the Rs 500 Cr grant given by the 13th Finance Commission. **Without regulatory intervention, if losses continue to be determined at unrealistic levels, tariffs will not cover costs, liquidity crunch will persist in perpetuity and gains arising out of capex initiatives may not accrue.**

Enabling Legislations & Policies

6. The **National Tariff Policy** stresses on the need for a fair estimate of baseline losses, and consideration of actual loss levels for setting forth realistic targets in the control period.
7. The **Abraham Committee Report** and the RAPDRP guidelines issued thereof have also suggested a loss reduction strategy taking into account based on existing loss levels provides a window of opportunity for revisiting the baseline loss levels.
8. Further, **OERC Terms and Conditions of Tariff Regulations 2004** vide clause 3 (b), Chapter III states that - *“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 the sale of power to consumers for that year”*. Accordingly, actual loss levels assumes relevance while approving targets for the ensuing year
9. The **Govt of Orissa Notification on Capital Expenditure (CAPEX) Programme** for Distribution Companies of Orissa, vide clause 6.4 has earmarked funds for verification of

base-line data, and vide clause 7 fixed AT&C loss reduction targets of a minimum of 3% p.a on a cumulative basis, from actual loss levels in the DPR. As a result the case for consideration of actual loss levels gets further strengthened.

10. Judgments of the Hon`ble Tribunal

- a. **The Hon`ble ATE in Appeal No 52,53 and 54 of 2007** dated 8th November 2010, have stated as follows - “ 21.....*In our opinion, there is force in arguments of the Appellants that the loss reduction targets have been approved by the State Commission in the impugned Order without keeping in view the ground realities.....*”
- b. **The Hon`ble ATE in Appeal No 77, 78 & 79 of 2006** dated 13th December 2006, have stated as follows - “ 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*”

11. Thus it is important that steps are taken to re-determine opening loss levels on realistic basis for sustainability of distribution business and in the overall interest of the Orissa power sector.

The details of category-wise sales mix with No. of consumers, contract demand and percentage change in sales are given in OERC Form: T-1. Further, the expected revenue for the ensuing year estimated sale at existing RST along with details is also provided in OERC Form No: T-8.

1.4. AT & C Loss

While approving the Annual Revenue Requirement for the year 2003-04, the Hon`ble Commission it self has recognised the AT&C Loss concept (in line with Nation wide approach) as distinct from the conventional T&D Loss and adopted the same as a performance parameter. OERC's intent towards 'Performance based regulation', the Licensee is committed to the spirit of reducing the AT&C Loss.

Though the Hon'ble Commission has set the AT&C performance targets for measuring, monitoring and controlling the efficiency of the operation of the Petitioner, the Hon`ble Commission has approved ARR and determined RST for FY 2005-06, FY 2010-11 for the Licensee based on the distribution loss target and not based on the AT&C loss target. The Commission has considered the distribution loss target for ARR determination on the grounds that the AT&C loss shall be the criteria for determination of performance of the DISTCOs that provide them to handle for improvement in the field of distribution loss and

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the collection efficiency. For the purposes of tariff determination, the revenue requirement of the DISCOMs has been determined based on accrual of revenue during the financial year based on the set target of T&D loss for the Financial Year without considering actual collection of revenue. The actual collection efficiency of NESCO during FY 2009-10 was 95.53% and is expected to increase to 97% during FY 2010-11. During FY 2011-12, NESCO proposes to maintain the collection efficiency of 98%.

The actual AT&C loss performance for FY 2009-10 and estimated AT&C loss for FY 2010-11 and FY 2011-12 based on the improvements proposed in distribution loss and collection efficiency is given in Table below.

AT & C Loss

	FY2009-10	OERC (Approved- (2010-11	FY 2010- 11 (Estt)	FY 2011- 12(Estt)
Distribution Loss	32.52%	18.46%	29.58%	27.66%
Collection Efficiency	95.53%	98%	97%	98%
AT & C Loss	35.54%	20.09%	31.69%	29.11%

The Hon'ble Commission may appreciate that the reduction target of AT&C Loss of around 3% during the FY 2011-12 is challenging keeping in mind the existing harsh ground realities and the gestation period in implementation of CAPEX plan and its effect on the loss reduction which will be less in the initial period of the investment. Therefore the licensee proposes recognition of actual AT&C loss levels and setting of the sustainable reduction targets, which is of utmost importance to achieve the turnaround. Accordingly, NESCO requests the Hon'ble Commission to consider the actual AT&C losses for previous years and arrive at the realistic loss level at the beginning of the Second Control period and there after from FY 2009-10, FY 2010-11 (up to Sep'10) and accordingly set the loss reduction target for FY 2011-12 as proposed by the licensee in line with the regulation 5 (3) of the OERC (Terms & Conditions for Determination of Tariff) Regulation 2004 which is set out here under.

“Regulation 5 (3) Distribution Loss

(a) -----

(b) The Commission shall approve a realistic & achievable loss target for the year under review based on the opening loss levels, ;Licensees fillings, submissions and objections raised by the stake holders.....”

While proposing the loss reduction target for the ensuing year, the Licensee followed the bench mark recommended by Abraham Committee. The Licensee has taken up the same as a challenge and has planned the measures in the areas of energy audit, energy accounting, IT implementation in commerce, metering, spot billing, franchisee etc., as detailed out below.

In view of above, the Licensee requests the Hon'ble Commission to consider the estimated AT&C loss for FY 2010-11 as proposed by the Licensee.

1.4.1. Spot Billing Roll Out Plan

The licensee have already covered 5.66 Lacs consumers under spot billing and in the FY 2011-12, it is proposed to roll out spot billing for another 1.75 lacs consumers which are not covered under spot billing. The details are as mentioned below:-

SI No.	Name of Discom	Total Cons.	Total Amount Cost (Rs lacs)
1	NESCO	175000	115.50

1.4.2. Automated Meter Reading System:

Licensee had initiated drive for installation of Automated Meter Reading system on pilot basis for consumer above 40 KW Load. So far the Automated meter reading system has been installed in premises of 989 consumers and another 800 shall be completed by March 2011. Licensee has also planned to install AMR system for Feeder Metering in the ensuing financial Year.

The details are as under:-

SI.No	Name of Discom	Total No of Consumer AMR be installed by March 2012	No of Consumers AMR already Installed
3	NESCO	800	1411

The Roll out plan for FY 2011- 12 is to install AMR for the remaining consumers with Load above 40 KW as detailed below:-

AMR						Roll out Plan FY 2011-12	
SI.No	Name of Discom	No of Cons	Cost including Installation in Rs (Lacs)	One time - Set up cost	Total Cost in Rs (Lacs)	Recurring Cost per month Communication + Manpower	
1	NESCO	800	98.04	4 lacs	102.04	1.79 lacs	

1.4.3. IT / automation Modules Implementation

Licensee proposed to implement different IT/ automation modules for improvement in the operational efficiencies such as establishment of Customer Service Centre etc.

1.4.4. CONSUMER INDEXING

NESCO has initiated the process of consumer indexing. The Consumer Indexing will be a one time activity aimed to identify all the existing consumers receiving supply from individual Distribution Transformer and creation of network diagrams and asset details with an arrangement for regular updation in future. This will involve door to door survey so as to identify consumers receiving electrical supply from each DTR, preparation of LT line network diagram, preferably with GIS, and building database of DTR wise consumer indexing. The activities will include the following

i) Consumer & Network survey:

- Door-to door survey for identification of all consumers connected to each DT separately which will include gathering of information related to the consumer and meter details, details of landmark to identify DTR and Pole location.
- Electrical addressing through pole scheduling of all consumers.
- Preparation of network details viz. 11 KV Feeder, DTR (capacity, location etc.), LT circuits (conductor size, line configuration- horizontal/ vertical- single phase 2wire/ 3wire, 3phase 4wire/ 5wire, span size etc.), Pole type and no. of services from each pole.

ii) Building database and Indexing of Consumer:

- Development of a consumer data base as a backup to a GIS facility which will include indexing a consumer to the DTR's and 11 KV feeders allocating an alphanumeric code to each consumer following approved coding structure from the DISCOMs.
- Development of software tools for viewing consumer details, network details, DTR details etc. with various summaries and linked information with facilities for editing, modifying any data relating to consumer, network, at a later stage according to changes taking place.

iii) Painting of Electrical address on Poles, DTR and at consumers premises:

- Based upon indexing, the electrical address comprising details of 11 KV Feeder, DTR, LT circuit, pole no. and consumer from the pole will be painted on each pole (using two colours-one for base and other for code writing) based on approved codification scheme and painting norms. The details of 11 KV feeder and DTR will be painted on the DTR structure. The electrical

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address of each consumer will also to be painted at the respective consumer's premises as well.

1.4.5. Special Police Stations

The special police stations in the licensee areas have started functioning at present at Balasore, Baripada & Rairangpur. As per the agreement with the State Government, the DISCOM has to bear the salary costs, Vehicle Hire Charges, Telephone bills and TA bills of police force deputed at special police stations. In this regard the licensee has estimated the following amount towards the expenses of Special Police Stations additional expenditure for the ensuing year under the head of A&G expenses.

The Licensee proposed for establishment of energy police station in the each revenue districts as notified by Government and estimate the cost of Rs 2.27 Cr which includes Rs 2.13 Cr towards staff salary and Rs 0.14 Cr towards office expenses.

As per Notification No 44627 dated 9th October 2003 of Home Department, Govt of Orissa ,Govt declare 5 nos Special Energy Police station for entire Orissa.,out of the above, only one Energy Police Station at Balasore is operating in NESCO area.

Further vide Notification No 51089 dated 20th November 2003 of Home Department, Govt of Orissa ,each police station should consist of the following officers/staff:-

Designation	Manning	Pay Scale
Inspector of Police	1	6500-10500
Sub-Inspector of Police	2	5000-8000
Asst Inspector of Police	2	4000-6000
Havildar	1	3600-5600
Constables	12	3050-4590
Asst Driver	1	3050-4590
Followed Orderly	1	2550-3200
Total	20	

In addition to staff cost, necessary furniture, telephone, vehicles and other additional expenses were to be borne by the Distribution Companies.

Accordingly a Special Energy Police Station is functioning w.e.f. 13.02.2004 at Balasore, wef. 15.08.2009 at Baripada and wef 29.11.2009 at Rairangpur having the following Officer & staff.

OIC		1
Sub-Inspector of Police	-	1
Havildar	-	3
Constables	-	26
Total		31

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As per Notification No 47514 dated 23.10.08 of Home Deptt. Govt of Orissa another 29 nos of Energy Police Station all over Orissa are to be formed, out of which 5 nos are coming under NESCO jurisdiction as under :-

	Name of Police Station	Headquarters	Territorial Jurisdiction
1	Special Police Station (Energy) Jajpur	Panikoili	Revenue District Jajpur
2	Special Police Station (Energy) Bhadrak	Bhadrak	Revenue District Bhadrak
3	Special Police Station (Energy) Mayurbhanj	Baripada	Revenue District Mayurbhanj except Rairangpur & Karanjia Revenue Sub-Division
4	Special Police Station (Energy) Rairangpur	Rairangpur	Revenue Sub-Division of Rairangpur & Karanjia
5	Special Police Station (Energy) Keonjhar	Keonjhar	Revenue District Keonjhar

Assuming the above 5 Energy Police Station, 3 will be starting functioning from 1.4.2011, the proposed financial impact for the FY 2011-12 are as under:-

Hire charges of vehicle

SI No	Headquarter	Proposed km p.m.	Monthly Estimated Expenses.##
1	Balasore (Existing)	3000	18500
2	Panikoili	3000	18500
3	Bhadrak	3000	18500
4	Baripada (Existing)	3000	18500
5	Rairangpur (Existing)	3000	18500
6	Keonjhar	3000	18500
		Total	111000
##Expenses includes fixed cost ,cost of diesel 13kn/ltr & cost of mobil 500km/ltr			

Yearly Expenses estimated is Rs 111000 X 12 = Rs 13,32,000

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Telephone

Each police station will be provided with a landline telephone with an average monthly cost of Rs 1000/- p.m.

Total financial impact for 2011-12 will be Rs 1000 x 6 x 12 =**Rs 72,000/-**.

Cost of staff salary

It is assumed that each police station should consist of the following staff & their proposed staff cost as given-

Designation	Manning	Financial Impact p.m
Inspector	1	28588
Sub-Inspector	2	43440
Asst Sub-Inspector	2	33538
Havildar	1	15808
Constable	12	151675
Driver	1	12985
<u>Followed Orderly</u>	<u>1</u>	<u>9868</u>
Total	20	295902

The estimated costs for 6 police stations is Rs 2.13 Crs per annum (taking into consideration the effect of the 6th Pay Commission for which the State Government has made a budgetary provision.

Total Proposed financial impact for FY 2011-12 :-

Particulars	Amount in Rs Cr
Hire charges	0.13
Telephone	0.01
Salary	2.13
<u>Total in Crs</u>	<u>2.27</u>

2. Data Sources

The Licensee is complying with the information requirements of the Hon'ble Commission for the purpose of making this application for annual revenue requirement and tariff for the year 2011-12. The schedule of formats submitted along with this proposal is shown in the Table of Contents. The Accounts up to March 2010 have been audited as per Companies Act and copies of the audited accounts have already been submitted to the Hon'ble Commission. The Licensee has relied upon the Audited Accounts upto March 2010 for compilation of data and preparation of this ARR.

The Licensee would like to submit that the input cost is the most important cost for NESCO. For authentication of input cost, the actual bills received from the bulk supplier, GRIDCO has been taken into account.

Thus, the Licensee would submit that the data given by us is authentic and reliable for formulation of Revenue Requirement and Tariff Application for the year 2011-12.

3. Revenue Requirement for FY 2011-12

This section outlines the assumptions for estimation of revenue requirement for FY 2011-12.

3.1. Sales Forecast

For projecting the consumption of different categories, the Licensee has analysed the past trends of consumption pattern for last eight years i.e. FY 2001-2002 to FY 2009-10. In addition the Licensee has relied on the audited accounts for FY 2009-10 and actual sales data for the first six months of FY 2010-11. While projecting the sales of domestic and irrigation category, the Licensee has factored in the impact of electrification of new villages under the RGGVY and Biju Grama Jyoti Yojan. The growth in the LT Category has been estimated in FY2011-12 to be 32.02%. However, for HT and EHT category of consumers, the consumption has been projected based on current / past trends, actual addition of loads and other factors such as global recession upon which the licensee was depending in the past also. The summary of consumption projected for FY 2011-12 is discussed in following sections.

LT Category

The growth in the domestic category has been estimated at 36.00% during FY 2011-12 as against the actual growth of around 10.83% during FY 2009-10 and estimated a growth of 32% during FY 2010-11. The Licensee would like to submit that under various schemes like RGGVY, BGJ, etc. many house holds are likely to be electrified and around 155760 nos of BPL (Below Poverty Line) and 127440 nos of APL (Above poverty line) consumers will be added into the billing fold of the ensuing year FY 2011-12 and the impact of same has been considered while estimating the sales for kutir jyoti and domestic category respectively for FY 2011-12.

The growth in the sales of other categories in the LT sector has been estimated in the range of 16 % to 24 % during 2010-11 considering the past trends except irrigation, Agro industrial consumers ,Specified Public purpose and GP-LT category of consumers. The growth in irrigation categories has been estimated to be around 26 % as there is failure and the Licensee is proposing to install meters for all Lift Irrigation consumers during FY 2011-12. Regarding growth of Agro Industrial consumers and Allied agricultural consumers, the licensee has proposed 2.456 MU as compared to estimates of 1.981 MU in current year, as

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this is a new category which is notified in the last year tariff and most of the consumers are not aware of the tariff benefit at present and the licensee is expecting some more consumers will be coming in the ensuing year to this subsidized category.

The sales during last three years have increased in higher proportion as compared to previous years due to economic growth which would further grow at a higher rate. However for the future years NESCO has proposed an increase in the range of 32.02% on the basis of past trends. Further NESCO has considered an increase of sales of 416.316 MU in 2011-12 on account of increase in sales due to electrification under RGGVY and BGJ. The summary of sales projections for LT category is given in following

MU			
Sales	FY 2009-10	FY 2010-11	FY 2011-12
Domestic	712.568	940.615	1281.388
General Purpose<100 kw	151.897	180.757	215.101
Specified public purpose	10.30	11.948	13.860
Irrigation	47.322	59.626	75.128
Allied Agro Activities	1.563	1.981	2.456
Allied Agro Industrial	0.179	0.223	0.265
LT Industrial	25.564	31.699	39.307
Public water works	14.117	16.940	20.159
Public Lighting	7.454	9.094	11.095
Total	1009.861	1300.338	1716.654

Adhering to the National Electricity Policy to achieve the minimum life line consumption of one unit per household per day and to achieve the 100% village electrification by the year ending 2012, and also according to the trend of current year, the demand of domestic consumers shall increase by 340.773 MUs in the FY 2011-12. The sharp increase in the cross subsidized group of consumers may necessitate for the Tariff hike or Revenue Subsidy from the Govt of Orissa as per the provisions of Electricity Act, 2003.

HT Category

The average sales for HT category consumers has been estimated for the ensuing year and is based on the trend of the FY 2009-10 and actual load for the half year ending Sept'10. The sales in this category is declining on account of recession in steel & mining sector and local mining problem under Keonjhar District.

MU			
Sales	FY 2009-10	FY 2010-11 (Est)	FY 2011-12
Large Industry	500.383	416.157	445.342
Power intensive	74.210	66.907	66.362
Others	56.582	62.946	66.645
Total	631.175	546.010	578.349

EHT Category

The average sales growth is expected to be within 3 % for EHT category compared to the estimated sales of FY 2010-11 in spite of EHT Industrial consumers switching over to CPP like M/s FACOR Charge Chrome Ltd from FACOR Power Ltd., M/s Maithan Industry from its own CPP and drastic reduction in CPP consumers due to stability of CPP.

The summary of the sales for all consumer categories has been shown in table below.

Sales	MU		
	FY 2009-10	FY 2010-11 (Estt)	FY 2011-12
LT	1009.861	1300.338	1716.654
HT	631.175	546.010	578.349
EHT	1534.107	1756.866	1818.146
Total	3175.143	3603.214	4113.148

3.2. Power Purchase Expenses

The power purchase expenses have been derived based on consumption estimates and the distribution energy loss level. For the year FY 2011-12, energy input of 5685.756 MU has been estimated based on the estimated sale of 4113.148 MU and Distribution Loss of 27.66%.

Power purchase cost for the current year is Rs.1118.99 Crs and for the FY 2011-12 power purchase cost has been estimated at Rs. 1243.36 Crores with BSP @ 195 paise p.u. and transmission charges @ 23.5 paise p.u. SLDC charges @ 0.158 paise pu. has also been considered during the ensuing year based on approved quantum of current year. Further considering the above and additional load towards inclusion of BPL and APL consumer under RGGVY and BGJ, the licensee proposes a SMD of 780 MVA for FY 2011-12.

The Hon'ble Commission is requested to consider the SMD as 780 MVA for FY 2011-12 due to reasons cited above and considering actual SMD of 740 MVA during the month of Sep-10 of current year.

The licensee submits that SMD (MVA) projections for a year are estimated based on load mix, consumption patterns and other economic policies, and restricting the SMD of a Discom up-to a particular level without considering the proposal as above and imposing penalty thereof for drawl beyond the approved level, shall put the Licensee with higher financial burden.

3.3. Employees Expenses

Distribution of Electricity is an essential Service as well as a Public Utility Service. The utility within the parameters of statutory and regulatory frame work is required to ensure an efficient, coordinated and economical distribution system and to build, maintain and operate the system more systematically to combat the increasing load growth and to manage the system with competent and skilled personnel for technical and commercial advantage with customers care. So far the role of manpower is concerned; the objective behind the system is the best utilisation of manpower for reduction of T&D Losses, to ensure 100% of consumer coverage and to achieve the collection efficiency maximum within the ambit of parameter defined by the Regulatory body and Electricity Law. In order to meet the set targets, the Commercial and Technical activities are required to be addressed in right perspective and the responsibilities of the personnel in Distribution system are enormous.

The entire activities requires active involvement of employees of all categories for bringing efficacy in functioning of distribution system. They are to be involved in billing of all type of consumers, aggressive enforcement activities with scientific inputs and analytical tools for curbing energy theft through the concept of social audit, collaboration of NGO, Self help groups etc to create awareness, introduction of spot billing, introducing franchisee operation, surveillance activities, arrear collection, collection of current bills, enforcing MRT activities i.e. taking reading of 33 kv feeder, 11 kv feeders and all DTRs. They are to be involved in meter management and cubicles and in all other activities like survey squad, checking squad, dump analysis and HT maintenance etc. They are to be actively involved for maintenance of lines, substation, fuse calls for ensuring systematic power supply to different categories of power consumers. Above all the Employees have the role not to resort to any sort of work disturbances which erodes the performance standard of the organisation. They have to maintain industrial peace and to cooperate in all such progressive states for improvement of the performance standard of the organisation. Simultaneously Govt support is equally required.

The Salary of Executives is being revised in every 10 years and of Non-executives in every 5 years following the recommendations made by pay Commissions and accepted by the Govt. Accordingly the revised salary and pension is paid to the employees w.e.f 01.04.05 for non executives and w.e.f 01.01.2006 for Executives.

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In the previous ARR application the Licensee submitted that during the FY 2008-09 the revised pay scale was implemented and accordingly the employee cost for the year 2008-09 is Rs.269.51 Crore against the approved expenditure of Rs. 102.32 Crore. Therefore, the Licensee incurred Rs.167.19 Crore more towards employee cost over the approved amount. The major component of the additional employee cost required is higher contribution of Rs.166.07 Crore towards the employee terminal benefit trusts.

The Licensee proposes to allow the additional employee cost for the year 2008-09 over a period of 7 years starting from FY 2007-08. Therefore, the Licensee proposes to allowed the accrued expenditure for the FY 2007-08, FY 2008-09, FY 2009-10 and FY 2010-11 in the ARR of FY 2011-12. The detail is computed as under;

		Rs.Crore
(a)	Employee Cost as per Audited A/c	269.51
(b)	Employee Cost as approved by OERC	102.32
©	Additional Cost	167.19
(d)	For FY 2007-08, 2008-09, 2009-10 & 2010-11 assuming recovery in 7 yrs	95.54

After unbundling of GRIDCO and formation of NESCO as per OER Transfer Scheme Rules, 1998, all the personnel deployed in Distribution business were transferred from erstwhile GRIDCO. Initially at the time of NESCO, the nos. of personnel on roll was around 5500 nos which was inadequate and unevenly distributed to meet the functional requirement. Subsequently, by way of separation due to retirement, resignation death etc , there has been drastically reduction of manpower. During the FY 2004-05, the organization was restructured and reorganized by creation of new Divisions , sub -division and Sections with reinforcement of allied activities such as MRT , Energy Audit , maintenance of distribution transformers and vigilance activities. Main objective was to improve the 100 % of consumer coverage, reduction in Transmission & Distribution losses and to meet the Revenue collection target.

Hon'ble Commission approved Rs.147.58 crores for the year 2010-11. However taking into consideration the actual payment made during 1st six months of FY 2010-11, the licensee estimated an amount of Rs.214.19 crs is required to be disbursed during the current year. Accordingly, the licensee has estimated an amount of Rs.18.71 crs as additional employee costs to be incurred during FY 2010-11. Therefore the revised estimate of employee cost of Rs.214.19 crs may be considered for truing up of current year expenses.

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The details of the number of employees to be recruited and retired during the current year and the ensuing year is submitted in the following table.

NESCO Ltd.	Executive		Non-Executive		Total
	Technical	Non-Technical	Technical	Non-Technical	
As on 01-04-10	343	82	3206	456	4087
Recruitment during 10-11	23	17	650	566	1256
Retirement during 10-11	8	7	175	50	240
As on 01-04-11	358	92	3681	972	5103
Recruitment during 11-12	1	2	0	81	84
Retirement during 11-12	6	2	204	57	269
As on 01-04-12	353	92	3477	996	4918

Keeping in view the promotion, retirement, resignation and expansion of substations ,fuse calls, extension of LT lines and segregating the commercial activities from O&M as per Directives of Hon'ble Commission mentioned above, commercial activities, projected requirement of manpower as indicated above is imperative to be recruited in phased manner for FY 2010-11 and FY 2011-12 .

FY	Category	Nos. to be recruited	Financial impact (Rs lacs)	
20010-11	Executive	40	120.00	
	Non Executive	1216	1751.04	
2011-12	Executive	3	9.00	Include second year trainee of employees recruited earlier
	Non Executive	81	116.64	

No of employees retiring during FY 2010-11 and FY 2011-12 and saving on account of same are as follows:

FY	Category	Nos. of employees retiring	Saving on account of retirement (Rs lacs)
2010-11	Executive	15	11.25
	Non Executive	225	81.00
2011-12	Executive	8	6.00
	Non Executive	261	93.96

As regards to terminal benefits i.e. the contribution to the Pension Fund and Gratuity Fund and Leave Encashment has been proposed for the year 2011-12 based on the actuarial valuation done by M/s Bhudev Chatterjee as on 31.03.2010 and the projections provided for 2010-11 and 2011-12. It is assumed that the trend in the requirement of Terminal Benefit corpus for the year 2010-11 shall continue as for the year 2011-12. The details are given in OERC Form: F-21. While computing the contribution required by the Licensee to fund the

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employees trust, the Actual investments as on 01.04.2010, the estimated Investments as on 01.04.2011, the income from the investments during the year 2011-12 and the payments during the 2011-12 has been considered. The computation of the employee Terminal Benefit Trusts requirement for the year 2011-12 amounting to Rs. 31.10 Crore is stated in the following table.

PARTICULARS	VALUATION RESULT - ACC. LIAB AS ON 31-03-2010	PROJECTED - ACC. LIAB AS ON 31-03-2011	PROJECTED - ACC. LIAB AS ON 31-03-2012	DIFFERENTIAL FOR 2010-11	DIFFERENTIAL FOR 2011-12
PENSION	38381.22	40021.66	41392.93	1640.44	1371.27
LEAVE	3691.75	3864.16	4039.2	172.41	175.04
GRATUITY	3139.46	3390.61	3680.17	251.15	289.56
PROVIDENT FUND	226.53				
TOTAL	45438.96	47276.43	49112.3	2064	1835.87

PARTICULARS	BONDS & SECURITIES AS ON 01-04-10	INTEREST INCOME @ 8.00 % FOR 10-11	ESTIMATED PAYMENT DURING 2010-11	PROVISION FOR 2010-11
PENSION	7406.4	592.512	2577.36	3625.29
LEAVE				172.41
GRATUITY	2043.83	163.5064	916.074	1003.72
PROVIDENT FUND				263.75
TOTAL	9450.23	756.0184	3493.434	5065.16

PARTICULARS	FUNDS APPROVED DURING 10-11	ESTIMATED SECURITIES AS ON 01-04-11	INTEREST INCOME @ 8.00 % FOR 11-12	ESTIMATED PAYMENT DURING 2011-12
PENSION	4071.42	9492.97	759.43776	3608.304
LEAVE		0.00	0	0
GRATUITY	1041.58	2332.84	186.627392	1282.5036
PROVIDENT FUND		0.00	0	0
TOTAL	5113.00	11825.81	946.07	4890.81

PARTICULARS	FUNDS RECEIVABLE AS ON 01-04-2010	TRUST CORPUS AS ON 31-03-2012 (ESTIMATED)	PROJECTED - ACC. LIAB AS ON 31-03-2012	PROVISION FOR 2011-12
PENSION	29107.93	39377.32	41392.93	2015.61
LEAVE			4039.2	175.04
GRATUITY	691.50	2932.18	3680.17	747.99
PROVIDENT FUND		263.75	0	171.66
TOTAL	29799.43	42573.25	49112.30	3110.29

(II) Arrear Salary due to Sixth Pay hike to be allowed for recovery in ARR.

Each Year the licensee is filling the ARR and annual expected revenue before the Hon'ble Commission. This contains the details of the estimated expenditure and the expected revenue while the licensee recover in the ensuing financial year at the prevailing tariff.

Based on the application filed by the Licensee the Hon'ble Commission approves the Revenue vis-à-vis the cost. For every revenue generated there will be a matching cost component to it. In other words, every rupee comes from the Tariff will have a liability to pay the Power Purchase Cost, Salary, R&M, A&G, Depreciation, Interest on Loan, ROE etc.

The Govt. of Orissa has notified the 6th Pay Commission recommendation during FY2008-09. The revised salary/wages rate was duly approved by the Hon'ble Commission and taken into account in the ARR in the year 2009-10 & 2010-11. The impact of salary/wage revision although effected from 01.01.2007, but the revised current salary was given to employees in July'2009 for the current month. The revised salary for the year 2009-10 was only considered in 2009-10 approved ARR. The financial impact effecting from 01.01.2007 up-to 31.03.2009 i.e. arrear salary were not considered in ARR in the respective years and also in the subsequent year and thus remain un-recovered.

Hon'ble Commission directed Discoms to pay the arrear wages from the collections from the arrear revenue collection. As the provision was effected during FY 2008-09, the impact of pay revision for the period 01.01.2007 up-to 31.03.2009 remained as arrear salary for the employees. The aforesaid salary/wage are additional burdens but were never taken into account by Hon'ble Commission in previous ARRs. However, the arrear revenue were already factored against ARR of the respective year, in which arrear is created. Since every rupees comes from the revenue has a liability to pay, the incumbent directions of the Hon'ble Commission to pay the arrear wages/salary did not commensurate with the matching revenue. **The utilization of arrear collection for the arrear salary would make the Licensee defaulter in paying other corresponding outstanding liabilities. Therefore it is submitted to the Hon'ble Commission to allow the arrear wages and salary in the ARR.**

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The total employee expenses after capitalisation projected for FY 2011-12 is Rs.340.49 crores including the contribution required for the Terminal Benefits of the Trusts amounting to Rs. 147.44 crores, detail computation is as under

Terminal liabilities for 2011-12 (derived)	Rs 31.10 cr
Terminal liabilities for 4/7 th of differential amount not approved up to 08-09	Rs 94.90 cr
1/7 th of terminal liabilities allowed by OERC	Rs 21.44 cr
Total	Rs 147.44 cr

3.4. Administrative and General Expenses

The A&G expenses for FY 2010-11 is estimated at Rs.33.60 Crore based on actual expenses till September 2010 as against the approved A&G expenses of Rs 17.11 Crore including special additional expenditure of Rs.3.24 crs towards Customer Care, IT Automation, Special Police Station etc.

The Administration and General expenses for the ensuing year have been forecasted based on estimated expenses during FY 2010-11 in line with the Commission's earlier Orders, the increase in A&G expenses for the ensuing year has been projected by considering 7% increase over the approved A&G expenses for FY 2010-11 along with additional expenses Rs 26.34 cr The 7% increase is on account of inflation.

The A&G expenses for FY 2011-12 is projected at Rs 40.41 Crore.

3.5. Other Operational initiatives

Additional operational expenses under different heads are proposed by the Licensee as enumerated in the para above to improve the customer services and to comply with the various directives of the Commission as well as for reduction of losses. The various initiatives proposed by the Licensee during the ensuing year are summarised as under:-

- Operating expenses of Customer Care Centres in each Divisions of the Licensee area for enhancing customer services. Presently there are 2 nos customer care centre are operating in Balasore and Bhadrak.
- Introduction of Spot Billing in various divisions to expedite the meter reading, bill preparation and bill distribution and proposes to roll out this spot billing plan in all other divisions. The Licensee incurred Rs. 1.50 crore up to Sep-10 and estimated for the expenditure of Rs.2.71 crore & Rs.3.06 crs during the year 2010-11 and 2011-12 respectively. The Hon'ble Commission directed in the RST order for 2009-10 to allow the expenses towards spot billing as and when the licensee come out with the details

of the expenditures. The licensee has incurred actual audited expenditure of Rs.0.90 Crores in 2009-10 on this account. Under the circumstances the licensee is submitting for kind approval of the additional expenditure under this head for FY 2011-12.

- Introduced Energy Audit at 33 and 11 kV feeders and proposes to carry out in respect of at least 20 nos of DTRs in each section total 2920 nos of distribution transformer in entire NESCO area. Licensee submits that the activities of pole scheduling, consumer indexing activities are outsourced and the said the licensee proposed to allow the said expenditure keeping in view the large benefits of the Energy Audit and consequent loss reduction.
- Licensee proposes to conduct consumer indexing & pole scheduling of all the consumers for starting Energy Audit during the ensuing year.
- Automation of the operation and customer care activities through IT intervention is planned by licensee during FY 2011-12. The creation of the hardware related expenditure are covered in the capital expenditures during the ensuing year and the expenses like consumables etc for running the said system are considered in the A&G expenses.
- Increase Collection :In its endeavour to provide better consumer service, Licensee, besides establishing number of computerised Cash Collection centres, have stopped door to door collection and have increased the avenues of collection through Jana Seva Kendra of Govt. of Odisha. The number of e-seva kendra operating in the Licensees area are 160 nos.
- ONE TIME SETTLEMENT SCHEME:The licensees have submitted a petition on 18th Nov'2009 before the Hon'ble OERC for approval of One Time Settlement Scheme (OTS) under Regulation 113 read with Regulation 111 and 94 of OERC (Conditions of Supply) Code, 2004, which is registered as case no. 04/05/06 of 2010 for NESCO, WESCO & SOUTHCO respectively. The Scheme envisages collection of long outstanding arrears from non govt. consumers. The Hon'ble Commission has heard the matter on 28th Jan'2010, 12th Apr'2010 and finally on 3rd Aug'2010 and Licensee prays for the early award of decision before the approval of ARR 2011-12.
- **Development of Franchisee in Licensee Area**
 - a) Serious efforts are being made by the Licensee (WESCO/NESCO/SOUTHCO) in the direction of introduction of Franchisees in the Power Distribution Sector.

- b) So far Licensee have franchisees operating in 2316 villages covering 85876 consumer in Nesco, 1477 villages covering 54889 consumers in Wesco and 625 villages covering 52771 consumers in the Southco License area.
- c) Further, as regards efforts made towards institutionalization of Franchisees in the Licensee area, the oldest franchisee dates back to 2003-04 i.e. much before Franchisee introduction was made as a national campaign through RGGVY Scheme. We are constantly endeavouring for inducting more and more franchisees in the licensee area on different models. Input Base with revenue assured basis by all the Licensees were introduces in the year 2008. As of now Licensee have individuals, NGOs, WSHGs and Corporate bodies as Franchisees in the DISCOMs which are operating on different models.
- d) Action taken during 2010-11:
- i. With an aim to streamline the activities beginning from introduction of franchisee to monitor and oversee the operational support on regular basis a Franchisee cell has been created at the Licensee level and made operational.
 - ii. M/S Feedback Ventures were entrusted with assignment to develop Franchisees under the UNDP program. In First Phase 3 Subdivision/Section of Nesco covering 204 villages, 3 Subdivisions of Southco covering 806 villages and 4 Subdivisions in Wesco covering 657 villages were taken up. A Model was formulated and Franchisees selected through bidding process. Out of the selected franchisees NGO associated with SHG were also selected.
 - iii. In Second Phase development of Franchisees in five more Subdivisions/ Sections is currently in progress with the help of M/S Feedback Ventures under UNDP assistance in the Licensee area covering 580 villages in Nesco, 698 villages in Wesco and 427 Villages in Southco.
 - iv. Besides, Licensees have also appointed M/S Feedback Ventures as retainer for introducing Franchisees in 15 identified areas covering 3 Circles, 3 Divisions and 9 Subdivisions/ Sections, on different models, within 6 months period. With this total consumer coverage under Franchisee operation would be in the Licensee area will be 11431 villages (in 15 areas). The break up of the proposed area for franchisee development being 4298 villages in Nesco, 4814 villages in Wesco and 2323 villages in Southco area.

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- The Licensee proposes for payment of the incentives for the collection of the Arrears in the ensuing year.

In addition to normal A&G expenses, following additional expenses for aforesaid initiatives has been considered while projecting the total A&G expenses for FY 2011-12. The collection of arrears and current bills is assumed to be used to meet cash deficits during the year 2010-11, to the extent of collected amounts. The Licensee proposes to recover the operational expenses as stated below in the following heads in the ARR for the FY 2011-12 and the CAPEX to be made initially shall be capitalised.

Cess as per the Building and other construction Workers (RE&CS)Act, 1996 & Building and other construction Workers Welfare Cess Act, 1996

The Building and other construction Workers (RE&CS)Act, 1996 and Building and other construction Workers Welfare Cess Act, 1996 and Rules made there under to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measure and for other matter connected therewith or incidental thereto.

As per the provisions of the Act, the Licensee is required to 1% cess on the construction carried out during the year. Accordingly the Licensee proposes Rs.5.64 Crore of cess during ensuing year 2011-12.

Additional A&G Cost.

S.No	Description	Amount (Rs Lacs)
1	Expenditure for operation of 5 Nos. Police Station	227.09
3	Expenditure on Man Power Assessment	5.00
4	Expenditure in respect of Spot Billing	305.64
5	Expenditure for Pole Scheduling	0.00
6	Expenditure for Energy Audit (Dist. Transformer)	16.00
7	Expenditure for Consumer Indexing & Pole Scheduling	129.00
8	Expenditure for Customer Care Centre	30.00
9	Expenditure for Customer Satisfaction Survey	5.00

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10		370.50
	Expenditure towards incentive for collection based franchise	
11	Expenditure on input based franchise	302.49
12	Expenditure on Construction Cess	564.16
13	Expenditure on Inspection Fees	580.26
14	Expenditure on IT – Automation	99.12
15	Fringe benefit Tax	0.00
16	Sub total :	2634.26

Additional expenses for FY 2011-12 is projected at Rs 26.34 Crore taking into consideration of the above initiatives.

3.6. Repair & Maintenance Expenses

The distribution network requires regular repair and maintenance so as to ensure steady supply to consumers. The Hon'ble Commission in its Tariff order for FY 2010-11, have recognised the failure of distribution transformer and improvement of existing infrastructure and the need for regular preventive maintenance to avoid a major breakdown. The Licensee too plans for initiating R&M activities for reducing system downtime and the cost of unserved energy. Apart from this, the Licensee is bound to adhere to the guaranteed standards of performance as per the OERC (Licensees Standard of Performance) Regulations 2004. In this regard the licensee is undertaking the measures related to R&M like civil repair & maintenance, transmission & distribution lines repairs and maintenance, transformer maintenance and other repair & maintenance.

With regard to the R&M of the Assets created through funding of the RGGVY and BGJY schemes, Hon'ble Commission in para 369 of the RST order for FY 2009-10 had taken a view which is as under:

“ the State Govt should provide revenue subsidy to the Discoms to compensate for undertaking such non-remunerative works”

Discoms in various forums submitted before the Govt of Orissa to provide revenue subsidy, which is not provided to DISCOMs. In view of the above, the Licensee proposes to allow the R&M on the RGGVY & BGJY Assets so that the Licensee could maintain the Assets. In the event, the state Govt provides the revenue subsidy, the R&M of the corresponding year shall be reduced by the Hon'ble Commission. The Licensee shall not be responsible to the

maintainance of the RGGVY & BGJY Assets which has been entrusted by the terms of the agreements made by the GOO, GOI and DISCOMs, if the funds are not provided in the ARR.

The Repair & Maintenance (R&M) expenses for the ensuing year FY 2011-12 has been estimated on the basis of 5.4% of Gross Fixed Assets (GFA) at the beginning of the year. The opening GFA works out to be Rs 1419.58 crores, based on which the proposed R&M expenses is to the tune of Rs.76.66 crores.

The total R&M expenses for FY 2011-12 is projected at Rs.76.66 Crore

3.7. Provision for Bad and Doubtful Debts

In line with the Order of the Hon'ble Commission in Case No 8/2003 dated June 18, 2003 on setting guiding principles for determination of Annual Revenue Requirement of Distribution Licensees of the State on a long term basis, the Petitioner had filed their Annual Revenue Requirements considering actual collection of revenue during the Financial Year for FY 2004-05 to FY 2007-08. This was in accordance with the Hon'ble Commission's decision to employ AT&C loss as a benchmark to assess the performance of licensees during the Control period.

The Hon'ble Commission has also noted in the clause 5.3 of the RST Order for FY 2005-06 that

“For the first control period, the Performance Targets shall relate to the system losses and the collection efficiency for different consumer categories, along with the AT&C losses. The licensee will be expected to perform and improve its efficiency as per the overall AT&C targets fixed by the Commission.”

Though the Hon'ble Commission has set the AT&C performance targets for measuring, monitoring and controlling the efficiency of the operation of the Petitioner, the approval of the ARR and determination of RST for FY 2005-06 , FY 2006-07 and FY 2007-08, FY 2008-09, FY2009-10 for the DISCOMs is based on the distribution loss target and not based on the AT&C loss target. The Commission has considered the distribution loss target for ARR determination on the grounds that the AT&C loss shall serve as an indicator for the purpose of payment of incentive with reference to measurement of performance and penalty only. For the purposes of tariff determination, the revenue requirement of the DISCOMs has been determined based on accrual of revenue during the financial year based on the set target of T&D loss for the Financial Year without considering actual collection of revenue.

The Commission vide clause 5.4.8 of the RST Order for FY2004-05 had specified that the difference between the 100% collection efficiency and collection efficiency as approved by the OERC after provisioning of 2.5% of Accrued Revenue as bad debts to be treated as working capital requirements and carrying cost/interest on working capital has been allowed as a pass through in the ARR. The Petitioner is expected to arrange the working capital towards such gap in collection of revenue. The Hon'ble Commission had agreed to allow the carrying cost on such short term loans to meet working capital requirements. It is relevant to point out that AT&C performance benchmark has been successfully implemented by DERC for monitoring and controlling the performance and approving the Annual Revenue Requirement and Tariff of the privatised DISCOMs. The Petitioner submits to the Commission that employing a single performance measure for determining operational efficiencies and annual revenue requirements is essential to ensure the turnaround in the Orissa Power Sector by allowing the costs, which is due to the Petitioner. If the costs of the Petitioner are not met then the Petitioner will not be able to maintain the system and effect necessary improvements in the system to achieve the turnaround.

The Petitioner respectfully submits for the Commission's consideration that considering the past accumulated losses and huge liabilities, it would be extremely difficult for the Petitioner to arrange working capital finance to bridge the revenue gap, which would arise due to non-recognition of collection efficiency in determination of tariff.

The Licensee while estimating the ARR for FY 2011-12 has considered the revenue from sale of power on accrual basis in line with the Commission's Order on ARR and Tariff Petitions for FY 2005-06, FY 2006-07 and FY 2007-08. However, as it is difficult for Petitioner to arrange working capital finance due to continuance of huge accumulated Regulatory Gaps to bridge the gap of collection inefficiency, the Petitioner has considered the amount equivalent to the collection inefficiency as bad and doubtful debts while estimating the ARR for FY 2011-12. Considering the proposed collection efficiency of 98% for FY 2011-12, the bad debts of Rs.27.19 crs has been considered as part of ARR for FY 2011-12. The Petitioner humbly requests the Commission to consider the bad debts equivalent to billing to collection gap to enable the Petitioner to recover its entire costs after duly considering the performance levels.

3.8. Depreciation

Depreciation has been provided only on assets available at the beginning of the year and no depreciation has been provided on assets created during the year. The method adopted for calculating depreciation is Straight Line Method (SLM) at pre-92 rates.

The numerical details are given in OERC Form: F-35.

The depreciation for FY 2011-12 is projected at Rs.51.16 Crore.

3.9. Interest Expenses

The Licensee would like to submit that the assumptions with respect to outstanding loans and dues have been considered in line with the Commission's previous orders. The Hon'ble Commission on 28th February 2005 issued the Order on Approval of Business Plan of WESCO, NESCO, SOUTHCO and CESCO (Order passed in Case No. 115 of 2004). The Commission in its Orders has elaborated on treatment of past loans and outstanding dues. Further the Commission in its Orders on applications filed for Determination of ARR and Retail Supply Tariffs for subsequent FYs has also deliberated the treatment of outstanding loans and dues.

In the initial post privatization period, from April 1999, Licensee did not pay the BST bills in full; however, the Licensee started making monthly current BST payments in full from May-2002 onwards. With all receivables from sale of power being deposited by Licensee in the Escrow Account, no amounts remained with Licensee despite full payment of BST. Under such circumstances, Licensee filed a Petition before Hon'ble Commission on 23rd December 2002, seeking relaxation of the escrow mechanism. The relaxation was sought to the extent of payment of salaries to the staff, meeting O&M expenses and payments of statutory dues.

The Hon'ble Commission has passed a detailed Order dated 4th September 2003 in the said case wherein the DISCOMs were directed to submit a Business Plan. Though the Hon'ble Commission did not accept the Business Plan submitted by the DISCOMs, it issued the following directives:

- Directed the DISCOMs and GRIDCO to work out the outstanding BST bill dues
- Treatment of Delayed Payment Surcharge (DPS) should be in accordance with the formula adopted for securitizing the NTPC arrears.
- State Government and State Undertakings' dues be paid directly to GRIDCO to clear the NTPC arrears due on account of DISCOMs and the balance amount may be serviced directly by paying GRIDCO.

Hon'ble OERC, in its Order further clarified that the adjustment of the past dues would be guided by the stipulations in Clause 9 of the Escrow Agreement where arrears were proposed to be securitized and monthly bills were to be set off against current demands. Hon'ble OERC stated that the payment of staff salary cannot be withheld and the DISCOMs will retain the balance amount after meeting 100% BST bills of GRIDCO to meet staff salary payment and urgent O&M costs. Further, in case there is some shortfall in one month the

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same should be made good in the next month along with 100% current BST bill of that month, which is not followed by GRIDCO. All surplus collection of the licensee over and above current BST bills and Net Salary is being deposited in the GRIDCO account, thereby forcing the Licensee to default in payment of statutory dues to the employee trusts, payments to supplier liabilities towards R&M activities and interest/ principal repayments. For seeking further clarifications on the Hon'ble OERC Order, the DISCOMs filed a petition seeking clarification and Hon'ble OERC in its Order dated 22nd March 2004, opined as follows

“6.....On hearing both the parties and after perusing all the documents before us, the Commission as per Sections 10 & 11 of the OER Act, 1995 and also clause 57 of the Bulk Supply Agreement passed orders as under:-

Relaxation of Escrow for the previous four months requested by the DISTCOs may be done forthwith by GRIDCO to enable the companies to replenish funds diverted from other heads of account for meeting staff salaries etc. Surplus funds, if any, may be passed on to GRIDCO.

Once 100% BST bill is cleared by the three distribution companies, they will be entitled to retain the amount required to meet the expenses towards staff salaries, urgent O & M costs and statutory dues in consultation with GRIDCO as GRIDCO is a joint-venture partner and the CMD, GRIDCO happens to be the non-executive Chairman of the above three DISTCOs. Balance surplus amount is to be passed on to GRIDCO towards payment of dues on account of NTPC bonds. GRIDCO's loan amount etc. GRIDCO has to act as per clause 55 of the Commission's earlier order dated 04.09.2003.”

Subsequently revised Business Plan was submitted by NESCO. The OERC issued a Order on 28th February, 2005 on approval of revised Business Plan submitted by DISCOMs and specifically addressed the issue of restructuring of the liabilities under four heads:

- Outstanding BST dues and DPS
- Treatment of NTPC dues
- GRIDCO loan
- World Bank Loan.

In the said Order, the Commission directed that the securitisation of BST outstanding dues to GRIDCO payable by DISCOMs would be at zero percent interest rate and that the amount to securitized for each DISCOM was to be as on the date preceding when each Company started paying 100% BST bill of GRIDCO.

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NESCO filed the clarificatory petition on 14.03.2005 before the Hon'ble Commission on the moratorium period and the repayment period. The Hon'ble Commission passed an order on 20.07.2006 which interalia provides the following;

- i. The Discoms shall repay the outstanding loans including interest along with the securitised BST dues as on 31.03.2005 in ten years 120 monthly equal installments starting from FY 2006-07.
- ii. In case of default of monthly dues by the DISTCOs they shall liable to pay the Delayed Payment Surcharge (DPS) @1.25% per month.
- iii. The BST outstanding and the loan liability will carry 0% rate of Interest. At the same time the interest on the Bonds issued by GRIDCO against the power outstanding due to Gencos would be passed through in the BST.

The supplementary Order passed on 20.07.2006 provides the payment of installments of the GRIDCO loan liability and BST outstanding starts from 2006-07 failing which DPS of 1.25% per month is chargeable.

It was submitted that the Hon'ble Commission has already established a procedure for securitisation In matters pertaining to the sale of CESCO as decided in the order approving the transaction documents for the sale of the Central Zone Electricity Distribution and retail supply Utility. The said order specifies the opening balance sheet and terms and conditions for repayment of the liabilities of GRIDCO. The terms and conditions of repayment of GRIDCO Loan & BST outstanding is as under;

- i. **GRIDCO loan** liability would be repaid in **10equal annual installments after a moratorium of 5 years** from 01.04.2006. This carries interest rate of 0%.
- ii. **BST outstanding** would be converted into Zero coupon preference shares of **20 years maturity**, with a moratorium period of 7years and to be redeemed into 52 equated quarterly installments from 8th year onwards.

The Hon'ble Commission heard the said review petition and passed the clarificatory Order on 1st December 2008 and reiterated the same view on the scheme of securitized as stated in Order dated 20.07.2006. Additionally, in the said Order the Hon'ble Commission included the opening BST outstanding as on 1.4.199 and the Delayed Payment Surcharged upto the date of full payment of BST to be securitized. Therefore the Licensee is additionally burden by an amount of Rs. 19.60 Crore in opening balance.

The Licensee submits before the Hon'ble commission to allowed the Licensee to pay the amount of the securitized amount based on ability to pay basis considering the funds available with the Licensee. The Licensee proposed to allow the regulatory

assets equivalent to said default amount during the last 3 years which the Licensee shall recover and pay to GRIDCO during the ensuing year.

3.10. World Bank Loan

In line with the Commission's previous Orders, the Licensee has calculated the interest on World Bank Loan @ 13% as per the subsidiary loan & project implementation agreement with Government of Orissa, considering 30% of loan as grant and balance 70% as loan. The moratorium period and repayment period for the World Bank Loan has been considered based on the terms of the World Bank (communicated by World Bank to GoO vide its letter dated June 13, 2000). In line with these terms, the repayment period has been considered as 10 years with 20 equal semi-annual installments commencing from FY 2010-11.

For the ensuing year 2011-12, the interest liability is estimated at Rs 11.57 Crore and the repayment liability is estimated at Rs.9.13 Crore.

3.11. NTPC Power Bond

The Licensees (Wesco, Nesco & Southco) issued bonds worth Rs. 400 Crores in favour of GRIDCO / NTPC with effect from 1st October 2000 with interest @ 12.5%. In all its Orders, the Hon'ble Commission has considered the interest rate of 8.5% (tax free) on these bonds, in accordance with the recommendations of Ahluwalia Committee for restructuring of the dues of the Central Power Sector Undertakings. Further, the interest incentive of 19% of Bond amount to be received by GRIDCO from NTPC was required to be passed on to the DISCOMS by way of adjusting the same against reconciled outstanding BST bills of the DISCOMS.

The Hon'ble Commission in its RST Order for FY2008-09 vide para 382 also reiterated that the interest rate is to be allowed @8.5% on the following basis.

"382. As regards to one time settlement dues payable by GRIDCO to NTPC, covered under the power bond of Rs 400 crores issued by WESCO, NESCO and SOUTHCO to GRIDCO, both GRIDCO and NTPC came to settlement the extract of which is reproduced below :

The outstanding amount payable by GRIDCO to NTPC towards power purchase included a sum of Rs 400 crore as on 31st August 2000. Pursuant to the minutes of meetings dated 09.09.2000 and 24.10.2000, the three DISTCOMs (WESCO, NESCO and SOUTHCO) together issued 12.5% Secured Non convertible bonds of Rs 400 crore to GRIDCO and GRIDCO transferred these bonds to NTPC to liquidate its power purchase liability of Rs

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400 crore as on 31.08.2000. The DISTCOMS were to service the bonds directly to the bondholder. In case the DISTCOMs fail, as a fall back arrangement, NTPC was to have the first charge on pari-passu basis along with other first charge holders on the receivables of GRIDCO.

The three DISCOMs were not regularly servicing the bonds. The interest accrued up to 31st March 2007 on the Bonds of Rs 400 is Rs 295 crore. The three DISTCOMs have made payment of interest aggregating to Rs 110.80 crore only. NTPC adjusted Rs 276.70 crore which was to refundable to GRIDCO pursuant to CERC tariff orders, against the default of DISTCOMs which GRIDCO did not accept. NTPC issued notice for regulation of Power to GRIDCO for payment of outstanding dues linked to Rs 400 crore bonds on 17.01.2007.

In order to resolve the settlement of outstanding payments, meetings were held between GRIDCO and NTPC on 26/27.12.06, 09.02.07 (with Govt. of Orissa), 15.03.07, 20/21.03.07 and 24.03.07 (with Govt. of Orissa). After prolonged discussion, in order to reach a onetime settlement of NTPC dues, applicable exclusively between NTPC and GRIDCO, the following has been resolved:-

- i. GRIDCO will make onetime settlement of the entire power purchase dues payable to NTPC linked to the bonds of Rs 400 crore and ensure payment to NTPC by 31.03.2007.
2. AS a full and final settlement GRIDCO shall pay Rs 216 Crore (Rupees two hundred sixteen crore only) to NTPC by 31.03.2007 towards GRIDCO's Power Purchase liability payable by GRIDCO to NTPC covered under the bonds issued by DISTCOMs to GRIDCO and transferred by GRIDCO to NTPC, after considering adjustment of Rs 276.70 crore made by NTPC and the amount of Rs 110.80 crore paid to NTPC by DISTCOMs directly.
3. On receipt of full payment of the above settled amount from GRIDCO by NTPC, the entire bonds of Rs 400 crore issued by DISTCOMs to GRIDCO and transferred to NTPC by GRIDCO shall be re-transferred by NTPC to GRIDCO by 31st March 2007."

"It is revealed from the above that GRIDCO has settled the bond with NTPC in the following manner:

Table-42

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A. Original value of Bond Interest accrued from 01.10.2000 to 31.03.07	Rs 400 crore Rs 295 crore
Total (A)	Rs 695 crore
B. Settlement 1) Interest paid by DISTCOMs directly to NTPC 2) NTPC adjusted the refund amount the DRIDCO 3) Direct payment by GRIDCO to NTPC	Rs 110.80 crore Rs 276.70 crore Rs 216.00 crore
Total (B)	Rs 603.50 crore
C. Interest relief (A-B)	Rs 91.50 cr.(Rs 695 cr.-Rs 603.50 cr.)

It is observed from the above table that the interest actually paid to NTPC amounts to Rs 203.50 crore from 01.10.2000 to 31.03.2007 over a bond value of Rs 400 crore. The effective rate of interest computed is arrived at 7.83% whereas the Commission has been allowing interest @ 8.5%.”

“390 The Company Law Board is yet to fix a date for hearing of GRIDCO’s Application.

391. The Commission is aware that the matter is listed in Supreme Court (Civil Appeal filed by GRIDCO in BSP matter). The Commission therefore will take a final decision in this regard, after pronouncement of the judgment of Hon’ble Supreme Court in the said matter. As such, the Commission for the time being does not consider any interest on Rs.400 crore of bond to be included as a part of revenue requirement of DISTCOs so as not to burden the consumer as GRIDCO is being allowed interest on the loans taken for payment to NTPC.”

In this regard the Licensee submits that the Principal Bench of Company Law Board has passed its order dated 23rd September 2009 and held that there is no oppression and mismanagement by the Company and dismissed the Appeal filed by GRDICO. CLB has found that the adjustments made DISCOMs are based on the Subscription Agreement and subject to the OERC Order. The findings of the Hon’ble CLB is reproduced below;

“28. Regarding entries in balance sheet in respect of NTPC Bonds, it is to be noted that the Bonds have not been issued raising funds. They were issued against the due of the Company to GRIDCO on account of dues for bulk supply and also loans. The entire issue is found to be governed by a subscription agreement. Even though NTPC Bonds were subject to some orders by OERC, yet, from the Order of OERC dated 04.08.2008 I find GRIDCO had requested OERC not to deal with the same on the ground that both in respect of adjustment against the Bonds and also for recovery of the amount due on the bonds, GRIDCO would be agitating these matters before the Company Law Board.

29. The Company had issued bonds to the extent of Rs.130 Crores in terms of subscription agreement dated 25.09.2001 between GRIDCO and the company. GRIDCO had been given the right to transfer these bonds to NTPC. The issues of Bonds were styled as a private placement. the bonds were to be redeemed. The bonds were to carry an interest of 12.5% per annum, the interest being payable semi annual. The tenor of the bonds was 7 years. It is on record GRIDCO had transferred these bonds in favor of NTPC and later on NTPC had re-transferred these bonds in favor of GRIDCO after due to NTPC had been paid by GRIDCO. The grievance of GRIDCO is that the company has made certain adjustments against the bonds in its annual accounts for the period 2005-06. In schedule –III of the Balance Sheet, under the heading Secured Loan , while NTPC Bonds had been shown as Rs 130 Crores, an adjustment of Rs 453 crores had been shown as advance paid/adjusted. GRIDCO is questioning this adjustment on the ground that adjustment is not permissible in terms of the subscription agreement. Thus, according to GRIDCO, the Balance Sheet does not reflect the true and fair picture and as such this is an act of operation. Per se, it can not be held that incorrect entries in the balance sheet would amount to an act of oppression unless it is established with alleged wrong entries, the share holders are mislead for an ulterior purpose. In the present case, as I have already observed the bonds have been issued against the dues by the company to GRIDCO by way of an agreement and in guise of alleging that incorrect would be an act of oppression, GRIDCO expects me to examine the correctness of the entries. It would mean that I have to determine the correctness or otherwise of the entries taking into consideration the terms of the subscription agreement. Such an exercise is beyond the scope of the proceedings. Therefore GRIDCO is at liberty to agitate this issue before an appropriate forum. In other words, I do not find that an act of oppression has been established in this regard.

30. XXX

31. *In view of my findings above in relation to the allegation, I hold that GRIDCO has not established any case of oppression or mismanagement and as such this petition deserves to be dismissed. Since the allegations are similar on the other two petitions also, they also deserve to be dismissed.*

32. *Accordingly I dismiss all the three petitions*

The licensee submits that the matter of Power Bond is taken up by the Hon'ble Commission in the RST Appeal filed (759 of 2007) before the Hon'ble Supreme Court. GRIDCO may be directed to realise the settlement amount from the DISCOMs after adjustment of past payments/adjustments as per the Bond Subscription Agreement and passed directions to the Hon'ble Commission. As the Bonds were issued on the behest of GRIDCO to securitize the NTPC dues, after settlement of Bond dues, GRIDOC should not be allowed to profiteer at the cost of the consumers of Orissa.

The Licensee submits that the dispute on the Power bonds is a dispute between the Licensees and rightfully Hon'ble Commission has the sole jurisdiction to decide on the dispute under the provisions of EA, 2003 and OERA,1995.

In the meantime, the Hon'ble ATE allowed the Appeal No. 52, 53 & 54 of 2007 dated 8th November 2010 filed by the Licensee and in their judgement, Hon'ble ATE have directed for recovery of actual interest. The relevant para is reproduced below;

“17.
XX
XXXXXXX

In pursuance of this order, the State Commission had constituted an Inter-Ministerial Committee to resolve the outstanding issues between the GRIDCO and the Appellants with a view to facilitate the system up-gradation of the distribution sector in the State. One of the issues being considered by the said Committee is the issue of the “interest payable” in the said NTPC Bonds. It is pointed out that the report of the said Committee is awaited. In the light of the Minutes of the Tripartite Meeting held on 24.10.2000 and also the findings given by the Tribunal in the earlier Judgment dated 13.12.2006 and the fact that the GRIDCO continues to charge the interest @ 12.5% on NTPC bonds, we are of the view that whatever interest cost is payable by the Appellants to GRIDCO on the account shall be allowed as a pass-through in the Annual Revenue Requirement of the Appellants. This point is decided in favour of the Appellants.”

However, the Licensee submits the Hon'ble Commission to pass a suitable Order in this issue, else, allow the differential interest between 12.5% p.a. and 8.5% p.a. on this

bond amount from 1st October 2000 to March 2007 in the ARR for FY 2011-12. Accordingly, the Licensee has estimated the total interest of Rs.32.80 Crore towards the differential interest.

3.12. APDRP Assistance

For the ensuing year, no amount has been estimated to be expended under APDRP Scheme during the ensuing year. For the assistance already availed by the licensee previously, interest @ 12% p.a has been considered for the ensuing year on the existing loan. The amount towards interest is estimated is Rs 0.76 Crore

3.13. Capex Loan from Govt. of Orissa

During the ensuing year an amount of Rs.3.08 crs has been estimated towards Govt. of Orissa Capex plan loan. As per the scheme an amount of Rs.63.00 crs during the current year and Rs.28 crs during ensuing year will be disbursed by Govt. of Orissa for the above scheme. The rate of interest is considered @ 4% p.a for the ensuing year on the above loan.

3.14. Interest on System Improvement Schemes and counter part funding from REC/ IDBI for Govt. Capex Plan

The Licensee has existing loan of Rs.19.28 crs from REC availed for system improvement and counter part funding against APDRP. Further the licensee proposes to avail Rs.12.38 crs during the current year and Rs. 29.62 crs during ensuing year from REC/IDBI at interest rate of 13.5% p.a. The interest on such loan for FY 12 is estimated as Rs 5.22 Crores.

3.15. Interest on Security Deposit

Section 47(4) of the Electricity Act 2003 states that "The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security."

The OERC Distribution (Conditions of Supply) Code 2004, Regulation (21) also mandates the payment of interest on consumer security deposit, the manner in which it is to be administered and penal provisions for delay in making such payments.

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The licensees have calculated the interest on security deposit @ 6% on the closing balance of security deposit amount for FY 2011-12. The total interest on security deposit considered in ARR for FY 2011-12 works out to Rs 14.26 Crore.

3.16. Interest Capitalized

The interest on loan outstanding at the beginning of the year has been considered as revenue expense as a part of ARR. The interest on loan to be drawn during the ensuing year for capital works amounting to Rs.3.17 Crores has been capitalized.

3.17. Total Interest for Financial Year FY 2011-12

The total interest expenses estimated for FY 2011-12 is given in following Table:

Summary of Interest Expenses

1	World Bank	11.57
2	Power Bonds-Differential amount	32.80
3	APDRP	0.76
4	REC/IDBI-Counterpart & SI Scheme	5.22
5	Interest on Security Deposit	14.26
6	Govt. of Orissa Capex Loan	3.08
7	Other loan & Finance charge	5.00
8	Total Interest	73.36
9	Less Interest Capitalised	3.17
10	Net Interest for ARR	70.19

The total interest chargeable to revenue proposed by the licensee for the year FY 2011-12 is Rs.70.19 crores.

3.18. Amortisation of Regulatory Asset

The Hon'ble Commission in its Tariff Order has carried out the truing up exercise for the period from FY 1999-00 to FY 2005-06 for all DISCOMs based on the audited annual accounts. The Commission while re-computing the ARR for each financial year based on the audited accounts has followed different principles while truing up of each items. Different basis has been considered by the Commission while truing up for different licensees and while computing for different years as set out hereinafter. The DISCOMs object to the principles followed by the Hon'ble Commission while undertaking the Truing up impact to the DISCOMS.

The Petitioner had filed a Petition as directed by the Hon'ble Commission for recognition and acceptance of Truing up impacts (Regulatory Asset) for accumulated for the period from FY

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1999-00 to FY 2005-06 and its amortisation through recovery of tariff at a future date. The Regulatory Asset was attributable to unrealistic distribution loss level target fixed for determination ARR of DISCOMs and retail supply tariffs, non-recognition of collection efficiency, prudent expenses in excess of the revenue requirement, procurement of higher quantity of power and the price variance in power purchase, reduction in sale to consumers and Gap (Deficits) with respect to the revenue requirement approved by the Commission.

Hon'ble Commission heard the Licensee along with the respondents in the said application for the truing up on 24.07.2007 and directed the Licensee to submit further details, which has been submitted to the Hon'ble Commission on 12.09.2007.

Based on the Hon'ble Commission's ruling, the Petitioner understands that the Hon'ble Commission would admit the servicing cost of such securitised liabilities (i.e. interest payable) and repayment of such securitised liabilities as a component of subsequent ARRs. The Petitioner is in agreement with the observation of the Commission that the Regulatory Asset should be adjusted to the extent that the revenue requirement is recognised towards repayment of securitised liability in the approval of subsequent ARRs. The Commission's approval of pass through of repayment liability as a component of Annual Revenue Requirement is in effect an implicit approval of Regulatory Asset to the extent of quantum of securitised liabilities. This is so because the Liabilities would match the Assets in the Balance Sheet of a Company in any double entry accounting system. Such securitised liabilities (attributable to accumulated losses) on the Liability side of the Balance Sheet is represented by a Regulatory Asset (i.e. the accumulated losses) on the Asset side of the Balance Sheet.

The Petitioner would further like to submit to the Hon'ble Commission that the quantum of securitised liabilities does not fully represent the Regulatory Asset on the Asset side of the Balance Sheet. The Petitioner has additional accumulated liabilities towards statutory authorities and its suppliers which is also attributable to accumulated past regulatory gaps i.e. the Regulatory Asset being claimed by the Petitioner. The Petitioner respectfully submits to the Hon'ble Commission that repayment of such accumulated liabilities towards statutory authorities and its suppliers should also be allowed as a component of subsequent ARRs on the similar lines as that of securitisation of liabilities of GRIDCO. This in effect means that amortisation of Regulatory Asset to the extent of repayment of such accumulated liabilities should also be allowed to be recovered through subsequent ARRs.

Further, the Commission has ruled in clause 6.14.4 of the RST Order for FY 2005-06 *"...However, with collection of a part of receivables, the licensees will be able to wipe out the*

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outstanding liabilities, as evidenced from Audit Report. In view of the above, the Commission does not consider it necessary to allow the past loss or regulatory assets as claimed by the licensees.”

It respectfully submitted that petitioner has taken several steps and has been able to effect substantial improvement in collection efficiency from FY 1999-00 to FY 2006-07. The Petitioner has and would remain committed to the power sector in Orissa to bring about the improvements to the system..

It has been imperative to note that the collection efficiency in the State of Orissa was never more than 72% to 75% before privatisation of the power sector which has been improved to the extent of 94% in the Licencee area. It has been a widely known fact and recognized and accepted by various Committees constituted to study issues related to power sector in the country that it is a common practice across all State Electricity Boards (SEBs) to raise bogus bills at the year-end to show lower distribution losses. As a result the books of SEBs carries huge non-realizable and bogus receivables.

The Petitioner further submits that the past Retail Supply Tariffs were determined with deficit/negative clear profit and based on the unrealistic distribution loss level targets. The losses attributable to such deficit/negative clear profit and unrealistic distribution loss level targets do not represent the “Receivables” and the liabilities/Regulatory Asset cannot be adjusted against such receivables as directed by the Hon’ble Commission.

The Petitioner humbly requests the Hon’ble Commission to recognise, acknowledge and accept the Regulatory Assets claimed by the Petitioner and allow amortisation of Regulatory Asset through recovery of tariff in next Business Plan period to service the non-asset bearing liabilities.

The Petitioner has noted that the Hon’ble Commission has allowed GRIDCO to adjust its revenue surplus during FY 2004-05 and FY 2005-06 against its past-accumulated losses thereby signaling that the past accumulated losses in the Sector are allowed to be adjusted as and when the Sector is able to absorb such losses. Similarly the Hon’ble Commission has left the revenue from export of power for adjustment towards the past losses in the BSP order for the year 2006-07 and 2007-08, the Licensee submits that similar treatment may be rendered to the Licensee. Similarly the Hon’ble Commission allowed the amortization of the Regulatory Assets to the extent of Rs. 19crore during the FY 2009-10 which has been directed to be paid to GRDICO.

The Licensee reasonably expects that the Hon'ble Commission would also accept the claim of recovery of the Regulatory Assets to the extent cash requirement during the year 2009-10 keeping in view the issues raised herein above. Considering the magnitude of impact of the decision on the viability and sustainability of the Licensee, the Licensee respectfully requests the Hon'ble Commission to allow the Regulatory Assets so as to enable the Licensee to render best services to the consumers of Orissa as well as meet the dues of the creditors and statutory liabilities.

The Petitioner has only included Rs.21.11 crs towards amortization of Regulatory Asset to meet actual outstanding liabilities towards Payment of statutory dues payable to the Employee Trusts like Pension and Gratuity, interest on World Bank and APDRP Loan.

3.19. Payment of Past Statutory Dues

It is pertinent to note that due to various reasons attributable to the transfer process adopted by the Govt of Orissa at the time of corporatisation of Generation, Transmission and Distribution businesses and various other commercial, financial and administrative difficulties, Discoms were incurring losses from day one of the acquisition. As a result, Licensee was unable to pay all its statutory dues on time and outstanding dues due to non relaxation of Escrow by GRIDCO and as per the audited accounts as on 31st March 2010 is Rs 123.16 Crore towards pension and gratuity trust. The Licensee requests the Hon'ble Commission to allow 1/10th of the regulatory asset in the ARR for FY 2011-12 to meet the above. In addition to the above the licensee proposes to amortise 1/10th of the outstanding interest on World Bank Loan and APDRP Loan up-to FY 10 amounting to Rs 87.96 Crs in the ensuing year.

The total outstanding as on 31.03.10 towards statutory dues are as under to be meet from amortisation of the Regulatory Assets during FY 2011-12 amounts to Rs 21.11 Crore.

Amortisation of Regulatory Assets in FY 2011-12 (Rs in Crores)

S.No	Description	Amount
1.	Statutory dues towards trusts	12.32
2.	Interest Liability (World Bank & APDRP)	8.79
	Total	21.11

The Licensee humbly requests the Hon'ble Commission to allow amortisation of Regulatory Asset to the extent of Rs 21.11 Crore for FY 2011-12.

3.20. Non Tariff Income

The Licensee has proposed Rs 24.31 Crore as Non Tariff Income for the ensuing year FY 2011-12. The Licensee proposes to abolish meter rent for all the categories and hence not considered any income from meter rent.

3.21. Provision for Contingency

The Distribution system is more prone to natural calamities like cyclone, flood etc for which contingency provisions should be made, which has also been recognised by the Hon'ble Tribunal and the Tariff Policy. The Hon'ble Commission in its Order on ARR and Tariff Petition of Orissa Power Transmission Corporation Limited (OPTCL) for FY 2006-07, FY 2007-08, FY 2008-09 and FY 2009-10 has also approved the contingency amount of Rs 12.59 Crore, 10.49 crores, Rs 13.10 Cr and Rs. 9.08Crore respectively. Accordingly, the Licensee has considered the Contingency @ 0.375% of Gross Fixed Assets at beginning of the year while estimating the ARR for the ensuing year FY 2011-12. The Licensee respectfully submits to allow Rs.5.32 Crore towards provision for contingency for FY 2011-12.

3.22. Truing up of Revenue Gap upto FY 2009-10

The Hon'ble Commission provisionally computed the truing up impact upto the FY 2008-09 in the RST order for the FY 2010-11. The Licensee differed in the following points on the principle followed by the Hon'ble Commission for computation of the truing up impact.

That the Hon'ble Commission provisionally calculated the truing up figures in the tariff order dt.22.03.2007 for FY 2007-08 vide para 6.6. In the said order, the Hon'ble Commission had provisionally stated the truing up figures of DISCOMs were subject to finalization after discussion with all the stakeholders and directed the Discoms vide para 7.24.5 of the said order to file their comments of DISCOMs within 15th May 2007. Again, while approving the ARR of 2008-09, vide para 413 to 415 of the tariff order dated 20.03.2008, it was reiterated that the truing up figures calculated previously were provisional and that the same will be finalized after necessary compliance of different directives. That again while determination of the ARR of Wesco for FY 2009-10 vide para 400, Hon'ble OERC has stated that in continuation to the earlier truing up exercise the same has been updated up to 2007-08 on provisional basis based on availability of audited accounts of the DISCOMs. In para 476 of the ARR and RST order for 2010-11, Hon'ble Commission again provisionally updated the truing up upto 2008-09 in similar manner. The Hon'ble holds that the outcome of the order on the receivable audit have bearing on the income of GRIDCO and hence decided to undertake final truing up exercise after pronouncement of the final order on receivable audit for the Discoms. Thus for 4 consecutive years, in the absence of clear principles and guidelines truing up is done on a provisional basis leading to regulatory uncertainty, and as a result the DISCOMs are unable to recover such costs.

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That, it is most respectfully submitted that separate principles are being adopted for each element of cost and revenue for truing up purposes and that, there needs to have consistency in adoption of such principles as mentioned in the tables below:

Table - 50, Retail Supply Tariff Order for FY 2007-2008							
	FY00	FY01	FY02	FY03	FY04	FY05	FY06
Power Purchase Cost	Accepted as per Audited Accounts		As per audited accounts, power purchase costs accepted in full				
Distribution Losses	Audited Distribution losses accepted		Distribution losses as per Kanungo Committee filing	Audited Distribution Losses accepted for true-up; same as the benchmark accepted in the Business Plan Order		Benchmark losses as per the Business Plan targets accepted for true-up	
Sales	As per Audited Accounts		Estimated, as per actual power purchase and distribution loss as filed by the Distcos	Estimated as per the Actual Power Purchase Costs and benchmark distribution losses as per the Business Plan		Estimated as per the Actual Power Purchase Costs and benchmark distribution losses as per the Business Plan	

Based on the above mentioned principles, the Commission has derived the truing up requirement for NESCO and resulted in a shortfall of Rs. 253.94 Crore up to 2005-06.

Table-63, Retail Supply Tariff Order for FY 2009-2010									
	FY-00	FY-01	FY-02	FY-03	FY-04	FY-05	FY-06	FY-07	FY-08
Power Purchase Cost	As per the audited accounts, power purchase costs accepted in full								
Distribution Losses	Audited Distribution losses accepted		Distribution losses as per Kanungo Committee filing	Benchmark losses as per the Business Plan order accepted for true-up					

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Table-63, Retail Supply Tariff Order for FY 2009-2010									
	FY-00	FY-01	FY-02	FY-03	FY-04	FY-05	FY-06	FY-07	FY-08
Sales	As per Audited Accounts		Estimated, as per Actual Power purchase and D-Loss as filed by the DISCOMs	Estimated as per the Actual Power Purchase Costs and benchmark Distribution losses as per the Business Plan order					
Employee Cost	Allowed as per Audited actuals								
A&G Expenses	Allowed as per figures approved in the ARR								
R&M Expenses	Allowed as per Audited actuals								
Provision for bad and doubtful debt	Allowed as per figures approved in ARR.								
Depreciation	Allowed as per Audited actuals								
Interest chargeable to Revenue	Allowed as per Audited actuals								
RoE	Not considered as a part of true up								
Contingency reserve	Not considered as a part of true up								

It is respectfully submitted that in the RST order FY 2010-2011 dated 20.03.2010, Hon'ble Commission updated the truing up exercise upto FY 2008-09 on the basis of audited accounts of the licensee, but in a totally different method. The method followed during FY 2007-08 has not been adhered to and yet again the figures starting from the beginning i.e from FY 1999-2000 to 2008-09, has been done in a different manner. The outcome of such an exercise leading to constant changing of figures is as under :-

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As per RST Order FY 2007-08 dated 22.03.2007				
Financial Year	As per OERC	As per OERC	As per OERC	As per OERC
	ARR based on audited accounts	ARR considered for truing up	Total Revenue considered for truing up	Truing up requirement
(1)	(2)	(3)	(4)	(5)=(4)-(3)
FY 1999-00	406.87	369.35	304.50	(64.85)
FY 2000-01	436.83	382.01	328.13	(53.88)
FY 2001-02	470.31	409.29	325.78	(83.51)
FY 2002-03	503.00	378.89	366.87	(12.02)
FY 2003-04	477.79	405.55	387.34	(18.22)
FY 2004-05	576.64	542.68	480.03	(62.66)
FY 2005-06	583.96	548.84	590.05	41.20
	3455.40	3036.61	2782.70	(253.94)

In the hearing dated 14.05.2007 the above table revised as follows:-

Revised Table as per hearing dated 14.05.2007				
Financial Year	As per OERC	As per OERC	As per OERC	As per OERC
	ARR based on audited accounts	ARR considered for truing up	Total Revenue considered for truing up	Truing up requirement
(1)	(2)	(3)	(4)	(5)=(4)-(3)
FY 1999-00	406.87	370.52	304.5	(66.02)
FY 2000-01	436.83	384.24	328.13	(56.11)
FY 2001-02	470.31	414.98	325.78	(89.2)
FY 2002-03	503.00	396.06	366.87	(29.19)
FY 2003-04	477.79	423.28	387.34	(35.94)
FY 2004-05	576.64	560.87	480.02	(80.85)
FY 2005-06	583.96	554.17	590.05	35.88
	3455.40	3104.12	2782.69	(321.43)

Now in the order dated 20.03.2010 the truing up table represented as under:-

NESCO	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	Total Gap
Gap in Revenue Requirement	(35.25)	29.37	23.79	30.23	85.86	(53.10)	(3.50)	94.70	24.41	17.49	
Gap in Revenue from Sale of Power	(19.46)	(72.36)	(16.17)	(14.39)	(72.66)	7.39	80.48	(16.85)	60.28	57.73	
Total Gap (for the year)	(54.71)	(42.99)	7.62	15.84	13.20	(45.72)	76.98	77.86	84.69	75.22	
Add: Approved gap in ARR allowed by the Commission	(11.08)	(10.44)	(90.90)	(37.76)	(34.51)	(19.18)	(22.31)	(7.78)	0.07	1.45	
Gap considered for True up	(65.79)	(53.43)	(83.28)	(21.92)	(21.31)	(64.90)	54.67	70.08	84.76	76.67	

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Truing up for FY 2010-11

Particulars	Estimated	OERC approval	Difference
Sale – MU	3603.21	4176.3	-573.09
RST Per unit(Paise)	338.87	326.253	12.62
Sales - (Rs Crore)	1221.02	1362.53	-141.51
Less - Bad debts	36.63	13.14	23.49
Net Sales	1184.39	1349.39	-165.00
Other Income	34.66	41.72	-7.06
Total	1219.04	1391.11	-172.07
Distribution Loss	29.58%	18.46%	3.99%
Purchase –MU	5117.03	5122	-4.97
BST per unit(Paise)	218.68	218.68	0.00
Energy Charges(Rs. Crore)	1118.99	1120.07	-1.08
Employee Cost	214.19	147.02	67.17
Repair & Maintenance	39.92	37.22	2.70
A& G Expenses	33.66	17.11	16.55
Interest & Finance Charges	33.80	26.57	7.23
Depreciation	26.59	21.45	5.14
Special Appropriation	2.77	0	2.77
Total	1469.91	1369.44	100.47
Reasonable Return	10.55	10.55	0.00
Excess/(Deficit) before amortisation	-261.42	11.12	-272.54
Amortisation of Regulatory Asset	0.00	0	0.00
Net Excess/(Deficit)	-261.42	11.12	-272.54

Considering that the variation in estimated revenue and expenses during FY 2010-11 is due to reasons beyond the control of the Licensee, the Licensee humbly requests the Commission to allow truing up of estimated uncovered gap of Rs.261.42 Crore relevant to FY 2010-11 as part of FY 2011-12 ARR.

3.23. Reasonable Return

The Licensee submits that due to the negative returns (Gaps) in the ARR and carry forward of huge Regulatory Assets in previous years, the licensee could not avail the ROE over the years, which otherwise would have been invested in the Company for improvement of the infrastructure. As it is followed by various Commissions, the Licensees submits that the ROE to be allowed on the amount of the equity and the accrued ROE for the previous year. This would increase the availability of more funds for the consumer services.

Therefore, the Licensee has assumed reasonable return amounting to Rs.12.23 Crore as calculated @ 16% on equity capital including the accrued ROE as per the earlier Orders of the Hon'ble Commission.

3.24. Revenue at Existing Tariffs

The Licensee has estimated the revenue from sale of power considering the sales projected for FY 2011-12 and by applying the various components of existing tariffs. As detailed out in previous sections, the Licensee has adopted the approach considered by the Commission and estimated the revenue from sale of power on accrual basis. The total revenue based on the existing tariffs applicable for the projected sales is estimated at Rs 1359.38 Crore.

The details of estimated revenue from different categories of consumers at existing tariffs is provided in Form T-7&T- 8. The Licensee humbly requests the Hon'ble Commission to estimate the revenue for estimated sales at existing tariff by duly considering the category-wise and slab wise in the format prescribed by the Hon'ble Commission the tariffs applicable instead of projecting it by applying an average realization rate as the average realization rate does not take into account the impact of variations in sales mix on the estimated revenue. With the implementation of the RGGVY and BGJY Schemes the sales mix shall be further skewed to the LT subsidized category.

3.25. Summary of Annual Revenue Requirement and Revenue Gap

The summary of Annual Revenue Requirement, Revenue at Existing Tariffs and Revenue Gap for the ensuing year 2011-12 is provided below.

Revenue Gap

	Rs Crore
Expenditure including Special Appropriation in FY 2011-12	1854.77
Reasonable return for FY 2011-12	12.23
Amortisation of Regulatory Assets	21.11
Truing up of Revenue Gap for FY 2010-11	261.42
Sub Total	2149.53
Revenue from sale of power at existing tariffs in FY 2011-12	1359.38
Non Tariff Income	24.31
TOTAL REVENUE GAP (with existing tariff)	765.84

4. Principles of ABT Mechanism and UI

In the context of Principles of ABT Mechanism and UI, the licensee submits that Grid discipline is an outcome of complex interplay of demand and supply, effectively triggered by a pricing mechanism in the form of financial incentives or disincentives, recognized as the guiding spirit of Availability Based Tariff regime in India. Consequently the role of the DISCOMs in accurately matching of DISCOM Demand with generation availability is of considerable importance in determining the extent to which one benefits from the UI regime.

In March 2005 the Forum of Indian Regulators (FOIR) had constituted a Committee to make recommendations on implementation of ABT in intra-State systems. The above Committee has submitted its report to FOIR in November 2005, deliberating on the various aspects of the matter, and recommending implementation of ABT in intra-State systems. Some of Regulatory Commission has already considered the implication of UI to be passed on to constituent of the systems.

Licensee has in the past submitted constraints in implementation of ABT along with associated issues which need to be addressed by the Hon'ble Commission before the Intra State ABT is made implemented in the State. Licensee further submit that during the year 2010-11, Hon'ble Commission allocated month wise Energy Input of Licensee based upon the trend during FY 2006-07 to 2008-09. However in reality the month wise energy drawl by a Distribution Company may not be on a linear growth basis as it would depend on various factors, such as, uneven or exponential increase in the consumer base in any class of consumers (It is more pronounced in Bulk Consumers particularly), expansion of supply network, natural disaster, etc. Unless realistic allocation is made, either over or under drawl by the Distribution Company with respect to the allocation is likely to happen - which means additional burden on Licensee. Licensee therefore submits that energy allocation is made as per submission of Licensee subject to prudence check. To elucidate, this has been experienced by the Licensee during the current Financial Year when Hon'ble Commission allocated month wise Energy drawl for the Licensee less than the projected input by Licensee which caused over drawl (vis a vis allocation) by the Licensee in all the months even when State was having excess availability of power or was exporting power.

Ironically, for the higher drawal by Licensee over the approved quantity though it is below the proposed quantity by Licensee as well as availability of the State, GRIDCO is raising

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additional charges bills to licensee at a rate equal to high cost power purchased by GRIDCO from the Generators.

Further, on analysis it is noticed that all “minuses” are passed on to the Licensee and “pluses” are kept by GRIDCO as enumerated below.

Licensee further submit that due to under estimation of energy availability from Hydro / Thermal Generators the actual generation most of the time has been more than the approved quantum as well as total energy requirement of the state, thereby giving GRIDCO an unintended advantage to have sizable exports.

Even in case of Over drawl, it is also observed that the over drawal by State / GRIDCO at times has been at higher frequency and UI rate was much less than the highest BSP price. (Average UI rate of Rs 1.41 / Kwh for over drwal energy by GRIDCO during past few months are given in a table below) whereas Licensee is making payment to GRIDCO at Bulk Supply Price on entire energy drawn. Further GRIDCO is raising additional bill for highest cost purchase of power as Month end / Year end charges on energy and SMD without considering the lower cost of UI drawal and trading benefit due to excess generation by Generators not passed on to the licensee. The benefit of UI / Trading remains with GRIDCO. Further substantial benefit of UI earned by GRIDCO by injecting the excess power in peak hours to central grid has also not passed on to the licensee.

Details of UI Paid by GRIDCO from June to November

Week	Schedule MWH	Actual MWH	(+ Under Drawal / - Over Drawal) MWH	UI Received / Paid Rs in Lkajs	Rate Rs./Unit
28.06.2010 to 04.07.2010	121306	140081	-18775	(293.53)	1.56
05.07.2010 – 11.07.2010	134364	146103	-11739	(24.85)	0.21
19.07.2010 – 25.07.2010	123415	133526	-10111	(119.52)	1.18
09.08.2010 – 15.08.2010	101837	110807	-8970	(186.14)	2.08
16.08.2010 – 22.08.2010	106267	136692	-30425	(434.28)	1.43
23.08.2010 – 29.08.2010	107825	137888	-30063	(385.33)	1.28
30.08.2010 – 05.09.2010	112397	148845	-36448	(564.09)	1.55
06.09.2010 –	100805	160751	-59946		

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12.09.2010				(760.24)	1.27
13.09.2010 – 19.09.2010	104004	135631	-31627	(327.72)	1.04
20.09.2010 – 26.09.2010	104232	172158	-67926	(1,015.92)	1.50
27.09.2010 – 03.10.2010	107709	144277	-36568	(640.36)	1.75
04.10.2010 – 10.10.2010	115549	135661	-20112	(326.43)	1.62
18.10.2010 – 24.10.2010	145978	155899	-9921	(120.67)	1.22
08.11.2010 – 14.11.2010	138988	162321	-23333	(398.77)	1.71
Total Over Drawal			-395964	-5597.87	1.41
Source: ERPC website					

Therefore Licensee submits that the Input Energy allocation in respect of Licensee may be made on the pragmatically after prudent exercise before Intra State ABT is made applicable. Also a mechanism needs to be derived to pass on the marginal price benefit of UI to the Licensee.

Concluding, Licensee submits that ABT being primarily a relationship between Generator and DISCOMs, gain or loss under the ABT regime should be a pass through to the DISCOMs

5. Capital Expenditure Plan and Capex Related Expenses

5.1. Capital Expenditure Programme

NESCO proposes to invest Rs 535.38 Crore on capital expenditure schemes in the ensuing year including new schemes and ongoing schemes that have been carried forward from the earlier years.

The entire network of Licensee are as old as 30-35 years by the time, these were privatized in 1999. Most of the electrical networks are now almost 45 years old. After reform and restructuring of Electricity sector in 1996, Government subsidy has been withdrawn and no transitional support has been given to the sector. As a result there has been no infusion of funds to the Distribution sector leaving the distribution networks in a dilapidated condition. Since the period of reform the consumer base has doubled and due to ongoing Central sponsored RGGVY & State sponsored BGJY Schemes, another 10-12 Lakhs consumer would be added in Licensee's area which include both BPL & APL Consumers. But there has been hardly any upgradation and addition to the existing distribution asset during this period to keep pace with increased demand.

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The weak distribution network requires massive investments to the tune of Rs700 Cr. The benefit of 11th Plan R-APDRP Scheme has not been extended to Orissa State as it was privatized. So efforts were made at State Govt. level to reach the 13th Finance Commission, besides contemplating contribution of financial assistance by the State Government itself.

Finance Commission agreed to provide Rs. 500 Cr. for improvement of Distribution Sector as grant on the condition that matching equal amount is to be contributed by the State Government, DISCOM & GRIDCO in equal proportion.

Basing on the Finance Commission support, Govt. of Orissa has approved the investment proposal in four Distribution Companies of Rs. 2400 Cr. in distribution sector in coming four years. The above proposed includes Rs. 500 Cr. for 13th Finance Commissions support.

The focus of the work would be on system improvement to have a reliable system & the thrust area shall be reduction of AT & C Loss. The project covers

- (i) Replacement of LT conductors by AB cables in theft prone areas.
- (ii) Installation of Pillar Box metering system.
- (iii) Upgradation and replacement of Transformers to cater to additional load.
- (iv) Replacement of old Circuit Breakers with Vacuum Circuit Breakers (VCBs).
- (v) Replacement of faulty insulators wherever necessary.
- (vi) Replacement of existing weak LT/HT poles.
- (vii) Installation of new substation to improve voltage profile wherever needed.
- (viii) Re-conductoring in case of old lines with conductors of optimum size.
- (ix) Conversion of single phase into 3 phase system.
- (x) Earthing of substations.
- (xi) Installation of Lightning Arrestors.
- (xii) Complete Distribution Transformer Metering for energy audit purpose.
- (xiii) Provision of boundary wall/fencing wherever necessary around the S/S to ensure safety of the equipment and human lives and other such things.
- (xiv) IT Implementation

Funding mechanism:

Total Rs. 2400 Cr. have been proposed for the four Distribution Companies in coming four years. Out of which Rs. 1200 Cr. shall be funded from Govt. of Orissa which includes Rs. 500 Cr. from Finance Commission.

The detail bifurcation of fund from Govt. of Orissa is as below.

- (i) Rs. 500 Cr. from 13th Finance Commission
- (ii) Rs. 166.67 Cr. – matching fund of GoO (1/3rd) to Finance Commission with 4% Loan

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(iii) Rs. 166.67 Cr. – matching fund of GRIDCO (1/3rd) to Finance Commission with 4% Loan

(iv) Rs. 366.66 Cr. – States support against CAPEX with 4% Loan

Against the fund (i) and (ii) amounting to Rs. 666.67 Cr. released from Govt. of Orissa would be passed as zero percent interest loan to Discom, but after achieving the targeted AT & C Loss i.e. @ 3% per Annum cumulatively in the coming four years, the total amount would be converted to Grant from the zero percent interest bearing loan component.

There is a moratorium period of 05(Five) years for repayment of principal as well as interest against the fund released from Govt. of Orissa as mentioned.

Equal amount of fund is to be supported from the DISCOM part as counterpart fund i.e. to the tune of Rs. 1200 Cr. for all four Distribution Companies.

Company wise bifurcation of arranging counterpart fund is as below.

	Rs. in Cr.		
Financial Year	NESCO	WESCO	SOUTHCO
1 st Year	12.38	0.00	0.00
2 nd Year	29.62	39.00	41.00
3 rd Year	84.00	78.00	82.00
4 th Year	126.00	117.00	123.00
Total	252.00	234.00	246.00

Detail submission of DPRs by NESCO, WESCO & SOUTHCO:

Three DISCOMs had submitted DPRs of Rs. 2005.45 Cr. to Government of Orissa vide Letter No 508 dated 18.03.2010 as below.

NESCO – Rs. 679.99
WESCO – Rs. 664.74
SOUTHCO – Rs. 660.72
TOTAL - Rs. 2005.45

The same DPRs were submitted to OERC on 9th July 2010. After hearing detail of proposed activities as proposed in the DPRs, Hon'ble Commission has accorded the In principle Approval pending submission of detail DPRs year wise with Cost Benefit Analysis.

Further to the instruction of Govt. of Orissa vide Letter No.7991 dated 9.9.2010, it was instructed to all DISCOMs to submit the detail DPRs for coming two years DISCOM wise, Area wise with a submission to Hon'ble Commission for final approval.

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NESCO, WESCO, SOUTHCO submitted the detail DPRs for initial two years as below to Hon'ble Commission which was heard on 10.11.2010. A final approval by Hon'ble Commission was accorded to NESCO, WESCO & SOUTHCO for the amount shown below:

NESCO –	Rs. 189.00
WESCO –	Rs. 185.50
SOUTHCO –	Rs. 190.25
TOTAL -	Rs. 564.75

Capitalization & Impact on Tariff

The proposed capital expenditure as submitted by three distribution companies for the first year are as below.

First year proposed works

The fund is likely to be released to all three DISCOM during first week of January'2011 by which time all the formalities regarding procurement & execution orders would be finalized. It is expected that the proposed first year works would be completed by September'2011. So DISCOMs would transfer the works from work in process scheme wise taking consideration of actual expenditure incurred along with capitalization of interest, employee cost, over head expenses, Land, Buildings, equipments etc. to their fixed Assets.

REC Loan – II and IDBI Loan:

REC has sanctioned loan amount under System Improvement Scheme for procurement and installation of Over head conductors, LT XLPE Cables, Static Energy Meters, Single Phase & Three Phase Distribution Transformers and Circuit Breakers as follows:

Rs. in Cr.

Name of the DISCOM	Project Cost	Loan amount sanctioned
From REC		
NESCO	42.92	24.67
WESCO	50.76	29.17
SOUTHCO	8.52	4.89
Grand Total	102.21	58.74
From IDBI		
NESCO		20.00
WESCO		20.00
SOUTHCO		0
Total		40.00

IDBI Bank has sanctioned term loan of Rs. 20 crore, Rs. 20 crore, to NESCO, WESCO respectively for the above CAPEX programme with the following proposed terms.

1. Hypothecation of Proposed Assets and
2. 2nd Charge on Escrow on the Other Incomes which includes Security Deposit, Supervision Charges, Rebate on BST Bill payment, Meter rent etc. after serving of the REC loan installment.
3. Tenure- 7 years including 2 years moratorium for repayment of principal.

5.2. CAPEX UNDER RGGVY AND BGJ SCHEME:

RGGVY:

For Rajiv Gandhi Gramin Vidyutikaran Yojana, as per the scheme 90% of the project cost is to be treated as grant from Central Government and remaining 10% will be given as loan to Govt. of Orissa. Govt. of Orissa has agreed to repay this 10% loan of capital expenditure along with interest charges under RGGVY scheme. Thus, for Licensee entire 100% fund for RGGVY has been considered as 100% grant. In view of this, the Govt. of Orissa would be the owner of the assets created on the implementation of the project while Licensee will be responsible to operate and maintain these assets to provide power supply in the project areas and derive consequential benefits out of the assets created under the project

Capex of Rs.882 Crores sanctioned by MoP, Gol, New Delhi for implementation of RGGVY scheme in 9 districts of NESCO area. The scheme is currently under implementation in NESCO. The salient features of the scheme are detailed below:

TABLE

Sl No	Name of District	Cost Approved By REC in lakhs	Programmed for electrification in RGGVY				Total
			Villages			Hamlets	
			Un-Electri-Fied	De-Electri-fied	Electri-fied	Un-Electri Fied	
1	Balasore	15922.28	83	91	2445	2743	5362
2	Bhadrak	9427.04	151	138	953	2233	3475
3	Mayurbhanj	27572.16	1074	650	2029	372	4125
4	Keonjhar	18144.81	591	328	1157	2008	4084
5	Jajpur	17093.33	25	102	1248	1606	2981
Total		88159.62	1924	1309	7832	8962	20027

1. As per the RGGVY Scheme, MoP, Gol, New Delhi will contribute 90% of the funds as grant, whereas remaining 10% will be provided as grant by the State Government. The execution of the scheme will be undertaken by CPSUs viz; NHPC, NTPC and PGCIL.

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2. The total number of house-holds to be electrified will be approximately 7,97,956 numbers as detailed out in the following table.

Sl. No	Name of the District	No. of BPL Households Programmed to be Electrified under RGGVY Scheme
1.	Balasore	168238
2	Bhadrak	69203
3	Mayurbhanj	231889
4	Keonjhar	184865
5	Jajpur	143761
9	Total	797956

Out of the above, the electrification work pertaining to the Ganjam and Gajpathi districts have been approved in 10th 5-Year Plan and rest in 11th 5-Year Plan. Although the 10th 5-Year Plan is already over, but due to the certain reasons, implementation of 10th 5-Year Plan scheme is delayed and it is expected to be over by end of March 2011.

Accordingly, Nesco expects the addition of around 1,41,600 consumers, due to implementation of RGGVY will be added in the billing fold by March 2011,. However, according to the agreement assets so created will stands transferred to State Government and Distribution Companies will operate & maintain the system on behalf of State Government.

BGJ Scheme:

Under this scheme total no of Blocks will be electrified for NESCO is 68 nos. Per block the expenditure will be Rs.0.50 crore. Accordingly the licensee has considered Rs 34.00 Cr for FY 11-12.. The expenditure under this scheme will be borne by the Govt. of Orissa.

B. RAPDRP Schemes

The Govt of India has debarred privatised distribution utilities from availing the funds earmarked in the scheme for the 11th Plan period, therefore the Orissa DISOCMs are debarred. As understood, Govt of Orissa has taken up the issue with MOP, Gol for consideration of the Orissa DISCOMs for inclusion.

6. Tariff Proposal

As discussed in earlier sections, based on estimated Revenue Requirement and Revenue at existing tariff, the revenue gap for FY 2011-12 may be bridged out of Retail Supply Tariff hike, and Balance by combination of reduction in Bulk Supply Tariff, grant/ subsidy from the Govt. of Orissa.

Licensee submits that in the past due to inadequate tariff (revenue gap in ARR), Licensee faced financial crunch which had cascading effect on the performance of the Licensee, further worsening the financial health. During last 09 years up to 2009-10, the RST had not been increased rather decreased in some categories. However the distribution loss has gone up in line with inflation. The salaries and wages has gone up by 30% with revised pay. Besides annual normal increase of 8% to 10% of DA semi-annually. The Licensee submits that the increased financial strength should be shared between the Licensee with improve efficiency and the consumers with increase in tariff. Thereby the Licensee could be financial viable and improve the services to the consumers.

Change in slabs in the tariff of the LT Consumers

It is the view of the DISCOMs that increase in the slab rate for Domestic Category consumers from 100 units to 200 units consumption and 200 units above has led to have gaming by unscrupulous consumers so as to remain within the 100 units consumption level. The Licensee submit that the initial slab may be made up to 200 Units with enhanced Tariff.

6.1. Tariff Rationalization Measures

6.1.1. Computation of Overdrawal Penalty

However as of now, massive electrification on account of RGGVY and BGJ schemes and consecutive average performance of Hydel generating stations have pushed the state into a power shortage scenario in Orissa. While the average demand deficit is to the tune of 400 MW and peak demand deficit is 900 MW, necessitating the Hon`ble Commission to issue the Order (Protocol) dated 14.01.2010 on Load Regulation vide Section 23 of the Electricity Act. The order called for restricted use of electricity by all consumers. Although these restrictions stand rescinded, the massive addition of consumers which is literally going to be two times or more is unlikely to lead to a surplus generation scenario as in the past. The shortages are likely to persist. Under such circumstances, it is the submission of the licensee that the graded tariff provided to industries wherein consumption in excess of 50% of load factor was incentivised should be discontinued. Further the drawl up to 120 % of contract demand without penalty should also be withdrawn. The licensee proposes that a flat rate for

industries in its tariff proposal for FY 12 and permission of drawl up to 120% of the Contract Demand during Off Peak Hours should be withdrawn. In line with FOR recommendations, Load factor should be computed on the basis of Contract Demand basis only or MD or CD whichever is higher.

6.1.2. Delayed Payment Surcharge

Hon'ble Commission ordered in the RST Order that Delayed Payment Surcharge (DPS) is applicable in respect of the following categories of consumers. Hon'ble Commission decided that if payment is not made within the due date, Delayed Payment Surcharge is chargeable for every day of delay at the rate of 1.25% per month on the amount remaining unpaid (excluding arrears on account of DPS) in respect of categories of consumers as mentioned below:

- i) Large industries
- ii) LT/HT Industrial (M) Supply
- iii) Public Water Works
- iv) Railway Traction
- v) Public Lighting
- vi) Power intensive industries
- vii) Heavy industries
- viii) General Purpose Supply 110 KVA and above
- ix) Specified Public Purpose
- x) Mini Steel Plants
- xi) Emergency supply to CPP
- xii) Allied agro industrial
- xiii) Colony consumption

It is submitted that the Licensee is required to pay the Delayed payment Surcharge for all the units which may or may not drawn for the above categories if the BSP bill is not paid to GRIDCO and Transmission Charges to OPTCL. Mostly the bills which are not paid relate to the LT consumers and the aforementioned consumers for whom the DPS is applicable. The DPS is the instrument to encourage the consumers for payment of the electricity dues in time. If the DPS shall not be applicable to the consumers who are defaulting or deliberately not making payment, shall not yield the anticipated.

Therefore, the Licensee requests the Hon'ble Commission to order for applicability of DPS be levied on all the category of Consumers without any discrimination.

6.1.3. KVAH Billing for LT Consumers

In the previous tariff application for 2010-11 Licensee had submitted that one of the attributor for causing more MVA demand is because of the drawl of

more reactive load specifically by the **LT consumers who are drawing energy at a poor power factor and for whom no power factor penalty is applicable in the existing tariff**. Although the Hon'ble Commission has initiated DSM measures, in flattening the load curve by introducing TOD tariff for all three phase consumers that encourages consumers for more energy drawl during off peak period, but does not put any restrictions on reactive energy drawl. The power factor penalty/incentive is limited to only large consumers having a contract demand of more than 110 KVA while medium and other three phase consumers are exempted. The billing of such consumers for energy consumption is on KWh basis only. Therefore Licensee requested for introduction of KVAh base tariff for energy drawl for all the three phase industrial consumers receiving supply in LT and HT and for which presently no PF penalty is provided in the Tariff and whose meter is capable of reading KVAh component of energy. KVAh being a combination of both active and reactive load components can be a better reference to measure loads efficiently. Licensee also submitted few advantages of KVAH billing as under

- i) It will incentivise the consumers to improve the power factor by installation of capacitors at the load point itself, which would be the right practice
- ii) With the better power factor, the line loading shall be lower for the same KW requirement leading to lower transmission as well as distribution losses
- iii) KVAH system of billing will avoid manipulations, whatsoever

As far as licensee's preparedness with regard to measurement of KVAh component is concerned, it was also submitted that for measuring the KVAh energy, the licensee have already provided meters at the consumers premises for reading KVAh component directly in respect of Three phase consumers and thus would not require to compute the KVAh from KWH and KVArh.

The same was addressed by the Hon'ble Commission in the Tariff order for the FY 2009-10 and directed Licensee to provide a comprehensive proposal with data of static meters for detailed deliberation in the subsequent tariff filing. In this connection the details of availability of Static meters at the premises of three phase consumers have already been provided to the Hon'ble Commission the same is reproduced below .

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The impact of KVAH Billing over the KWH billing in the LT sector during October'10 is produced below:

NESCO

LT			in MU
CATEGORY	KWH	KVAH	DIFF
(j) Small Ind.	14.462	18.593	4.13
(ii) Medium Ind.	19.812	22.400	2.59
(iv) Commercial <20 KW	23.507	29.168	5.66
(v) Commercial >20 KW	25.348	29.372	4.02
Total	83.129	99.533	16.404

Licensee shall get additional revenue of around Rs.50.39 Cr. on account of KVAH Tariff.

OPTCL have filed an application before Hon'ble Commission as case no 126/2010 for determination of Reactive Energy Charges for FY 2010-11 under Regulation 4(5) (i) of OERC Determination of Open Access Charges Regulation ,2006 . In their application OPTCL prays for approval of Reactive Energy Pricing of **6 Paise/ KVARH** . Licensees have already submitted their reply . In the views of licensees unless a provision in tariff is made to claim additional charge from consumers towards reactive energy consumption by them, the additional burden comes on Licensees which is not accommodated in the Licensee's ARR. Further, looking to the present financial position of Licensees, shouldering further burden is unbearable

As per order of Hon'ble Commission dated 06.04.2010 in case no 22 /2009 regarding determination of Reactive Energy charges for FY 2009-10 it was directed by Hon'ble Commission in para -23 as follows:

" We direct OPTCL and SLDC to finalize install and put into Commercial Operation the required hardware and software for calculation of Reactive Energy Charges by SLDC by 15th June 2009.

we further direct SLDC to file its status of preparation of Reactive Energy Charges before us by 15th June 2009 by serving copy to all the respondent ."

That Licensees being conscious of the requirement in limiting Reactive Energy drawal, number of capacitors (Automatic Power Factor Correction Panel) have been installed during last two years as detailed below:

WESCO

			KVAR
1.	Bargarh Sub Division-II	- 38 Nos	1368
2.	Sohela Sub Division	- 34 Nos	1224
3.	Sambalpur Sub Division	- 18 Nos	648
	Total	90 Nos	3240 KVAR

NESCO

1. BED Balasore		
a. No III Section – 40 Nos		1440
b. No II Section – 30 Nos		1080
c. Gopalgaon Section -20 Nos		720
2. JtED Jajpur Town		
a. No -1 Section -30 Nos		1080
3. JrED Jajpur Road		
a. Chorda – 40 Nos		1440
b. Panikoili- 30 Nos		1080
4. KED Keonjhar		
a. No I section -50 Nos		1800
5. JoED Joda		
a. No I Section -50 Nos		1800

Total	290 Nos	10440 KVAr

Therefore Licensee request for introduction of KVAh base tariff for energy drawl for all the three phase industrial consumers receiving supply in LT and HT and for which presently no Power Factor penalty is provided in the Tariff and whose meter is capable of reading KVAh component of energy. KVAh being a combination of both active and reactive load components can be a better reference to measure loads efficiently.

6.1.4. Applicability of Power factor Penalty

The Hon'ble Commission ordered for continuance of the power factor penalty as a percentage of monthly Demand Charge and Energy Charge on the following categories of consumers:

- i) Large Industries
- ii) Public Water Works (110 KVA and above)
- iii) Railway Traction
- iv) Power Intensive Industries
- v) Heavy Industries
- vi) General Purpose Supply
- vii) Specified Public Purpose (110 KVA and above)
- viii) Mini Steel Plants
- ix) Emergency supply to CPP

Till such time the KVAH billing approach is adopted, the Licensee proposes for applicability of the power factor penalty and Power factor incentive for the following category of consumers in order to bring more efficiency in power system operations

	LT Category
1	L.T. Industrial (M) Supply
2	Public Water Works and Swerage Pumping >22 KVA
3	L.T. Industrial (S) Supply
4	Specified Public Purpose
5	Agro Industrial Activity

	HT Category
1	Specified Public Purpose
2	General Purpose < 110 KVA
3	H.T. Industrial (M) Supply
4	Agro Industrial Activity

6.1.5. Demand Charges for Consumers having Contract Demand >70 KVA through HT Voltage Supply

Under the existing tariff structure approved by the Commission, the consumers having contract demand of 70 KVA and above and below 110 KVA are being charged under the category HT Industrial (Medium Industry) and HT General (Commercial). The tariff applicable for this category is Rs 50/kVA towards demand charges and 300 paise/kWh towards energy charges under HT voltage of supply. Whereas a consumer having contract demand of above 110 KVA supplied through HT voltage are being charged under the category Large Industry and tariff applicable for this category is Rs 200/KVA towards demand charges (with minimum 80% contract demand charges) along with 300 paise/kWh towards energy charges which makes disparity between the consumers with contract demand above 110 KVA and connected load 70 kVA having same voltage of supply

To make it in non-discriminatory, the Licensee proposes that the same demand charges shall be applicable for the consumers having contract demand 70 KVA and above. However, at this stage the Licensee has calculated the Revenue based on the existing tariff. In case the Licensee's proposal is accepted the impact of the same should be considered while approving the revenue for the ensuing year FY2010-11.

It is further proposed that the provisions of the tariff applicable to Large Industries should be made applicable to the above consumers.

6.1.6. Emergency power supply to Captive Power Plants (CPP)

Licensee submits that Clause 80 (15) of OERC (Conditions of Supply) Code 2004 provides for emergency supply of power which is stated as under

(15) Industries owning Generating Stations and Captive Power Plants availing Emergency Supply only. This category relates to supply of power to industries with generating stations including Captive Power Plants only for start-up of the unit or to meet their essential auxiliary and survival requirements in the event of the failure of their generation capacity. Such emergency assistance shall be limited to 100 % of the rated capacity of the largest unit in the Captive Power Plant of Generating Stations “

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In the meanwhile, a large number of industries have opted for their own captive generating plants while cross subsidised consumers have increased manifold times. The number of industries opting for their own captive generating plants are as under.

NESCO

- Jindal Stainless Steel with a Contract Demand of 50 MVA have set up a CGP of 125 MW.
- Orissa Sponge & Iron Ltd with a Contract Demand of 4 MW has set up a CGP of 12 MW
- Tata Sponge & Iron Ltd with CD of 6 MW against installed capacity of 26 MW
- Emami Paper Industries with CD 14 MW against installed capacity of 25 MW

WESCO

- M/s Vedanta Resources with a Contract of 60 MW
- Bhushan Steel and Power Ltd with a contract demand of 100 MW
- M/s SMC Ltd . with a contract demand of 5 MVA

In the environment of power shortage which prevailed during the current year for quite some time the drawal of the state as a whole was more than the availability all through the day . when the average shortage in demand during morning peak (5.30 to 13.45 hours) was 500 MW and peak (17.30 to 22.00 hours) average shortage was 100 MW, the sudden requirements for emergency supply to CPPs become difficult to meet. Further, the cap on energy drawal of each discom and the likely penalty on account of overdrawl is making it difficult to meet the emergency requirements of the CPPs. Moreover, there have been instances wherein industries availing such emergency supply have been found utilizing the quantum towards normal production.

Therefore it is the submission of the Licensee that there should be a clear distinction between start up loads and essential / survival loads.

Start up Load Requirements - The quantum of energy to be used for emergency supply for start up loads should be scientifically determined based on the age of the industrial plant, size of the industrial plant, technology of the unit. It has been estimated that the start-up power required for CPPs is around 10 to 12 % of the rated capacity of highest unit and Hon`ble Commission is requested to frame norms/ guidelines for estimation of such requirement..

Essential or Survival Load Requirements - It is suggested that for consumption in excess of 10 % load factor, the tariff to be paid should be same as that of the prevailing industrial

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tariff as applicable. and that the Industries should execute agreement with Distribution Licensees. In light with the 'emergency' nature of the supply it is suggested that there should be provisions for disconnection of supply in case the consumption is in excess of 10% of the load factor for two consecutive months. The licensee suggests the introduction of **Demand Charges of Rs 100 / KVA** in addition to Energy Charges for Star-up power .

Following Industries have opted for their own Captive generating plants and have reduced their contract demand presently availing power from Licensees at Industrial Tariff and paying demand charges. Most of them are also selling their surplus power either to GRIDCO or directly to Licensees.

NESCO

- M/s Nilachal Ispat Nigam Ltd .
- M/s Mideast Steel Ltd.
- M/s Pattnaik Steel & Power Ltd.
- M/s Shree Metallick & Power Ltd.
- M/s Deepak Steel & Power Ltd.
- M/s Hima Ispat Ltd.
- M/s Kalinga Iron works Ltd.

WESCO

- M/s Vedanta Lanjigarh
- M/s MSP Metallick ltd .
- M/s Shyam DRI Ltd .
- M/s Hindalco Ltd.
- M/s Aryan Ispat & Power Ltd .
- M/s Viraj Steel & Energy Ltd.

For instance, in Chattisgarh, there is a two part tariff for start-up power for generators at 400/220 /132/33/11 KV which is as under

- *Demand Charge being Rs 150 / KVA/month*
- *Energy Charge being Rs 3.20 per Kwh.*
- *The Conditions for start-up power consumers are that –*

- *Contract Demand shall not exceed 10% of the capacity of the highest capacity generating unit of the generating station.*
- *Drawal of power shall be restricted to within 10% of load factor in each month. In case the load factor in a month is recorded beyond 10%, the demand charge shall be charged at double the normal rate. Supply can also be disconnected if the monthly load factor exceeds 10% in any two consecutive months.*

Tariff for start-up power for CGPs as proposed by the Licensee is as under

1. Tariff

Category of Consumers	Demand Charges Rs / KVA/ Month	Energy Charges (Rs per Kwh)
EHT Consumers	100	5.10
HT Consumers	100	5.30

2. Condition for Start-up Power Consumers.

(i) Industries having CGPs to avail Start-Up power their Contract Demand should not exceed 12 % of the capacity of the highest capacity Generating units of the CGP. Consumers have to enter into an agreement with the concerned DISCOMs subject to technical feasibility and availability of required quantum of power/energy.

(ii) Drawal of Power shall be restricted to within 10 % of load factor in each month.

(iii) If drawal of power in a month recorded beyond 10 % of load factor the Demand Charge and Energy Charge will be charged according to Industrial Consumer Tariff .

6.1.7. Discontinuation of Load Factor Incentive

Rationale for Withdrawal of Incentive Tariff.

From time to time, Hon`ble OERC has been consistently stressing through various orders, about the need to adopt demand side management measures. For the purposes of better utilization of the system capacity in a surplus power situation and the need to retain the subsidizing consumers from migrating to their own CPPs, it was thought necessary to provide incentives to industries for maximizing consumption. Accordingly it was thought necessary for flattening of the load curve. Under such circumstances, consumers exceeding the contract demand outside the peak hours actually helped the system by flattening of the

load curve. To facilitate such demand side management, consumers were allowed to overdraw outside the peak hours up to 120% of the contract demand, without penalty. Additionally this also helped maintain a stable frequency regime.

However as of now, massive electrification on account of RGGVY and BGJ schemes and consecutive average performance of Hydel generating stations have pushed the state into a power shortage scenario in Orissa. While the average demand deficit is to the tune of 400 MW and peak demand deficit is 900 MW, necessitating the Hon`ble Commission to issue the Order (Protocol) dated 14.01.2010 on Load Regulation vide Section 23 of the Electricity Act. The order called for restricted use of electricity by all consumers. Although these restrictions stand rescinded, the massive addition of consumers which is literally going to be two times or more is unlikely to lead to a surplus generation scenario as in the past. The shortages are likely to persist. Under such circumstances, it is the submission of the licensee that the graded tariff provided to industries wherein consumption in excess of 50% of load factor was incentivised should be discontinued. Further the drawl up to 120 % of contract demand without penalty should also be withdrawn. The licensee proposes that a flat rate for industries in its tariff proposal for FY 12 and permission of drawl up to 120% of the Contract Demand during Off Peak Hours should be withdrawn. **In line with FOR recommendations, Load factor should be computed on the basis of Contract Demand basis only or MD or CD whichever is higher.**

6.1.8. Fixed Charges for LT Industrial (S), LT Industrial (M), Specified Public Purpose and Public Water Works

Currently the Monthly Minimum Fixed Charges /Demand Charges for LT Industrial (S) and LT Industrial (M) is fixed on the basis of connected load in terms of kW, However as per Regulation 80(8) and (9) of OERC Distribution (Conditions of Supply) Code, 2005 , the Contract Demand for these consumers is to be treated in KVA. These consumers having motive loads are maintaining low power factors and as per Regulations the Licensee can disconnect power supply if the Power Factor falls below 60%, which imposes a burden to Licensee in terms of increase in Demand Charges. Therefore, the Licensee is of the view that the Fixed Charges for these categories should be levied on the basis of Contract Demand in terms of KVA instead of kW for arresting the low power factor as well as for compensating for higher drawl in KVA demand.

6.1.9. Tariff for Medium Industries Consumers

Most of the Medium Industries in WESCO are Ice factories, Rice Mills and Crushers & cashew nut processing units which are situated in suburban as well as in costal areas.

Lengthy L.T lines are extended to cater the needs of the consumers. There are huge transmission losses in the L.T system apart from frequent occurrence of electrical accidents. The Licensee is also restrained for changing the mode of supply as the consumers usually do not come forward for installation of their own substations. Hence the tariffs for Medium Industries may be considered at par with general purpose. Consumers so that it will indirectly incentivise them to take connection at HT to avail the benefit of tariff. In such a situation the Licensee will be absolved from the responsibility of maintaining L.T network and it will also help in providing quality supply to consumers.

6.1.10. MMFC for Consumers with Contract Demand <110 KVA

As per the current tariff structure, the Monthly Minimum Fixed Charges are to be levied to consumers with contract demand less than 110 KVA on the recorded demand rounded to nearest 0.5 kw requiring no verification irrespective of the agreement. This adversely affects the Licensee in case of the recorded demand is lower than the contract demand/connected load. The Licensee proposes that the Monthly Minimum Fixed Charges for such consumers shall be levied at Contract Demand or Maximum Demand whichever is higher.

6.1.11. Security Deposit for providing meter and metering installations

As mandated by OERC Distribution(Condition of Supply)Code, 2004 the Consumers are having the option to procure the meter either from the vendors certified by the licensee conforming to it's technical specifications or request the DISCOM to supply the meter and charge meter rent as per the tariff order. The relevant provision of the OERC Distribution (Condition of Supply) Code, 2004 is as under;

“56. (1) The licensee shall supply the meter (unless the consumer elects to supply the same), cut-out/ MCB / CB / load limiter to consumers at the time of providing new service connection or at any other time as required.

(2) In case of new connection/replacement of meter, the consumer, in accordance with Sections 55 and regulations framed under Section 73of the Act, may himself procure the meter either from the vendors certified by the licensee conforming to licensee's technical specifications or requests the licensee to supply the meter and charge meter rent as per the tariff order. The licensee shall calibrate such meter at consumer's cost and seal the meter. The consumer shall have the option to get the meter calibrated in any standard testing laboratory of the Electrical Inspector.

Alternatively, consumer may choose to pay the full cost of the meter provided by the licensee. No meter rent shall be chargeable in such cases.”

The Hon'ble Commission is aware of the fact that the Licensee is suffering huge cash crunch and does not have escrow relaxation for the Capex programs like meter procurement and installation. Licensee is facing the liquidity problem even to procure the meters for supply to the Consumers and recover the cost over a period of 10years through meter rents. Licensee neither has investible rating nor have the required security like escrow on revenue and/ or the charge on the existing assets, for raising the loans from the Banks/FI for such metering programs. In fact, as the Hon'ble Commission is aware, Licensee did arrange sanction from REC for the metering projects under the SI scheme which could not be availed due to the non-availability of the asset security.

In view of the above liquidity problem, the Licensee is alternatively requesting the consumers to pay the full cost of the meter provided by the Licensee and accordingly, no meter rent is chargeable. Consumer shall replace the meters in event of defects or corrosion of meters. This is also beneficial to the consumers as the cost of procurement and supply of meters by the Licensee is much less than the market price at which consumer would have purchased. This is because the Licensee has economy of scale and the professional procurement procedure is followed.

3. The Electricity Act, 2003 provides for collection of security from the consumer for the price of the meter unless the consumer elects to procure the meter. The relevant provision is as under;

“ 47. (1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as determined by regulations, for the payment to him of all monies which may become due to him -

(a) in respect of the electricity supplied to such persons; or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to person, in respect of the provision of such line or plant or meter, and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply or to provide the line or plant or meter for the period during which the failure continues.”

“55. (1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with regulations to be made in this behalf by the Authority:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter.”

4. The Licensee is authorized to collect the security deposit amount determined by the Hon'ble Commission. The relevant provisions in the OERC Distribution (Condition of Supply) Code, 2004 on the collection of security deposit for the meter installation is reproduced below;

“19. (5) The licensee may require any consumer to give him reasonable security as shall be approved by the Commission for the payment to him of all monies which may become due to him where any electric line or electrical plant or electric meter is to be provided for supplying electricity to such consumer, in respect of the provision of such line or plant or meter.”

The computation of the security deposit is done as per the formula mentioned in the clause **19(2)** in the OERC Distribution (Condition of Supply) Code, 2004 which does not include the price of the meters.

It is also pertinent to mention here that the security deposit is kept with the Licensee for adjustment against the unpaid bills. As the meter cost is not included in the security deposit, in the event of disconnection; mostly the meters are also destroyed and the cost of the meter and metering equipments could not be recovered.

At present, Licensee is procuring the meters viz. Rs.1099/- per single phase meter including the meter boxes from different manufactures conforming to the metering regulation of CEA. In view of the above, Licensee submit before the Hon'ble Commission to approve the security deposit amount equivalent to the price of procurement of the different types of meters, metering equipment, boxes/ cubicles, supply and installation cost as per the regulation 13(1) of the OERC Distribution code,2004, if the consumer requests the licensee for supply of meter. With security deposit available, Licensee shall replace the meters in event of defects or corrosion of meters.

6.1.12. Billing of Lift irrigation Points.

Hon`ble Commission in the 5th Amendment OERC (Conditions of Supply) Code 2004 vide clause **80(5)(i)** have reclassified the existing category as per specific activities. Accordingly, **Irrigation Pumping and Agriculture** pertains to category relating to supply of power for

pumping of water in lift irrigation, flow irrigation and for lifting of water from bore-wells, dug-wells, nallahs, streams, rivulets, rivers, **sumps** exclusively for agricultural purposes.

It is gradually observed that the usage of electricity through LI points is largely seasonal in nature and restricted to period starting from October to April of the next year.

The drawal of during the period of October to April is high as compared to the period of May to September.

The licensees submit that during the periods of April to September, electricity consumption by LI points is drastically reduced and monthly energy bills are mostly towards payment of fixed charges only. With large scale tampering of meters at the start of the season, the consumption during the "off-season" forms the basis for billing during "on-season period" and actual consumption stands unreported. The problem is accentuated further, with LI points being situated in remote areas thereby making metering of these points a long drawn process.

The licensee submits that the LI point consumers should undertake to safeguard the meter from damage and that in the event of their malfunctioning there should a levy of a flat rate. Taking into consideration, the number of working hours (generally the running of LI points is 12 hours/day i.e. L.F. at 50%) it is proposed that in case of defective meters/no meters, LI point consumers are required to pay a flat rate of Rs 400 per month per HP for the "on season' period , starting from October to April of the next year.

It is further submitted that to improve the power factor for such LI points the installation of capacitor should be made mandatory for existing and new connections.

6.1.13. Demand Charges and Monthly Minimum Fixed Charges

The Licensee submits that 90% of the Distribution costs are fixed cost in nature. The distribution cost of the License which is a fixed cost has increased many folds during the recent years, the said cost normally required to be recovered from the Demand Charges. The fixed cost of the power procurement by way of payment towards capacity charges has also increased during last few years. The revenue recovery on account of the demand charges and monthly minimum fixed charges is approximately Rs.155 crore for the ensuing year at the existing tariff whereas the fixed distribution cost is around Rs.532 crore (Employee cost, R&M, A&G and Interest cost) which is more than double the amount recovery.

In view of the above, the Licensee proposes to recover the full fixed distribution costs by suitably revising the Demand charges and monthly minimum fixed charges as

proposed in earlier section , as applicable to the respectively category during the ensuing year.

6.1.14. Annual Inspection Fees of Lines and Substations:

The licensee submit that the State Govt is insisting for payment of the inspection fees on installations of Lines and substations. Licensee is not recovering the inspection fees in the ARR previous years and proposes to allow the same as under;

- A. It is proposed that the annual inspection fees of Service connections may be imposed separately which shall be recovered from the consumers and shall be deposited on collection basis with the State Govt.
- B. It is proposed that the annual inspection fees for lines and substations may be passed on through the ARR for FY 2011-12.

Regarding Arrear of the past years, the State Govt. may kindly be recommended to waive the same as Licensee has not recovered for the annual inspection fees of Service connections from the Domestic and Commercial consumers .

7. Other Issues

7.1. Overdrawl Penalty for Drawl Over and Above OERC Approved Quantum (MU) and MVA

In the previous Tariff Order, Hon'ble Commission directed that the licensee has to pay the marginal cost of power procurement of the GRIDCO which would be drawn by GRIDCO because of the overdrawl of Licensee. While the total power cost is already passed thru and the additional cost of power because of the DISCOMs overdrawl is recoverable from the DISCOMs, the payment of Demand Charges if the actual Demand (MVA) is more by 10% of the allowed Demand (MVA), is not necessary and Licensee submits that this may be done away with. Extending the same logic when the drawl is less at low frequency, the Discoms should also benefit.

7.2. Back to back DPS adjustment between GRIDCO, GOO and Licensee

- a. The Order of the Hon'ble Commission passed with respect to the adjustment of the energy dues and Delayed Payment Surcharge (DPS) receivable from the Govt Consumers in the Business Plan Order dated 28.02.2005 has not been given effect to. Licensee's submission in this regard is as under:
 - a. That, the Hon'ble Commission passed Business plan order on 28.02.2005 on the restructuring of the Liabilities of the Licensee to

bring about the financial viability of the sector. In the said order the Hon'ble Commission directed for securitisation of the BST outstanding between 01.04.1999 to 31.03.2003 (subsequent period the full BST bills are paid) after adjustment of the dues by the state Govt and Govt undertakings. The Hon'ble Commission also directed to put in place a suitable tripartite mechanism involving individual DISCOM, GRIDCO and Govt to monitor the above process. The extract of the order on the restructuring of the BST outstanding is as under;

- “(i)(b)(vii) The Commission in para 5.35.19 of its BST order dt.28th June, 2003 have dealt with issue of GRIDCO bonds that allowed pass through of interest liabilities during 98-99 to 00-01 to cover unpaid power purchase dues to generators as well as to meet other working capital requirements. Since, the very objective of this Business Plan is to restructure the liabilities to bring about financial viability to the power sector as a whole, the Commission considers it appropriate to take a pragmatic approach and agrees with the contention of DISTCOs that the unpaid outstanding liabilities between 01.04.99 to 31.03.03 after adjustment of dues by the State Government and Government Undertakings should be securitised but this amount should be serviced through payments out of collection made by DISTCOs from the arrears outstanding against consumers till 31.3.04. This is a departure from the order dt.04.09.03.*
- (i)(b)(viii) GRIDCO has raised a valid concern about the routing of these dues through GRIDCO by the Government of Orissa. Earlier, the Commission advised the GOO that the outstanding arrear Government dues payable to DISTCOs should be paid directly to GRIDCO for setting off against the outstanding BST dues of DISTCOs. in the best interest of the power sector to settle the vexed issue of liquidation of arrear liabilities. However, this did not materialise.*
- (i)(b)(ix) The Commission directs that a suitable tripartite mechanism involving the individual DISTCOs, GRIDCO & Government of Orissa may be in place to monitor the payment made against the Government consumers, PSUs & simultaneous adjustment in the books of accounts of GRIDCO & DISTCOs.”*

b. THAT, in the said Order, the Hon'ble Commission observed that the DPS waiver received by GRIDCO from NTPC shall be passed on to Licensee. The Hon'ble Commission also further directed that Licensee shall not charge any DPS on the outstanding state Government arrears and as a quid pro quo, GRIDCO shall not levy DPS on the BST amount equal to the Government Dept., arrears payable to Licensee; Government will compensate the loss to GRIDCO on these accounts. The extract of the order on the restructuring of the BST outstanding is as under;

(i)(b)(x) WESCO, NESCO, SOUTHCO and CESCO had proposed for passing on the waived amount of DPS received by GRIDCO from NTPC. GRIDCO is agreeable to pass on the same actually received by GRIDCO in proportion to the outstanding BST dues. The Commission approves the tripartite agreement reached between the DISTCO, GOO and GRIDCO that the DISTCOs shall not charge any DPS/Interest on the outstanding state Government arrears and as a quid pro quo GRIDCO shall not levy DPS on the BST amount equal to the Government Dept., arrears payable to DISTCOs. Government of Orissa will compensate the loss to GRIDCO on these accounts."

c. That, Licensee sought for clarification on the repayment period and moratorium on the securitised loan and BST outstanding amount, on which Hon'ble Commission issued clarificatory order dated 20.07.2006. In the said order, the Hon'ble Commission directed for securitization of the BST outstanding upto 31.03.2005 which is in modification to the earlier order of the Hon'ble Commission to securitise the BST dues between 01.04.99 to 31.03.03. The extract of the order dated 20.07.2006 on the restructuring of the BST outstanding is as under;

"19. The Commission had directed that the amount of BST to be securitized for each DISTCO will be the date proceeding when each company started paying 100% BST bills of GRIDCO. On review, the Commission finds that the three Reliance managed Companies have been paying the monthly BST dues and have opened LC for payment of BST in February 2004. So in view of the above, for the purpose of securitisation we are considering 31.03.05 is the cut off date for all the DISTCOs for determination of liabilities.

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22. We order that the DISTCOs shall repay the outstanding loans including interest along with the securitized BST dues as at 31st March, 2005 in 120 monthly (maximum) equal installments starting from the FY 06-07 ending in 2015-16. They shall also continue to pay the monthly BST dues regularly through LC as per the bulk supply arrangement. In case of default of monthly dues by the DISTCOs they shall be liable to pay the delayed payment surcharge @ 1.25% per month as has been approved for default in payment in BST bills by DISTCOs to GRIDCO.”

d. That, the Licensee computed the adjustment of the DPS of Rs.35.42 Crore are required to be adjusted against the securitized dues with GRIDCO as per the above order of the Hon'ble commission.

	Delayed Payment Surcharge as per OERC		WESCO	NESCO	SOUTHCO
(i)	DPS upto May 2002 i.e.date of full payment of BST	Business plan order Para DB (i)(b)(vi)	418,493,996	903,002,200	236485849
(ii)	DPS payable by the Govt departments and municipalities upto 31.03.2006	Business plan order Para DB (i)(b)(x)	230,756,000	198,084,998	226190070
(iii)	DPS waiver received from NTPC (Rs.108.89crore, in ratio of MU approved in 2007-08)	-do-	359,370,348	294,026,514	118865956
(iv)	Less- DPS paid for which NTPC Bond issued		10,000,000	56,700,000	35000000
		Total	600,126,348	548,811,512	380,056,026
		Balance to be included with securitisation insta	(181,632,352)	354,190,688	(143,570,177)

- e. That Licensee further submits that the arrears, for which DPS is being payable now, have accumulated over the years mainly due to non-payment of bills by non-DPS consumers such as Govt. and PSUs.
- f. That, the accumulated arrears including the outstanding interest and 40% of DPS were securitised by issue of bonds by State Govt. to Gol with 8.5% interest through a tripartite agreement between GoO, Gol and RBI for recovery of the said amount in line with the recommendations of Alhuwalia Committee recommendations. The interest on such securitised amount has already been passed through BST payments. These again cannot be recovered through RST.
- g. That, this Hon'ble Commission ordered in Case No.115 of 2004 dtd.28.02.2005 that no DPS to be charged on outstanding State Govt. arrear bills. As quid pro quo, GRIDCO should not charge any DPS on BST equal to Govt. department

arrears payable to Licensee. Consequently, Govt of Odisha vide letter no26172 (260) / Bt-V-75/05 BBSR dated 09-06-2006 instructed the Govt departments not to pay the electricity dues upto 31.03.2005.

- h. That, the other distribution Licensee had raised similar issue which was disposed off in the RST order for 2010-11 without considering the submission on merit.

In view of the above, the Licensee humbly submits that the Hon'ble Commission may kindly issue directions to adjustment of the DPS as directed in case no 115 / 2004 and suitable tripartite mechanism may be instituted by GRIDCO & GOO for back to back adjustment of the Govt electricity dues.

7.3. Initiatives to Increase Collection Efficiency through Jan Seva Kendra in Discoms

One of the biggest challenge faced by the Discoms today, is to reduce the incidence of high loss levels in the LT Category, particularly in rural areas, which are remote and in far flung areas. These areas have remained historically neglected and under serviced resulting in lack of commercial discipline. In anticipation of the unprecedented growth in the number of consumers to be added, through RGGVY and BGJ schemes have been, the Discoms have proactively sought to address the issue by seeking to utilize the Jan Seva Kendra for offering services to the consumers besides franchises.

To start with, besides the existing collection counters and collection camps held in villages, **the Discoms** through a tie up with the **Orissa e-Governance Services Limited, (OeSL)** a (SPV formed between OCAC, Technical Directorate of IT Department, Government of Orissa & IL&FS) & **Orissa Computer Application Centre (OCAC)**, the Designated Technical Directorate of Information Technology Department, Government of Orissa, to provide various services including an efficient and easily accessible payment collection Services for the collection of payments online from the Customers. This initiative is in synergy with the National e-Governance Plan (NeGP), which aspires to provide all services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency, and reliability of such services at affordable costs so as to realize the basic needs of the common man. The main objective of the State Government under this programme is to open at least one centre each in the Orissa's 8558 rural business centre or common services Centers(CSC) in every panchayat offices, which are known as 'Jana Seva Kendra'.

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This initiative is a WIN-WIN situation for all. For the consumers, it provides them the ease of convenience in making payments of their electricity dues right at their door steps and inculcates financial discipline. For the Discoms, apart from increasing cash collections leading to improvements in liquidity, it frees manpower engaged in door to door collection, R&M activities. From the society point of view, apart from promoting rural self entrepreneurship it encourages inclusive economic growth and upliftment.

To start with, 191 nos. of Jan Seva Kendra's in Nesco, 123 nos. in Wesco and 109 nos. in Southco have already started operating. The initial results as illustrated below, have been encouraging, and the idea is gaining slowly gaining acceptance

April to October 2010		
Name of Discoms	No of Money Receipts	Amounts Collected in lakhs
Wesco	18371	5.49
Nesco	1303	67.79
Southco	2178	7.03

However, the initial advantage of adapting to this new idea needs to be encouraged and steps are taken to accelerate the roll out in order to gain maximum coverage. **To increase footfalls to the Jan Seva Kendra's, the Discoms propose to offer 5% discount on energy bills to all single phase LT Consumers who opt to make payments at the Jan Seva Kendra for FY 12.**

In this connection it is to state that the revenue net of rebate from the consumers are deposited in the escrow account, on the similar principles it is submitted that the revenue collected from the consumers through the Jana Seva Kendras, net of aforesaid 50% discount would be deposited in the Escrow Account, which may kindly be approved by the Hon'ble Commission.

7.4. Fuel Price Adjustment:

GRIDCO has served additional bill of Rs.42.36 Cr to the Licensee for the Fuel Price Adjustment pertaining to the period from April to Sept.10, citing Para 371 of RST and Para 471 of BST Order for FY 2010-11. Licensee has filed separate petition before Hon'ble Commission on such demand by the GRIDCO on dt.15-11-2010. Licensee prays for considering the same and pass appropriate Order in the matter along with RST Order.

7.5. Rebate on Prompt Payment

The Hon'ble Commission in its BSP Order for the current financial year directed that the Licensee is entitled to avail a rebate of 2% for prompt payment of BST bill on payment of current BST in full within two working days of presentation of BST Bills and 1% is paid within 30 days. Further, the Hon'ble Commission had directed to pay the rebate to all consumers except domestic, general purpose, irrigation and small industry category, if payment is made within three days of bill presentation and fifteen days in case of others.

Considering the above, it is prayed before the Hon'ble Commission to approve the rebate of 2% to the licensee for prompt payment towards BST bills including part payments within 3 (three) working days from the date of presentation of the BST bill and in case the BST bill is paid after 3 (three) days the rebate should be proportionately allowed to the extent of payment made within 30th day @1% akin to Rebate Policy on Rebate is provided to GRIDCO by NTPC.

8. Formats

The following filled in formats will form a part of the ARR and Tariff Application for FY 2011-12 as annexures

8.1. Commercial Formats T1-T8

8.2. Financial Formats F1-F39

Summary of Proposed tariff

8.3. Details Performance Formats (P1-P15) in Vol II

9. Prayer

In view of the aforesaid facts and circumstances, the licensee requests that the Hon'ble Commission may be pleased to:

- Take the ARR application and Tariff Petition on record.
- Approve the Annual Revenue Requirement for FY 2011-12 including amortisation of Regulatory Asset and uncovered gap for FY 2010-11 by truing up.
- Bridge the Revenue Gap for the FY 2011-12 through increase in Retail Supply Tariff, reduction in Bulk Supply Tariff (BST), grant/ subsidy from the Government of Orissa etc.
- Direct GRIDCO to relax Escrow in the following priority keeping in view the consumers' interest and better services.
 - Current Bulk Supply Tariff bills and Depreciation together with Interest (against asset to service loan and replacement of assets) on paripassu basis
 - Employee Expense
 - R&M Expense
 - A&G Expense
 - Balance to servicing towards past liabilities.
- To give effect to the ATE order dated 8.11.2010 on different issues such as fixation of Distribution loss target, truing up considering receivable audit, etc.
- Gridco and GoO may kindly be advised to allow Discoms to hypothecate assets for raising loan as per the Business Plan order dated 20.03.2010.
- Consider the recovery of Sixth Pay Commission & Wage Board arrears in ARR.
- Allow the following Tariff rationalisation measures;
 - Withdrawal of TOD incentive for consumption during off peak hours in view of the power deficit situation.
 - Introduction of KVAH Tariff system for three phase LT, all HT and EHT consumers
 - levy of DPS on LT category consumers including domestic & commercial category consumers
 - Withdrawal of incentive for higher consumption in case of HT/EHT consumers
 - Increase of the demand charges of General purpose HT-more than 70 KVA to Rs.200 per KVA from existing demand charges of Rs.50 per KW

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- Introduction of rebate scheme for payment of BST dues akin to the NTPC rebate scheme
- Dispose the Petition on Fuel Price Adjustment filed on 16th Nov.2010 by the Licensee, along with this ARR petition.
- Allow the licensee to submit additional documents, modify the present petition, if so required, during course of processing of ARR.
- Any other relief, order or direction which the Hon'ble Commission deems fit.

By the Applicant

Through its Chief Executive Officer

Dated 30th November 2010

Bhubaneswar