



MEGHALAYA  
STATE ELECTRICITY REGULATORY COMMISSION

TRUING-UP PROCEEDING No. 2 of 2010

In the matter of Truing-up of the Annual Revenue Requirement (ARR) of the Meghalaya State Electricity Board (MeSEB), *which was unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010, for the year 2008-09.*

Meghalaya State Electricity Board (MeSEB) [*unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010.*]

.....

Petitioner

Bynihat Industries Association (BIA) .....

Respondent

Present : Shri. P.J. Bazeley, Chairman, MSERC  
Date of Order 18 February, 2011



MEGHALAYA  
STATE ELECTRICITY REGULATORY COMMISSION

TRUING-UP PROCEEDING No. 1 of 2010

In the matter of Truing-up of the Annual Revenue Requirement (ARR) of the Meghalaya State Electricity Board (MeSEB), for the year 2008-09.

Meghalaya State Electricity Board (MeSEB)

.....

Petitioner

Bynihat Industries Association (BIA) .....

Respondent

Present : Shri. P.J. Bazeley, Chairman, MSERC.

Date of Order : 18 February, 2011.

The instant proceedings relate to the truing up of the Annual Revenue Requirement of the Meghalaya State Electricity Board (MeSEB) *which was unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010, for the year 2008-09.*

O R D E R

1. It is incumbent on the Commission, to true up every Utility / Licensee's Annual Revenue Requirement (ARR) for the previous year(s), on the basis of the Audited Statement of Accounts and the Comptroller & Auditor General (CAG)'s



Report thereon, for the relevant year, and to make necessary adjustments, to the extent found necessary. In doing so, in the instant case, the Commission places on record that in compliance with the Order dated 09.02.2009 of the Hon'ble Appellate Tribunal for Electricity, in Appeal No. 132 of 2008 directing the Commission to true up the ARR for the year 2007-08 on the basis of financial data for the period ending March 2008, the Commission undertook the provisional truing-up exercise for the year 2007-08, on the basis of financial data for that year as made available by the then Meghalaya State Electricity Board (MeSEB), and recorded the outcome thereof in the Commission's Order dated 10.09.2009. **While doing so, the Commission also undertook the simultaneous provisional truing-up exercise for the year 2008-09, on the basis of financial data for that year as made available by the then Meghalaya State Electricity Board (MeSEB), and recorded the outcome thereof in the Commission's Order dated 10.09.2009**

2. The Commission had recorded in para 22 of the aforesaid Order dated 10.09.2009, the result of truing-up the ARR for 2008-09 on the basis of the financial data for the period ending 31<sup>st</sup> March, 2009, as submitted to the Commission on 09.07.2009, by MeSEB. **The Audit Report of the CAG was not available at that point of time.** In provisionally truing-up the ARR for the year 2008-09, the Commission assessed the



trued up ARR at Rs.371.65 crores, as against the ARR of Rs.465.73 crores, allowed by the Commission vide its Tariff (D) Order dated 30.09.2008. Having **placed on record, as above, the Commission undertook the final truing-up of the ARR for the fiscal year 2008-09 on the basis of the the printed Audited Statement of Account of the MeSEB for the year 2008-09, read with the Report of the Comptroller & Auditor General of India on the said Audited Statement of Accounts, since submitted to the Commission by MeSEB / MeECL.**

3. For such purpose the Commission issued notice to MeECL on 13.08.2010, in which it was stated inter-alia as follows:-

1. *Seen, perused and considered letter No. MeECL/SE(RA)/4/Pt.IV/7 dated 06.08.2010 submitted by the Meghalaya Energy Corporation Limited (MeECL) to the Commission on 09.08.2010, along with printed copies of the Statement of Account of the MeSEB for the year 2008-09, inclusive of the Audit Report of the Comptroller & Auditor General of India (CAG) on the said Accounts for the year ending 31<sup>st</sup> March 2009. It is also seen and noted from record that the Tariff (D) Petition of MeSEB dt. 31.03.2008 for the year 2008-09 was examined, considered and determined in terms of the Commission Tariff (D) Order dated 30.09.2008m fixing the ARR for the year 2008-09 at Rs.465.73 crores.*
2. *On careful analysis and consideration of the Audited Statement of Account of MeSEB for the year 2008-09 and the Audit Report of the CAG thereon, as stated above, the Commission hereby proposes to determine the trued-up ARR of MeSEB for the year 2008-09 at a proposed level of Rs.344.33 crores. Details of the proposed ARR level of Rs.344.33 crores as against details of the ARR of Rs.465.73 crores, as determined by the Commission vide its Tariff (D) Order dt. 30.09.2008, are reflected in Statement I, placed on record below.*
3. *Let a public notice be issued immediately, through the Press/Electronic Media for the general information of all interested person(s)/party(ies), to enable such person(s)/party(ies), to file their comments and/or objection to the proposed truing-up as indicated above, if they so desire. Such comments and/or objections may be filed before the Commission during office hours, on any working days within 20<sup>th</sup> September, 2010. For the purpose of doing so, such person(s) / party (ies) may if they so desire, obtain a copy of the aforesaid Statement-I together with copy of the Tariff (D) Order dated 30.09.2008, as well as a copy of the Audited Statement of Account of MeSEB for the year 2008-09 and the Audit Report of the CAG*



thereon, from the office of the Commission, during office hours, on any working day within 10<sup>th</sup> September 2010, on payment of a processing fee of Rs.200.00 in cash or by bank draft drawn in favour of the Secretary, MSERC, Shillong.

4. Fix 21.09.2010 for further consideration and orders.
4. On 04.10.2010, the MeECL submitted a petition to the Commission praying for time for filing their response affidavit as required in terms of Commission's afore-stated Order dated 13.08.2010. The Commission considered their request and allowed them (MeECL) to file their response within 21.10.2010.
5. On 13.10.2010, the Petitioner (MeECL) filed their response dated 12.10.2010, before the Commission, along with a duly executed supporting affidavit of the same date. In the said statement, MeECL stated as follows:-

**TRUING-UP OF ARR FY 2008-09**

1. The Hon'ble Commission in its Order dated 13.08.2010 and communicated to the Petitioner vide letter F. No. MSERC/Dist-Tar:10-11/41 dated 16<sup>th</sup> August 2010, has proposed to true-up the ARR for 2008-09 at Rs.344.33 crore as below:

Serial No	Item	Rs. In crore	Entry of Audit Statement of Accounts 2008-09 at Statement-I in page 10
1 (a)	Purchase of power including transmission charge in the current year	201.63	Schedule Note 6.
1 (b)	Purchase of power as per Audit Report dated 22 <sup>nd</sup> April 2010 at paragraph 2 in Audit Statement of Accounts 2008-09 at page 2.	5.26	Explanatory note-1 for the year 2008-09 in Order dated 13.08.2010
	<i>Sub-total</i>	206.89	
2	R&M Expense	16.05	Schedule Note 8.
3	Employee Expenses	104.79	Schedule Note 9.
4	A&G Expense	7.92	Schedule Note 10.
5	Other Debits (incl. Pro for Bad debts)	18.48	Schedule Note 15.
6	Income tax	4.21	Schedule Note 17.
	<i>Sub-total 1</i>	358.43	
8	Depreciation	14.12	Schedule Note 11
9	Interest & finance charges (excluding State Govt. loan)	70.20	Explanatory note-2 for the year 2008-09 in Order dated 13.08.2010.
	<i>Sub-total 2</i>	84.32	
10	<i>Total (1+2)</i>	442.75	
11	Less interest capitalized	48.33	Schedule Note 13
12	Less expenses capitalized	8.47	Schedule Note 14.
	<i>Sub-total 3</i>	56.80	
13	<i>Net Expenses (1 + 2 – 3)</i>	385.95	
14.	Other deductions		



15	Other Income	39.78	Schedule Note 5.
16	RE Subsidy	11.70	Schedule Note 4.
17	Subsidy against power purchased	0.00	
18	Fiscal loss for failure to cause 3% reduction of AT & C loss	18.42	Explanatory Note-3 for the year 2008-09 in Order dated 13.08.2010.
Sub-total of other deductions		69.90	
19	ARR after deduction	316.05	
20	Add ROE	28.28	
<b>Net ARR</b>		<b>344.33</b>	
21	Total energy sales in MU	1044.60	Audited Accounts 2008-09
22	Average unit cost of power in paisa	329	
23	Actual revenue collected from sale of power	392.51	Schedule Note 1.
24	Surplus (+)/Deficit (-) of Net revenue from sale of power over ARR during 2007-08	(+)48.18	

2. The Hon'ble Commission, while determining the ARR has allowed the expenditure on the items are as per the audited statement of accounts 2008-09, except for prior period charges. Also, the Hon'ble Commission has made deductions on the items are as per the audited statement of accounts 2008-09, except for deduction for failure to cause 3 % reduction of AT&C loss.

### 3. PRIOR PERIOD CHARGES

- (a) The Hon'ble Commission, in its Tariff Order dated 10.09.2009 at paragraph 20.1.9 has segregated the prior period charges for FY 2008-09, into controllable and uncontrollable expenditure. Out of the net prior charge of Rs.30.89 crore, the Hon'ble Commission has classified Rs. 15.38 crore as controllable charge and Rs.15.51 crore as un-controllable charge. The analysis of data as indicated in Table IV (page 39) of the Hon'ble Commission Order dated 10.09.2009 is reproduced below:

Serial No	Item of expenditure with detailed break up as reported by MeSEB vide their letter No.MeSEB/SE/(RA)/32/85 dated 25 <sup>th</sup> August, 2009	Amount included by MeSEB as a part of their provisional ARR based on data taken from their pre-Audited Statement of Account for 2008-09	Part of the amount claimed by MeSEB as Other (Miscellaneous) Prior Period Credit/Charges, but classified by Commission, vide Order dated 10 September 2009 as	
			Controllable Income/Expenditure	Uncontrollable Income/Expenditure
1	Other (Miscellaneous)- Prior Period Credit/Charges			
	1. INCOME			
	(b)Receipt from Consumers relating to Prior period	12,11,08,342		12,11,08,342



	(d) Excess Provision for Depreciation in Prior Period	0	0	
	(f) Other excess provision relating to prior period	12,40,991	12,40,991	
	(g) Other income relating to prior period	33,13,619	33,13,619	
	<b>TOTAL PRIOR PERIOD INCOME</b>	<b>12,56,62,952</b>	<b>45,54,610</b>	<b>12,11,08,342</b>
	<b>2. PRIOR PERIOD EXPENSES/LOSSES</b>			
	(a) Purchase of power relating to prior period	24,96,29,639		24,96,29,639
	(b) Employees costs relating to prior period	13,93,94,382	13,93,94,382	
	(c) Depreciation under provided in prior period	1,48,44,019	1,48,44,019	
	(d) Interest & Other Finance charges relating to prior period	33,13,737	13,13,737	
	(e) Wheeling charges relating to prior period	2,65,79,431		2,65,79,431
	(f) Administrative Expenses relating to prior period	14,030	14,030	
	(g) Material related expenses relating prior period	11,868	11,868	
	(h) Other expenses relating to prior period	7,81,962	7,81,962	
	Less Prior Period Income	12,56,62,952	45,54,610	12,11,08,342
	Net Prior Period Expenses	30,89,06,616	15,38,05,388	15,51,00,728



(b) The analysis of data as indicated para 3(b) above, as per audited statement of accounts 2008-09 is as below:

Serial No	Item of expenditure with detailed break up as reported by MeSEB vide their letter No.MeSEB/SE/(RA)/32/85 dated 25 <sup>th</sup> August, 2009	Amount included by MeSEB as a part of their provisional ARR based on data taken from their pre-Audited Statement of Account for 2008-09	Part of the amount claimed by MeSEB as Other (Miscellaneous) Prior Period Credit/Charges, but classified by Commission, vide Order dated 10 September 2009 as	
			Controllable Income/Expenditure	Uncontrollable Income/Expenditure
1	Other (Miscellaneous)- Prior Period Credit/Charges			
	1.INCOME			
	(b) Receipt from Consumers relating to prior period	12,11,08,342		12,11,08,342
	(d) Excess Provision for Depreciation in Prior Period	0	0	
	(f) Other excess provision relating to prior period	12,40,991	12,40,991	
	(g) Other income relating to prior Period	33,13,619	33,13,619	
<b>TOTAL PRIOR PERIOD INCOME</b>		<b>12,56,62,952</b>	<b>45,54,610</b>	<b>12,11,08,342</b>
	2.PRIOR PERIOD EXPENSES/LOSSES			
	(a) Purchase of power relating to prior period	30,16,23,853		30,16,23,853
	(c ) Employee costs relating to prior period	13,93,94,382	13,93,94,382	0
	(d) Depreciation under provided in prior period	1,48,44,019	1,48,44,019	0
	(e)Interest and Other Finance charges relating to prior period	33,13,737	33,13,737	0
	(f) Wheeling charges relating to prior period	2,65,79,431	0	2,65,79,431
	(g) Short provision for income tax	1,48,670	1,48,670	0
	(h) Administrative Expenses relating to prior period	14,030	14,030	0
	(i) Material related expenses relating prior period	11,868	11,868	0
	(j) Other expenses relating to prior period	7,81,962	7,81,962	0
	<b>Total Prior Period Expenses</b>	<b>48,67,11,952</b>	<b>15,85,08,668</b>	<b>32,82,03,284</b>





	<i>Less Prior Period Income</i>	12,56,62,952	45,54,610	12,11,08,342
	<i>Net Prior Period Expenses</i>	36,10,49,000	15,39,54,058	20,70,94,942

- (c) Further, The Hon'ble Commission in its Tariff Order dated 10.09.2009 at paragraph 20.1.9.6 states...

*"In truing-up the ARR for the fiscal year 2008-09, the Commission disallows inclusion of the proposed amount of Rs. 30.89 crore in the ARR for 2008-09, for reasons stated in para 20.1.9.1 to 20.1.9.5 above, but includes the net uncontrollable expenditure amounting to Rs.15,51 crore in the trued ARR for the fiscal year 2008-09, against a separate new minor head namely – 'Purchase of power and Wheeling Charges therefore, relating to prior period, less Receipt from Consumers relating to prior period" under the sub-head 'Purchase of power including transmission charges'. This disposes the issues by the Petitioner/Appellant in this regard".*

*A copy of the Hon'ble Commission's Order dated 10.09.2009 is annexed hereto and marked as **Annexure-I***

- (d) The Hon'ble Appellate Tribunal for Electricity while disposing the Appeal No.37 of 2010, in its Order dated 10.08.2010 at paragraph 51 (iii) in page 57 states....

*"The State Commission has correctly disallowed certain expenditure, ARR of the Appellant which may be rejected only on controllable expenditure. Since the Appellant has failed in its duty by not controlling the same and so the State Commission cannot pass the burden on to the consumers. Segregating the prior period charges into controllable expenditure and un-controllable expenditure is well recognized principle."*

*A copy of the Hon'ble Tribunal's Order dated 10.08.2010 is annexed hereto and marked as **Annexure-II***

- (e) The Hon'ble Commission has, vide Order dated 10.09.2009, allowed net uncontrollable expenditure relating to prior period part amounting to Rs.15.51 crore (Rs 20.71 crore as per audited accounts) to be included in the ARR. The Hon'ble Tribunal, while disposing the Appeal No.37 of 2010, in its Order dated 10.08.2010 has also upheld the principle adopted by the Hon'ble Commission in segregating of the prior period charges into controllable expenditure and un-controllable expenditure.

#### **4. Prior period charges on power purchase and wheeling charges.**

- (a) The Hon'ble Commission, vide Order dated 13.08.2010, in its proposal to true-up the accounts of 2008-09, has not included the prior period expenditure on power purchase amounting to Rs. 30,16,23,853/-. The Hon'ble Commission **while truing up for FY 2007-08 had included an amount of Rs. 17,78,14,414/- as power purchase.** However, the balance amount of Rs.12,38,09,439/- (Rs. 30,16,23,853.00 – Rs 17,78,14,414.00), along with the wheeling charges expenditure amounting to Rs.2,65,79,431/-, has not been included. In this context, it is worthy to note the Hon'ble Tribunal Order dated 10.08.2010 at paragraph 32 in page 39 states.....

*"The audited account is only to verify as to whether the expenditure has been actually incurred or not. The auditor does not deal with the prudence of the expenditure. The question whether the said expenditure is to be allowed or not has to*



be considered only by the State Commission after prudence check. The auditor will only verify and certify whether the expenditure on such account had been actually incurred or not. On the other hand, the State Commission is bound to apply its mind to make a prudence check in ordered to verify whether the expenditure is to be allowed or not and the State Commission is not bound by the opinion of the auditors as laid down by the Hon'ble Supreme Court in AIR 2002 SC 358 AIR 2002 (8) SCC 70”.

(b) Further, the Hon'ble Tribunal Order dated 10.08.2010 at paragraph 33 in page 40 states,

“...In this context, it would be proper to refer to Section 5.3 (h) (iii) of the National Tariff Policy. The same is as follows: “Uncontrollable cost should be recovered speedily to ensure that future consumers are not burdened with past cost. Uncontrollable cost would include fuel cost, cost on account of inflation, tax and cesses, variation in power purchase unit costs including on account of hydro thermal mix in cases of adverse natural events”.

(c) The exclusion of the above expenditure in Order dated 13.08.2010, is therefore contradictory to the principle adopted by the Hon'ble Commission in its Order dated 10.09.2009 (which was upheld by the Hon'ble Tribunal), which after prudent check, had allowed the expenses as reproduced in para 3 (c) above. Moreover, the Hon'ble Commission by including Rs 17, 78, 14,414/- as power purchase while truing up of FY 2007-08 has recognized and accepted the principle regarding prior period expenditure on power purchase. Accordingly, it is prayed that the prior period expenditure on balance power purchase amounting to Rs. 12,38,09,439/- and wheeling charges expenditure amounting to Rs.2,65,79,431/- may kindly be included in the ARR for FY 2008-09 by the Hon'ble Commission after prudence check, details of which is given below:

**A . Purchase of Power (83.100)**

Serial No.	A/V No.	Year	Amount (Rs)	CERC No & date & reasons	Traders
1	27	2003-04	342362	CERC order dated 30.04.2008 against petition No.89/2007	NEEPCO
2	“	“	243855	CERC order dated 19.02.08 against Petition No.76/2006	“
3	“	“	3633676	CERC Regulation 2004 under clause 10	“
4	“	“	171181	CERC order dated 30.04.08 against Petition No.89/2007	“
5	“	“	975420	CERC order dated 19.02.08 against Petition No.76/2006	“
6	“	“	171181	Fuel price adjustment based on Audit Certificate dt. 26.8.08.	“
7	“	“	95200		“
8	“	April 2004 to January 2008	23561726		“
9	“	April 2007 to March 2008	17674	Fuel price adjustment based on Audit Certificate	“
10	“	“	209415		“
11	“	“	131270		“
12	“	“	360779		“



13	“	“	25245475		“
14	“	August 2005 to March 2008	2325591		“
15	88	November 2003 to June 2006	7821363		UI
16	88	July 2006 to March 2008	57324537		UI
		<b>Total</b>	<b>123809439</b>		

*B. Wheeling Charges (83.110)*

<b>Serial No.</b>	<b>A/V No.</b>	<b>Year</b>	<b>Amount (Rs)</b>	<b>CERC No &amp; date &amp; reasons</b>	<b>Traders</b>
1	35	2000-2004	6262952		
2	“	2004-2008	560443		
3	“	“	13905	CERC order dated 18.02.09 against Petition No 160/2008	PGCIL
4	“	“	13905	CERC order dated 29.01.09	“
5	“	“	39500	CERC order dated 31.3.09	“
6	“	“	7874	CERC order dated 31.3.09	“
7	“	“	16770	CERC order dated 19.3.09	“
8	“	“	11228	CERC order dated 02.4.09	“
9	“	“	878	CERC order dated 1.4.09	“
10	“	“	2298771	CERC order dated 3.2.09 against Petition No. 147/2005	“
11	“	“	5189		“
12	“	“	37469		“
13	“	“	13331		“
14	“	“	1554596		“
15	“	“	692		“
16	35	2001-2007	335303	CERC order dated 23.5.08.	“
17	“	“	601043	CERC order dated 28.5.08 against Petition No.151/2007	“
18	“	“	788535	CERC order dated 1.5.08	“
19	“	“	50256	CERC order dated 28.04.08.	“
20	“	“	2571	CERC order dated 12.2.08	“
21	“	“	98840	CERC order dated 23.05.08	“
22	“	“	578430	CERC order dated 28.7.08 against Petition No.69/2008	“
23	“	“	3802	CERC order dated 8.7.08	“
24	“	“	1705	CERC order dated 10.11.2008	“
25	“	“	130	CERC order dated 17.11.09	“
26	35	2001-2007	111904	CERC order dated 29.7.08	“
27	“	“	7783282	CERC order dated 9.7.08	“
28	“	“	631314	CERC order dated 8.9.08	“
29	“	“	127435	CERC notification dated 26.3.04	“
30	“	“	113164	As per revised REA of ERCP dt.10.9.08	“
31	“	“	6864	CERC Notification dated 26.3.04	“



32	“	“	63238	As per Revised REA of ERCP dt. 10.9.08	“
33	“	“	28153	CERC Notification dated 1.12.08	“
34	“	“	-8690	Revised REA of July 07 issued by ERPC dated 10.9.08	“
35	“	“	7362	Revised REA dated 15.1.08	“
36	35	2004-08	4032011		“
		<b>Total</b>	<b>26579431</b>		

**5. Prior period charges on employee cost**

(a) *The Hon’ble Commission has not allowed the employee cost relating to prior period to be included in the ARR. It is submitted that the prior period expenditure on employee cost amounting to Rs. 13,93,94,382/- relates to payment of arrears to MeSEB’s employees and pensioners arising out of pay revision effective from January 2005. However, the process of pay revision was delayed and the same could be implemented only after the MeSEB’s Order No. MeSEB/PB/336/2005-06/13 dated 1<sup>st</sup> November 2006 was issued, a copy of which is annexed hereto and marked as **Annexure III**. The payment of arrears pay and pension were made in installments in subsequent years. Payments made in 2008-09 are as below:-*

- (a) *Rs.6,63,81,048/-, being payment of arrear pension and DCRG to Pensioners.*
- (b) *Rs. 6,84,49,788/-, being payment of arrear revised pay to Board’s employees.*
- (c) *Rs. 45,63,546/-, being payment of Employee Cost prior period (others)*

(b) *It is submitted that payment of revised pay to employees and pensioners could not be implemented as soon as it is due on account of various administrative constraints. The Hon’ble Commission has appreciated this difficulty and accordingly in its Tariff Order FY 2010-11, dated 23.08.2010 at paragraph 34.3 (2) had remarked....*

*“The Commission therefore fixes the ARR for employees cost during 2010-11 at Rs.122.13 crore, which is 10 percent higher than the reported provisional expenditure of the previous year, leaving it open to the petitioner to come up for re-consideration and revised Orders, as and when, competent authority issue orders authorizing revised scales of pay and allowances during the current year”.*

*By the above observation, the Hon’ble Commission has appreciated that the expenditure on revised employee cost could not possibly be made even though the same was due, without any such orders by the competent authority, which in this case was issued only on 1<sup>st</sup> November 2006.*

(c) *In accordance with the observation of the Hon’ble Tribunal mentioned at paragraph 4(a) above, it is prayed that the prior period expenditure on employee cost*



amounting to Rs.13,93,94,382/- may kindly be included in the ARR of 2008-09 after prudence check by the Hon'ble Commission.

**6. Prior period charges on Income Tax**

The Hon'ble Commission has not allowed the short provision for income tax relating to prior period to be included in the ARR. It is submitted that the prior period expenditure on income tax amounting to Rs. 1,48,670/- are on account of the short provision of Fringe Benefit for the Assessment year 2006-07.

In accordance with the observation of the Hon'ble Tribunal mentioned at paragraph 4(a) above, it is prayed that the prior period expenditure on income tax amounting to Rs. 1,48,670/- may kindly be included in the ARR of 2007-08 after prudence by the Hon'ble Commission.

**7. Prior period income on Receipt from consumers**

The Hon'ble Commission, in its Tariff Order dated 10.09.2009 at paragraph 20.1.9 has classified the receipt from consumers as uncontrollable income amounting to Rs. 12,11,08,342/-. This income may be added to total income from sale of power amounting to Rs. 392.51 crore during 2008-09. The total income for FY 2008-09 may therefore be fixed at Rs (392.51 + 12.11) crore or Rs.404.62 crore.

**8. AT&C LOSS**

(a) The Hon'ble Commission, while determining the ARR of 2008-09, had affected a deduction of Rs.18.42 crore for failure to cause 3 % reduction of AT&C loss. The MeECL vide Letter No.MeSEB/SE(RA)33/33 dated 04.09.2009 and revised on 14.10.2009 had reported the pre-audit AT&C losses of 33.79% 2008-09. The MeECL humbly submits before the Hon'ble Commission to allow revision of the AT&C loss calculation as shown below:

Serial No	Particulars	Calculation	Unit	2008-09	Remark
1	Generation (own as well as any other connected generation net after deducting auxiliary consumption) within area of supply of DISCOMS	A	MU	552.84	
2	Input energy (metered import) received at interface points of DISCOM network	B	MU	839.20	Net actual drawal at 132 KV
3	Input energy (metered Export) by the DISCOM at interface points of DISCOM network	C	MU	10.88	ASEB sale at 33 KV
4	Total energy available for sale within the licensed area to the consumers of the DISCOM	D=A+B-C	MU	1381.16	
5	Energy billed to metered consumers within the licensed area of the DISCOM	E	MU	945.49	Metered data (only) not available
6	Energy billed to un-metered consumers within the licensed area of the DISCOM	F	MU		Unmetered data (only) not available
7	Total energy billed	G=E+F	MU	945.49	



8	Amount billed to consumers within the licensed area of the DISCOM	H		334.04	
9	Amount realized by the DISCOM out of the amount billed at H #		Rs in crore		
	Revenue from sale of power			333.98	
	RE Subsidy			11.70	
	Power purchased subsidy			0.00	
	<b>Total</b>	<b>I</b>		<b>345.68</b>	
10	Collection Efficiency (%)	$J=(I/H) \times 100$	%	103.48	
11	Energy realized by the DISCOM	$K-J \times G$	MU	978.44	
12	Distribution Loss %	$L=\{(D-G) \div D\} \times 100$	%	31.54	
13	AT&C Loss (%)	$M=\{(D-K) \div D\} \times 100$	%	29.16	

# Amount received in the current year for the amount billed in the previous years was not excluded in this head. However subsidy received against the current year's sale of electricity is considered in this head.

(b) The Hon'ble Commission has adopted the following formula to arrive at the amount to be deducted from the ARR for failure to cause reduction of AT&C Loss.

TRUING UP FISCAL LOSS FOR FAILURE TO CAUSE A MINIMUM OF 3% REDUCTION IN AGGREGATE TECHNICAL & COMMERCIAL (AT&C) LOSSES DURING 2008-09		
1	AT&C Losses during 2007-08 as reported by MeSEB vide their letter No.MeSEB/SE(RA)/33/33, dt.04.09.2009 and revised by them on 14.10.2009	31.62%
2	Mandated minimum reduction of AT&C Losses for entities having AT&C losses in excess of 30 %	3.00 %
3	Maximum permissible AT&C Loss for MeSEB during 2008-09 after reduction of such loss by a minimum of 3% from the previous year's level	28.62 %
4	Actual AT&C losses during 2008-09 as reported by MeSEB vide their letter No.MeSEB/SE(RA)/33/33 dt.04.09.2009 and revised by them on 14.10.2009	33.79 %
5	Shortfall in minimum reduction of AT&C losses by MeSEB during 2008-09 = (33.79-28.62)%	5.17 %
6	Shortfall in minimum reduction of AT&C losses by MeSEB during 2008-09 in Millions Units = 5.17 % of 1044.60 MU's.	54.0058 MU
7	Average aggregate Unit Rate for sale of power by MeSEB during 2008-09	Rs.3.41 per unit
8	Penalty for failure of MeSEB to reduce AT&C losses by 3 % during 2008-09 = 54.0058 MU's x Rs. 3.41	Rs. 18.42 crore
<b>Note</b>		
	Total energy sale (outside sale & within DISCOM) as per audited accounts	1044.60 MU
	Total income from sale of power (outside sale & within DISCOM) as per Schedule Note 1 of Audited Accounts 2008-09	392.51 crore

(c) The above approach of the Hon'ble Commission takes into consideration the performance of the MeECL in both outside sale and sale within DISCOM regarding sale of energy, income from sale of power and unit rate of sale for energy. However, the format prescribed by the Hon,ble Commission for AT&C Loss calculation takes into consideration the availability & sale of energy, income from sale of energy (revenue demand) and revenue collection from within the DISCOM only. Therefore, in consonance with the prescribed format for AT&C loss calculation, the MeECL, submits before the Hon'ble Commission to take into consideration the performance of the MeECL only within DISCOM regarding availability & sale of energy, income





from sale of energy (revenue demand), revenue collection and unit rate of sale for energy. Accordingly, the MeECL submit before the Hon'ble Commission to kindly adopt the following formula to arrive at the amount to be deducted from the ARR for failure to cause reduction of AT&C loss in 2008-09.

<b>TRUING UP FISCAL LOSS FOR FAILURE TO CAUSE A MINIMUM OF 1.5 % REDUCTION IN AGGREGATE TECHNICAL &amp; COMMERCIAL (AT&amp;C) LOSSES DURING 2008-09</b>		
1	AT&C Losses during 2007-08 as corrected by MeECL vide this petition	28.91 %
2	Mandated minimum reduction of AT&C Losses for entities having AT&C losses within 30 %	1.50 %
3	Maximum permissible AT&C Loss for DISCOM during 2008-09 after reduction of such loss by a minimum of 1.5 % from the previous year's level	27.41 %
4	Actual AT&C losses during 2008-09 as corrected by DISCOM vide this petition	29.16 %
5	Shortfall in minimum reduction of AT&C losses by DISCOM during 2008-09 = (29.61-27.41) %	1.75 %
6	Shortfall in minimum reduction of AT&C losses by DISCOM during 2008-09 in Millions Units = 1.75 % of 1381.16 MU	24.1703 MU
7	Average aggregate Unit Rate for sale of power by DISCOM during 2008-09 (Rs 334.04 Cr ÷ 945.49 MU)	Rs. 3.53 per unit
8	Penalty for failure of DISCOM to reduce AT&C Losses by 1.5 % during 2008-09 = 24.1703 MU x Rs.3.53	Rs. 8.54 crore
<i>Note – Data as per AT&amp;C loss calculation at para 8(a)</i>		
Total energy available for sale within DISCOM only		1381.16 MU
Total energy sale within DISCOM only		945.49 MU
Total income from sale of energy (revenue demand) within DISCOM only		Rs. 334.04 crore

(d) It is therefore prayed that the penalty for failure to reduce AT&C loss during 2008-09 be considered at Rs. 8.54 crore by the Hon'ble Commission after prudence check.

#### **9. ARR proposed by MeECL**

The MeECL humbly prays before the Hon'ble Commission to kindly consider the above submission and approved the ARR during 2008-09 at Rs. 383.19 crore as shown below:

Serial No	Item	Rs in crore	Entry at Audit Statement of Accounts 2008-09 at Statement-1 in page 10
1(a)	Purchase of power including transmission charge in current year	201.63	Schedule Note 6.
1(b)	Purchase of power as per Audit Report dated 22 <sup>nd</sup> April 2010 at paragraph 2 in Audit Statement of Accounts 2008-09 at page 2	5.34	
1(c)	Power purchased relating to prior period as per Audit Accounts Schedule 18 Sl.No.2(a)	30.16	
	<b>Less</b> Rs. 17.78 crore included while truing up of	-17.78	As per this petition



	<i>FY 2007-08.</i>		
1(d)	<i>Wheeling charges relating to prior period as per Audit Accounts Schedule 18 Sl.No. 2(f)</i>	2.65	
2	<i>R&amp;M Expense</i>	16.05	<i>Schedule Note 8.</i>
	<i>Sub-total</i>	222.00	
3(a)	<i>Employee Expenses in current year</i>	104.79	<i>Schedule Note 9.</i>
3(b)	<i>Employee cost relating to prior period as per Audit Accounts Schedule 18 Sl.No. 2(c)</i>	13.94	
4	<i>A&amp;G Expense</i>	7.92	<i>Schedule Note 10.</i>
5	<i>Other Debits (incl. Prov for Bad debts)</i>	18.48	<i>Schedule Note 15.</i>
6	<i>Income tax</i>	4.21	<i>Schedule Note 17.</i>
7	<i>Short provision for income tax in prior period as per Audited Accounts Schedule 18 Sl.No. 2(g)</i>	0.01	
8	<i>Sub-total 1</i>	387.40	
9	<i>Depreciation</i>	14.12	<i>Schedule Note 11</i>
10	<i>Interest &amp; finance charges (excluding State Govt loan).</i>	70.20	<i>Explanatory note-2 for the year 2008-09 in Order dated 13.08.2010.</i>
	<i>Sub-total 2</i>		
10	<i>Total (1+2)</i>	471.72	
11	<i>Less interest capitalized</i>	48.33	<i>Schedule Note 13</i>
12	<i>Less expenses capitalized</i>	8.47	<i>Schedule Note 14</i>
	<i>Sub-total 3</i>	56.80	
13	<i>Net Expenses (1+2+3)</i>	414.92	
14	<i>Other deductions</i>		
15	<i>Other Income</i>	39.78	<i>Schedule Note 5.</i>
16	<i>RE Subsidy</i>	11.69	<i>Schedule Note 4.</i>
17	<i>Subsidy against power purchased</i>	0.00	
18	<i>Fiscal loss for failure to cause 3 % reduction of AT&amp;C loss</i>	8.54	<i>As per this petition</i>
	<i>Sub-total of other deductions</i>	60.01	
19	<i>ARR after deductions</i>	354.91	
20	<i>Add ROE</i>	28.28	
	<b><i>Net ARR</i></b>	<b>383.19</b>	
21	<i>Total energy sales in MU</i>	1044.60	<i>Audited Accounts 2008-09</i>
22	<i>Average unit cost of power in paisa</i>	367	
23	<i>Actual revenue demand from sale of power</i>	392.51	<i>Schedule note 1.</i>
24	<i>Prior period income on Receipt from consumers</i>	12.11	<i>As per this petition</i>
	<i>Total income from sale of power</i>	404.62	
25	<i>Surplus (+)/Deficit (-) of Net revenue from sale of power over ARR during 2007-08</i>	(+)21.43	

#### **PRAYER**

*In light of the aforesaid facts and circumstances, the Petitioner prays that this Hon'ble Commission may be pleased to:*

- (a) *Consider the submissions made in this petition and to approve the ARR of Rs.383.19 crore against the total Revenue of Rs.404.62 crore and allow a surplus of Rs.21.43 crore for FY 2008-09 to be adjusted from subsequent year.*





(b) *Pass such orders as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case.'*

6. After due consideration of the contents of the aforesaid response affidavit dated 12.10.2010 filed by MeECL, the Commission issued notice fixing 19.11.2010 for hearing. Keeping in view the pleadings in related earlier proceeding which was disposed of vide Commission's Order dated 10.09.2009, the Commission decided to also issue notice to the Byrnihat Industries Association(BIA) and to provide them an opportunity to file a counter affidavit, if they so desired, and to be heard on 19.11.2010, if they so desire.
7. On 12.11.2010, Byrnihat Industries Association(BIA) responded to the Commission's Order dated 13.10.2010 and submitted a Statement dated 12.11.2010, supported by a duly executed Affidavit of the same date. In the said Statement, the BIA stated as follows –

***‘MOST RESPECTFULLY SHOWETH:***

1. *The Respondent is filing the present objections to the petition filed by the Meghalaya Energy Corporation Limited (here in after called 'MECL') for true up of the financial for the year 2008-09 in response to the notice dated 16.8.2010 issued by the Hon'ble Commission and the statement filed by the MECL for truing-up of the revenue requirements of MECL based on the audited statement of MECL for the year 2008-09.*
2. *The tariff for the year 2008-09 was initially determine by the Hon'ble commission vide order dated 30.9.2008. The said order dated 30.9.2008 was challenged by the Respondent herein before the Hon'ble Appellate Tribunal in Appeal No. 132 of 2008. By order dated 9.2.2009, the Hon'ble Tribunal remitted the matter to the Hon'ble commission to true up the financials of the MECL for the year 2007-08 and pass appropriate orders to resolve the grievance of the Respondent.*
3. *Pursuant to the above order, the Hon'ble commission undertook the truing up for the year 2007-08 based on the audited accounts of MECL. BY the*



*time the Hon'ble Commission had undertaken the remand exercise, the provisional accounts for the year 2008-09 were also filed by the MECL, the Hon'ble commission also undertook the truing exercise for the year 2008-09, particularly in the context that the truing up were being done with reference to the finalization of the tariff for 2008-09.*

- 4. During the pendency of the proceedings for truing up before this Hon'ble Commission may of the members of the respondent association had paid for the electricity supplied by the MECL at a reduced level in place of the amount billed by MECL. This was on account of the bills raised by the MECL being exorbitant and uneconomical for the members to bear and run their industrial activities. The respondent had also challenged the tariff determined by the Hon'ble Commission before the Hon'ble Appellate Tribunal and the matter had been remanded to the Hon'ble Commission for reconsideration.*
- 5. Pursuant to the truing up exercise for the year 2007-08 and 2008-09, by order dated 10.9.2009, the Hon'ble Commission re-determined the tariff applicable to the consumers in the State for the year 2008-09. The Hon'ble Commission further directed the MECL to adjust the excess payments made by the consumers by 31.3.2010, consequent to the above truing up.*
- 6. The order dated 30.9.2009 was challenged by MECL before the Hon'ble Tribunal in Appeal No, 37 of 2010. Pending the appeal, since there was no stay sought by MECL or otherwise granted. In the circumstances mentioned above the members of the Respondent association duly adjusted the payment for the tariff finally determined by the Hon'ble Commission for the year 2008-09 by making shortfall in the earlier payments wherever applicable and by adjusting the excess amounts wherever applicable.*



7. By order dated 14.8.2010, the Hon'ble tribunal was pleased to set aside the order dated 10.9.2009 passed by the Hon'ble commission holding that the Hon'ble Commission ought not to have undertaken the true for the year 2008-09 in the remand proceedings for the same. The Hon'ble Tribunal further directed the Hon'ble Commission to true up the financials for the year 2008-09 on the basis of audited accounts of mecl AS AVAILABLE AFTER CONDUCTED PRUDENCE CHECK. The Hon'ble Tribunal, inter-alia, held as under:

*“(iv) The State Commission ought not to have given retrospective adjustment in the tariff as this finding relating to the retrospective effect is neither tenable in law nor in fact. While going through the order passed by the Commission in the Review Petition No. 1 of 2010 dated 10.01.2010, the State Commission itself has taken the view that for each time the accounts trued up, the tariff may not be revised with retrospective effect. The impact of trued up exercise must be in the tariff calculation for the following year and the same shall not be given retrospective effect. The surplus/deficit in revenue in the trued up ARR has to be adjusted in the ARR during the subsequent years. Therefore, the State Commission is directed to consider the said issue on the basis of the Appellant account duly audited by the C&AG for the FY 2008-09 which is now available and adjust in the ARR of the Appellant in the subsequent year.”*

8. The Hon'ble Tribunal has by order dated 3.11.2010 while dismissing the review petition filed by the Respondent has however granted liberty to the Respondent to approach the Hon'ble Commission in the pending proceedings for compliance of the direction and true up of the financials for the year 2008-09. The Hon'ble Tribunal, inter-alia, has held as under:

*“12. In our opinion, the review sought by the Petitioner, in the name of clarification, is not based on an error apparent on the fact of the record, or any documents or the submissions not considered by the Tribunal in its judgement date 10.08.2010 or on the basis of some new documents which were not available at the time of the proceedings in the said appeal. In fact the Petitioner wants us to legitimize the adjustment made by them on their own, without any authority, against the order of the State Commission reducing the*



*tariff for the year 2008-09 retrospectively w.e.f. 1.10.2008. The right course for the Member Industries of the Petitioner would have been to approach the State Commission for implementation of its order dated 10.9.2009. However, after the order of this Tribunal dated 10.08.2010, the State Commission's order dated 10.09.2009 reducing the tariff retrospectively does not survive.*

*13. We also do not want to observe anything which may influence the outcome of the proceeding initiated by the State Commission in compliance of the Tribunal's order dated 10.08.2010 for true up of financials of the Board for the FY 2008-09*

*14. The Petitioner, however, is at liberty to approach the State Commission either in the proceedings being undertaken by it to comply with the order of this Tribunal dated 10.08.2010 or separately relating to the adjustment of surplus/deficit as a result of the true up exercise for the FY 2007-08 and 2008-09."*

*A copy of the order dated 3.11.2010 passed by the Hon'ble Tribunal in Review Petition No. 14 of 2010 is attached.*

- 9. In the audited accounts filed by MECL for the 2008-09, the Hon'ble Commission has proposed to true up the revenue requirements at Rs 344.33 crores as stated in the order dated 13.8.2010 passed by the Hon'ble Commission. The Hon'ble Commission has included various expenses on the basis of the audit accounts of the MECL. It is submitted that the Hon'ble Commission has followed the consistent practice of applying prudence check on the various expanses of MECL based on audited accounts. Audited accounts of the MECL only indicates the fact of the expenditure and not the efficiency or inefficiency on the part of the MECL in incurring such expenditure. In the circumstances, the Respondent crave leave to refer to the expenditure statement of MECL and the inefficiency in its performance at the time of hearing.*
- 10. In response to the above order dated 13.8.2010 passed by the Hon'ble Commission, the MECL has filed its petition claiming a total revenue requirement of Rs 383.19 crores. It is submitted that the claim of MECL in the revenue requirement at the above level is unjustified and is only to pass on the inefficiencies to the consumers in the State.*
- 11. The Hon'ble Commission has proposed to deduct an amount of Rs 18.42 crores for failure to reduce the losses to the normative level as determined by the Hon'ble Commission. As against the above, as per the calculations of*



*MECL on the above aspect the penalty ought to be Rs 8.54 crores. There is no justification for the above difference being sought by MECL. MECL Is seeking to change the entire methodology for calculation of loss level in the system. The above cannot be allowed at the stage of the truing up. The Hon'ble Commission has consistently held that truing up is not a stage of change in the methodology. In the circumstances, the loss level in the system as stated by MECL in the earlier communications at 33.79% ought to be the basis for loss level calculation.*

- 12. It is submitted that the Hon'ble Commission also consist of various loans taken by the MECL to meet its revenue requirements. It is submitted that only capital loans taken by MECL can be allowed to be serviced in the tariff and not any part of the revenue loans taken by the MECL, which is purely on account of inefficiencies on the part of MECL.*
- 13. The Hon'ble Commission may also take into consideration the various comments given by the CAG in the audit report regarding the performance and accounting practices being followed by MECL.*
- 14. It is submitted that the Hon'ble Commission may also direct prudence check on the expenditure incurred by MECL to be conducted, particularly with regard to the employee cost, the provision for bad debts, income tax provision, depreciation etc. The Hon'ble Commission has been following the consistent practice of applying prudence check over the audited accounts and not accepting the audited accounts as submitted by MECL.*
- 15. It is submitted that MECL is relying on the provisional truing up done by the Hon'ble Commission for the year 2008-09 in the order dated 10.9.2009 to claim various expenditure to be allowed to the MECL. It is submitted that MECL has challenged the above truing up exercise before the Hon'ble Tribunal when the same was set aside and the Hon'ble Tribunal had directed the surplus/deficit for the year 2008-09 after considering the audited accounts of MECL. In the circumstances, it is incorrect on the part of MECL to now rely on the order dated 10.9.2009 passed by the Hon'ble Tribunal in relation to the year 2008-09.*
- 16. The Respondents crave leave to make submissions at the time of hearing and also further submissions on the basis of the rely of MECL.*



8. During hearing on 19.11.2010, the MeECL was present and represented by learned Additional Chief Engineer(Commercial) Shri C.Kharkrang and 3 Other Officers, and the Byrnihat Industries Association were present and represented by learned Counsel Ms.Swapna Shesadri and 3 Association Members. The Learned representative of the MeECL reiterated the issues reflected in their response affidavit dated 12.11.2010 and underscored the following -
1. Need to include net prior period power purchase cost of Rs.12.38 crores;
  2. Need to include prior period wheeling cost of Rs.2.65 crores;
  3. Need to include prior period employee expenditure of Rs.13.94 crores;
  4. Need to include prior period income tax expenditure of Rs.0.01 crores.
  5. Need to adjust AT & C loss calculation based on revised projections as reflected in their Affidavit dated 12.10.2011.
9. Responding to the issue raised by MeECL the learned Counsel representing Byrnihat Industries Association reiterated the issues reflected in their Affidavit dated 12.11.2010 and underscored the following -
- i. The total revenue requirement claimed by the MeSEB / MeECL in their Tariff Petition for 2008-09 was Rs.512.01 which is over 48 percent above actual, causing malafide and uncalled for burden on the consumers;
  - ii. The MeSEB / MeECL had been resorting to over projection of their ARR with a view to obtain higher tariff rates than admissible;
10. After careful consideration of audit documents on record of this proceeding, the response affidavit dated 12.10.2010 filed by MeECL, the counter affidavit dated 12.11.2010 filed by the Byrnihat Industries Association (BIA) and the oral submissions of



MeECL as well as the Byrnihat Industries Association during hearing on 19.11.2010, the Commission finds as follows:-

### **Truing up of the ARR for 2008-09**

#### **1. Purchase of Power:**

The cost of purchase of power as shown against Sl. 6 of Statement-1, at Page-10 of the Audited Statement of Accounts for the financial year 2008-09, is Rs.201.6367 crores. However, the Audit Report of the CAG reveals as follows:-

- |  |                   |
|--|-------------------|
| 1. Cost of Purchase of power as shown against Sl.6 of Statement-1 at Page 10 of the Audited Statement of Accounts for the fiscal year 2008-09 is =   | Rs.201.6367 Cr.   |
| 2. Understated liability against amount payable to NTPC, NEEPCO and NHPC for purchase of power, as indicated in Para 2 of the CAG's Audit Note on the Audited Statement of Accounts for the fiscal year 2008-09 is = | Rs. 5.2600 Cr.    |
| -----  |                   |
| 3.Total Cost of Purchase of Power during 2008-09   | = Rs.206.8967 Cr. |

ADD UNCONTROLLABLE EXPENDITURE for purchase of power during prior period as per Schedule 18 : Sl.No,2(a) of Audited Statement of Accounts for the fiscal year 2008-09 less Rs.17.78 Cr included in the up ARR for 2007-08 as stated by MeECL in its' Affidavit dated 12.10.2010	= Rs. 12.3824 Cr
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ADD UNCONTROLLABLE EXPENDITURE for Wheeling Charges relating to prior period as per Schedule 18 : Sl.No,2(f) of Audited Statement of Accounts for the fiscal year 2008-09	= Rs. 2.6579 Cr
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Grand Total Cost of Purchase of Power during 2008-09	= Rs. 221.9370 Cr.
Say	= Rs.221.94 Crores

Thus the total cost of purchase of power during 2008-09, is trued up on the aforesaid basis, at Rs.221.94 crores, as against an amount of Rs.264.89 crores approved by the Commission vide its Tariff (D) Order dated 30.09.2008.





## **2. Generation of Power**

The cost of rgeneration of power is trued up at Rs.0.08 crore, as indicated in the entry at Sl.7 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against `nil' amount, approved by the Commission vide its Tariff (D) Order dated 30.09.2008

## **3. Repair and Maintenance:**

The cost of repair and maintenance is trued up at Rs.16.05 crores, as indicated in the entry at Sl.8 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against an amount of Rs.29.17 crores, approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

## **4. Employees' Cost:**

The employees' cost is trued up at Rs.104.79 crores as indicated in the entry at Sl.9 of Statement-1, at Page-10 of the Audited Statement of Account for the year 2008-09, as against an amount of Rs.102.81 crores, approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

The prayer of the MeECL to include the amount of Rs.13.94 crores for Employee cost relating to prior period as per Schedule 18 : SI 2 © of the Audited Statement of Accounts for the fiscal year 2008-09 relates to `Prior Period Expenditure'. Such





expenditure on employee's costs are entirely of a controllable nature. Commission had analyzed, examined and discussed the matter relating to prior period charges, in great depth in its provisional truing-up Order dated 10.09.2009. In doing so, the Commission had decided to allow prior period expenditure which were of an uncontrollable nature such as costs of purchase of power, wheeling charges etc., but had also decided not to allow prior period expenditure which were of a controllable nature such as Employee Costs, etc., The MeSEB / MeECL had appealed against this decision to the Hon'ble Appellate Tribunal in Appeal No.37 of 2010. While disposing of the Appeal vide its' Order dated 10.08.2010, the Appellate Tribunal had upheld the Commission's decision relating to uncontrollable / controllable prior period expenditure. In view thereof, the matter is no longer open for further consideration. **Consequently, the MeECL's prayer to allow an amount of Rs.13.94 crores as Employee cost relating to prior period as reflected in Schedule 18 : Sl 2 © of the Audited Statement of Accounts for the fiscal year 2007-08 is not considered by the Commission.**



5. **Administration and General Expenses:**

Administration and General Expenses is trued up at Rs.7.92 crores, as indicated in the entry at Sl.10 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against an amount of Rs.8.78 crores, approved vide Commission's Tariff (D) Order dated 30.09.2008.

6. **Other Debits (including provision for Bad Debts)** Other Debts (including provision for Bad Debts) is trued up at Rs.18.48 crores, as indicated in the entry at Sl.15 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09 as against an amount of Rs.10.00 crores, approved vide Commission's Tariff (D) Order dated 30.09.2008.

7. **Provision for Income-Tax:**

Expenses on Income Tax is trued up at Rs.4.21 crores, as indicated in the entry at Sl.17 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against `nil' amount approved by the Commission vide Tariff (D) Order dated 30.09.2008.

7-A. The MeECL prayer for inclusion of Rs.0.01 Crore for `Short provision for income tax in prior period as per Schedule 18: Sl 2(g) is treated as `Uncontrollable Prior Period Expenditure' and allowed. This amount is accordingly added to the ARR under `Sl. 7 : Provision for Income Tax'.



8. **Revenue Expenditure excluding Depreciation and Interest & Finance Charges** :

Thus, the Commission trues-up the total revenue expenditure excluding depreciation and interest & finance charges, during the year 2008-09, at Rs.373.48 crores as against an amount of Rs.415.65 crores approved by the Commission vide its Tariff (D) Order dated 17.12.2007

9. **Depreciation**

Depreciation expenses is trued up at Rs.14.12 crores, as indicated in the entry at Sl.11 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against an amount of Rs.15.37 crores, approved by the Commission vide Tariff (D) Order dated 30.09.2008.

10. **Interest & Finance Charges –**

Interest & Finance Charges of Rs.87.5665 crores, indicated in the entry at Sl.12 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, includes an amount of Rs.18.2266 crores, shown as interest payable on State Government loans as indicated at Sl.1 of Schedule-12, of the Audited Statement of Accounts for the year 2008-09 . On query by the Commission, MeSEB reported vide their letter No. MeSEB/SE(RA)/33/62 dated 29.10.2009 that they(MeSEB) have not paid any amount as interest on State Government Loan during 2008-09 and there is no proposals to pay any amount of interest on State



Government Loans during 2009-10, etc. The Commission, therefore, holds that this amount of Rs.18.2266 crores, reflects an amount that was payable to State Government, but was not paid. It was retained by MeSEB. The Commission cannot allow the burden of this amount to be passed on to the consumers through the ARR. As such, the Commission excludes this amount, leaving an amount of (Rs.87.5665 minus Rs.18.2266) crores, equal to Rs.69.3399 crores. Similarly, the amount of Rs.87.5665 crores also includes an amount of Rs.0.98 crores payable as interest on loans from Central Sponsored Scheme (CSS), as indicated at Sl.5 of Schedule-12, of the Audited Statement of Accounts for the year 2008-09. On query by the Commission, the MeSEB reported vide their letter No. MeSEB/SE(RA)/42/37 dated 09.03.2010 that they(MeSEB) have not paid any amount as interest on CSS loans during 2008-09 or subsequently. The Commission, therefore, holds that this amount of Rs.0.98 crores, reflects an amount that was payable to Central Government, but was not paid. It was retained by MeSEB. The Commission cannot allow the burden of this amount to be passed on to the consumers through the ARR. As such, the Commission excludes this amount, leaving an amount of (Rs.69.3399 minus Rs.0.98) crores, equal to Rs.68.3560 crores. Further, para 1 of the CAG's audit report on the Statement of Accounts for the year 2008-09, indicates that there is an understated liability



against other current liabilities / interest & finance charges on OECF Loans during that year amounting to Rs.1.56 crores. Similarly, para 3 of the CAG's audit report on the Statement of Accounts for the year 2008-09, indicates that there is an understated liability against previous cumulated interest payable on JBIC loan of Rs.8.30 crores for the period 2006-07 to 2008-09, amounting to Rs.0.28 crores. The expenditure on the interest & finance charges during 2008-09 is, therefore, trued up at Rs.(68.3560 plus 1.56 plus 0.28) = Rs.70.1960 crores, say Rs.70.20 crores, as against an amount of Rs.64.86 crores, approved vide Commission's Tariff (D) Order dated 30.09.2008.

11. **Revenue Expenditure including Depreciation and Interest & Finance Charges**

Thus, the Commission trues-up the total revenue expenditure including depreciation and interest & finance charges, during the year 2008-09, at Rs.457.80 crores, as against an amount of Rs.495.88 crores approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

12. **'Capitalised Expenses'**

(i). Capitalised Interest & Finance Charges : The Commission trues-up the 'Capitalised Interest & Finance Charges' at Rs.48.33 crores, as indicated in the entry at



Sl.13 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against `nil' amount approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

(ii). Capitalised Other Expenses : The Commission trues-up the `Capitalised Other Expenses' at Rs.8.47 crores, as indicated in the entry at Sl.14 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against `nil' amount approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

(iii). Capitalised Expenses to be deducted from trued up revenue expenditure : Thus, the Commission trues-up the capitalised costs to be debited from the trued up revenue expenditure at (Rs.48.33 + Rs.8.47) = amounting to Rs.56.80 crores, as against `nil' amount approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

13. **Revenue Expenditure excluding capitalized Expenses**

From the position reflected in item 12 above, the Commission trues-up the revenue expenditure excluding capitalised costs on interest & finance charges, as well as on other expenses at (Rs.457.80 minus Rs.56.80) crores, amounting to Rs.401.00 crores, as against an amount of



Rs.495.88 crores, approved by the Commission vide its Tariff (D) Order dated 30.09.2008.

**14. Other Deductions:**

- i) **Other Income** – The Commission trues-up the ‘Other Income’ at Rs.39.78 crores, as indicated in the entry at Sl.5 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against an amount of Rs.41.17 crores, approved by the Commission vide its Tariff (D) Order dated 30.09.2008
- ii) **R.E. Subsidy** – The Commission trues-up the other income received by MeSEB as subsidy for rural electrification at Rs.11.70 crores, as indicated in the entry at Sl.4 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2008-09, as against a ‘nil’ amount, approved by the Commission vide its Tariff (D) Order dated 30.09.2008
- iii) **Fiscal Loss for failure to cause 3 % reduction of AT&C losses** –  
The Commission notes from records that the AT&C loss level of the Petitioner (MeSEB) was 31.62 percent during the year 2007-08, and 33.79 percent during the year 2008-09, as reported by MeSEB vide their letter No.MESEB/SE(RA)33/33 dated 04.09.2009. read



with their letter No.MESEB/SE(RA)33/43 dated 14.10.2009. The mandated minimum reduction of AT&C losses for Entities having an AT&C loss level in excess of 30 percent, is 3 percent from the previous years' level, as per standing guidelines in such regard. The maximum permissible AT&C loss level for the Petitioner(MeSEB) during 2008-09 after reduction of their previous years AT&C loss by 3 percent is, therefore, (31.62 minus 3.00) equals to 28.62 percent. The Commission notes that the AT&C losses of MeSEB during the year 2008-09 was 33.79 percent, as reported by them(MeSEB) vide their letter No.MESEB/SE(RA)33/33 dated 04.09.2009 and subsequently revised by their letter No.MESEB/SE(RA)33/xx dated 14.10.2009. As such, the Commission finds that there was a short fall of (33.79 minus 28.62) equal to 5.17 percent in minimum reduction of AT&C losses during the year 2008-09. The total quantity of energy sold by MeSEB during 2008-09 was 1044.60 million units as per the Audited Statement of Accounts for that year.

The contention of the MeSEB / MeECL in their Affidavit dated 12.10.2010 that their AT&C losses for the fiscal year 2007-08 had been further revised to 29.16 percent from 33.79





percent is not acceptable to the Commission, at this stage. It is not open to MeECL to continue to revise their figures in such regard, from time to time. Data submitted to the Commission under duly sworn Affidavit, needs to be duly verified and firm. Such data cannot be taken lightly. The Commission does not accept this contention of MeSEB / MeECL.

Consequently, the Commission holds that the shortfall in mandated reduction of AT&C losses was equivalent to 5.17 percent of 1044.60 million units of electricity, which works out to 54.0058 million units. The average aggregate Unit Rate for sale of power during 2008-09 is Rs.(Revenue Expenditure excluding capitalized interest and finance charges amounting to Rs.401.00 Crores **minus** Other Income of Rs.39.78 Crores **minus** R.E.Subsidy of Rs.11.70 Crores **plus** Return on Equity of Rs.28.28 Crores) = Rs.377.80 Crores / Total Energy Sales of 1044.6 million units = 361 paise per unit , as per the Audited Statement of Accounts for that year. The Commission, therefore, concluded that the inefficiency of the Petitioner (MeSEB) to reduce AT&C losses by the mandated level during 2008-09 resulted in a fiscal loss of Rs(54.0058 million units X Rs.3.61



per unit) equaling Rs.19.49 crores. The Commission, accordingly fixes the penalty to be imposed on the Petitioner(MeSEB) for its inefficiency and failure to reduce AT&C losses by the mandated level during the year, to an amount of Rs.19.49 crores, by which amount the Petitioner(MeSEB)'s trued-up ARR for the said year 2008-09 shall stand reduced.

iv) On the basis of its' findings reflected in sub-items (i), (ii), and (iii) above, the Commission trues-up the amount of 'Other Deductions' from the trued-up ARR of the Petitioner at Rs(39.78 + 11.70 + 19.49) equaling an amount of Rs.70.97 crores.

15. **Revenue requirements after deductions**

On the basis of its' findings reflected at items i). to iv).of para 14 above, the Commission trues up the Revenue Requirement of the Petitioner(MeSEB) for the year 2008-09, after all deductions at Rs (401.00 crores, as reflected in para 13 above, **minus Rs.70.97 crores**, as reflected at item (iv) of para 14 above), totaling to Rs.330.03 crores, as against an amount of Rs.437.45 crores, approved vide Commission's Tariff(D) Order dated 30.09.2008.



**16. Return on Equity**

In truing-up the ARR for the year 2008-09, the Commission retains the return on equity at the rate of 14 percent on the Petitioner's Equity Base of Rs.202.00 crores, amounting to Rs.28.28 crores, as approved vide Commission's Tariff(D) Order dated 30.09.2008.

**17. Net Trued-up Annual Revenue Requirement of MeSEB for the year 2008-09 –**

Based on the findings reflected in items 1 to 17 above, the Commission trues up the Annual Revenue Requirement of the Petitioner (MeSEB) for the year 2008-09 at Rs.358.31 crores, , as against an amount of Rs.465.73 crores, approved vide Commission's Tariff(D) Order dated 30.09.2008.

**18. Revenue collected from Sale of Power**

The Commission notes from the Audited Statement of Accounts for the year 2008-09 that the total revenue collected from the sale of power during that year was Rs. 404.62 crores, as follows –

1. Income from Sale of Power during 2008-09 as reflected against Sl.1 of Statement 1 at Page 10 of Audited Statement of Accounts for 2008-09	=	Rs.392.51 Cr.
2. ADD UNCONTROLLABLE revenue income from revenue receipts from consumers relating to prior period. See Schedule 18 : Sl.1(b) of the Audited Staement of Accounts for the year 2008-09.	=	Rs. 12.11 Cr.
<hr/>		
Grand Total of Receipts from Sale of Power		= Rs.404.62 Cr.



**19. Revenue Surplus (+) or Deficit (-)**

The Commission notes that as against a trued-up ARR of Rs.358.31 crores for the year 2008-09, the MeSEB / MeECL's revenue receipts from the sale of power, during the same year was Rs.404.62 crores, resulting in a revenue surplus of Rs.46.31 crores. The Commission, therefore, creates a gross Regulatory Asset of Rs.46.31 Crores for the year 2008-09.

Further, the Commission decides to adjust the Regulatory Liability of Rs.9.41 Crores as trued-up for the fiscal year 2007-08, against the aforesaid gross surplus / regulatory asset of Rs.46.31 Crores as trued up for the fiscal year 2008-09, resulting in a net revenue surplus of Rs.36.90 Crores. In doing so, the Commission, directs the MeSEB / MeECL to hold this net revenue surplus amounting to Rs.36.90 crores as net Regulatory Asset, for further orders of the Commission.

The adjustment of this amount of Regulatory Asset shall be determined in the manner prescribed therefore, by suitable Regulation, to be notified by the Commission, in exercise of the powers enabling it to do so, in terms of the provisions of the Electricity Act of 2003.

The fiscal Statement of the Trued-up Annual Revenue Requirement (ARR) of the Petitioner (MeSEB) for the years 2007-08, in Tabular Form is given in Table-I below -



TABLE - I						
STATEMENT SHOWING TRUING-UP OF ANNUAL REVENUE REQUIREMENT OF MeSEB FOR THE YEAR 2008-09 based on the audited Statement of Accounts for the year 2008-09, read with the CAG's report thereon						
Sl.No	Item	2008-09 ( Rs. in Crores )				Remarks
		ARR for 2008-09 as allowed vide MSERC Order dt.30 Sep 2008	ARR for 2008-09 as provisionally trued up vide Commission's Order dated 13.08.2010 on the basis of the Audited Statement of Accounts for 2008-09, read with CAG's Audit Notes thereon	ARR for 2008-09 as proposed by MeECL vide their Affidavit dated 12.10.201	ARR for 2008-09 as finally trued up by Commission vide its Order dated 18.02.2011 in Truing-Up Proceedings No.2 of 2010.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>I</b>	<b>REVENUE EXPENDITURE</b>					
1.	Purchase of Power	264.89	206.90			
				Purchase of power including transmission charges	201.63	201.63
				Purchase of power as per Audit Report dated 22.04.2010 at para 2 in Audit Statement of Accounts 2008-09 at page 2	5.34	5.26
				Power purchased relating to prior period as per Audit Accounts Schedule 18, Sl.No.2(a) less Rs.17.78 crore included while truing up of FY 2007-08	12.38	
				Wheeling Charges relating to prior period as per Audit Accounts Schedule 18, Sl.No.2(f)	2.65	2.65
				Sub-Total	222.00	221.94
2.	Generation of Power		0.08		0.00	0.08
3.	Repair & Maintenance	29.17	16.05		16.05	16.05



(1)	(2)	(3)	(4)	(5)		(6)	(7)
4.	Employees Cost	102.81	104.79	Employee Expenses in current year	104.79	104.79	
				Employee cost relating to prior period as per Audit Schedule 18, Sl.No.2(f)	13.94	0.00	
5.	Administration and General expenses	8.78	7.92	7.92		7.92	
6.	Other Debits (including provision for Bad Debts)	10.00	18.48	18.48		18.48	
7	Provision for Inc. tax	0.00	4.21	Income Tax	4.21	4.21	
				Short provision for income tax in prior period as per AAS 18, Sl.2(g)	0.01	0.01	
8.	Revenue Expenditure excluding Depreciation and Interest & Finance Charges (1+2+3+4+5+6+7)	415.65	358.43	387.40		373.48	
9.	Depreciation	15.37	14.12	14.12		14.12	
10.	Interest & Finance Charges on –						
(i)	State Government Loan	64.86	0.00				
(ii)	Central Government Loans		0.00				
(iii)	Other Loans, Bonds, Advances etc., and Finance Charges		70.20	70.20	70.20	70.20	
(iv)	Total Interest & Finance Charges allowed by Commission for inclusion in ARR		70.20	70.20	70.20	70.20	



(1)	(2)	(3)	(4)	(5)	(6)	(7)
11.	Revenue Expenditure including Depreciation and Interest & Finance Charges [ 8+9+10(iv)]	495.88	442.75	471.72	457.80	
12.	Less Capitalised Expenses on					
(i)	Interest & Finance Charges	0.00	48.33	48.33	48.33	
(ii)	Other Expenses	0.00	8.47	8.47	8.47	
(iii)	Sub total of Capitalised Expenses	0.00	56.80	56.80	56.80	
13.	Revenue Expenditure excluding capitalized Interest & Finance Charges and Other Capitalised Expenses (11-12)	495.88	385.95	414.92	401.00	
<b>14. OTHER DEDUCTIONS</b>						
(i).	Other income	41.17	39.78	39.78	39.78	
(ii)	R.E. Subsidy	0.00	11.70	11.70	11.70	
(iii).	Subsidy against power purchased	0.00	0.00	0.00	0.00	
(iv).	Recovery against supply of power to Government Departments	0.00	0.00	0.00	0.00	
(v).	Fiscal Loss for failure to cause 3% reduction of AT&C loss	17.26	18.42	8.54	19.49	
(vi)	Sub-total of Other Deductions	58.43	69.90	60.01	70.97	
15.	REVENUE REQUIREMENT AFTER DEDUCTIONS	437.45	316.05	354.91	330.03	
16	Add: Return on equity	28.28	28.28	28.28	28.28	
17.	NET ANNUAL REVENUE REQUIREMENT	465.73	344.33	383.19	358.31	
18.	TOTAL ENERGY SALES in MU's	1071.44	1044.60	1044.60	1044.60	
19.	Overall Average Unit Cost of Power in Paise per Unit	435	329		343	



(1)	(2)	(3)	(4)	(5)	(6)	(7)
20.	Actual Revenue collected from Sale of Power		Actual Revenue collected from Sale of Power	392.51	392.51	392.51
			Prior period income on Receipts from Consumers	12.11	12.11	12.11
			Total		404.62	404.62
21.	Surplus (+) / Deficit (-) of Net Revenue from Sale of Power over Annual Revenue Requirement during 2008-09		(+) 48.18	(+) 21.43	(+) 46.31	
22.	Gross Regulatory Asset for the year 2008-09 created vide Commission's Order dated 18.02.2011 in Truing-Up Proceedings No.2 of 2010				Rs. 46.31	
23.	Less Gross Regulatory Liability for the year 2007-08 created vide Commission's Order dated 18.02.2011 in Truing-Up Proceedings No.1 of 2010				Rs. 9.41	
24.	Net cumulative Regulatory Asset created vide Commission's Order dated 18.02.2011 in Truing-Up Proceedings No.2 of 2010				Rs.36.90 Crores	

Given under the hand and seal of the Meghalaya State Electricity Regulatory Commission, this 18<sup>th</sup>.day of February,2011, at Shillong.

(P.J.Bazeley)  
Chairman  
Meghalaya State Electricity Regulatory Commission  
18th. February, 2011.

