

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

Present:

Shri P.J. Bazeley, Chairman, MSERC.

Date of Hearing - 1. 29 July 2009
2.26 August 2009

Date of Order - 10 September 2009

Byrnihat Industries Association - Petitioner / Appellant

- versus -

Meghalaya State Electricity Board - Respondents

Counsel for the Appellant : 1.Shri. M.J. Ramachandan
2.Shri. Anand K Ganesan

Counsel for Respondent : 1.Shri. M. Malhotra
2.Km. Poonam Verma.

ORDER

01. The instant proceedings arise out of the Petitioner / Appellant having allegedly been aggrieved by the Commission's Tariff(D) Order dated 30 September 2008 in Tariff(D) Application No.1/2008, for reason that the tariff was thereby increased over previous tariff, (*that is the existing tariff prior to the said Order, as fixed by Commission vide its' Order dated 17 December 2007 in Tariff(D) Application No.1/2007*) by over 45

per cent in respect of the fixed charges for HT Category and by over 62 percent in respect of the fixed charges for EHT Category, besides increasing energy charges by over 73 per cent for the HT Category and by over 92 per cent for the EHT category. The Petitioner / Appellant have also alleged that because of this increase in tariff, the quantum of cross-subsidy to subsidized categories of consumers, has increased over the previous year, thus violating the provisions of Section 61 (g) of the Electricity Act 2003 and the National Tariff Policy. Several other points relating to unreasonable expenses have been raised by the Petitioner / Appellant in support of their contention alleging that the MeSEB has collected more revenue than what it was entitled to collect in accordance with law.

02. The Petitioner / Appellant preferred an Appeal to the Hon'ble Appellate Tribunal for Electricity (Appellate Jurisdiction) in Appeal No 132 of 2008. After hearing the Petitioner / Appellant, the Hon'ble Appellate Tribunal for Electricity passed orders on the 09 February 2009, remitting the matter to the Commission with the direction - *to undertake truing-up exercise*

of financial year 2007-08 with the financial date ending March, 2008 and examine the submission and contentions of the Appellant in accordance with law'. The Hon'ble Appellate Tribunal further directed that - 'the Commission shall provide the opportunity to Appellant for being heard alongwith the affected parties before arriving at the determination in the truing-up exercise. Truing-up exercise for financial year 2007-08 shall be undertaken by the Commission expeditiously so as to conclude it by end of May 2009. On completion of the truing-up exercise the Commission shall act in accordance with law for giving effect to the same.'

03. Pursuant to the said Order of the Hon'ble Appellate Tribunal, the Respondent submitted a report vide their letter No.MESEB/SE(RA)/32/62, dated the 9th July 2009 and annexures thereto, furnishing financial-data for the fiscal year 2007-08 based on their Audited Statement of Accounts for that fiscal year. They also submitted provisional data for the fiscal year 2008-09 based on their Pre-audited Statements of Accounts for the said fiscal year .

04. On 13th July 2009, the Commission passed Orders to provide a copy of the Respondent's report dated 9th July 2009 along

with all annexures thereto, to the Appellant, and fixed 29.07.2009 for hearing both the parties.

05. During hearing on 29th July 2009 the Petitioner / Appellant (Byrnihat Industries Association) were represented by the Learned Counsel Anand K. Ganesan and others, while the Respondent was represented by their Learned Member Finance Shri D.P. Wahlang and others.

06. During hearing, the Learned Counsel for the Petitioner / Appellant submitted an exhaustive written Memorandum dated 27th July 2009 and made oral submissions before the Commission reiterating the same issues raised in their said Memorandum . The issues raised by the learned Counsel for the Petitioner / Appellant were briefly, as follows –

General Issues -

- i. Data filed by the MeSEB is grossly inadequate and lacking in material details to undertake a proper truing up exercise. MeSEB has been omitting to give selective details deliberately.
- ii. MeSEB is attempting to pass on its entire inefficiencies to the account of the consumers in the State.

- iii. MeSEB be directed to file the complete financial details and other particulars as required to undertake the truing up exercise.

- iv. The process of truing up is not the stage where the MeSEB can re-agitate the issues which have already been disallowed by the Commission at the time of passing of the tariff order. The earlier tariff orders passed by the Commission have not been challenged by MeSEB and as such the issues decided in the said tariff orders are settled and binding in so far as MeSEB is concerned.

- v. The only exercise to be undertaken in the truing-up is to true up the expenses on the basis of actual data available, after applying prudence check.

Issues relating to Financial Year 2007-08.

- vi. MeSEB has claimed an ARR as per the audited accounts to be Rs.400.25 crores as against the ARR of Rs.277.60 crores approved by the Commission. MeSEB has claimed the difference of Rs.122.65 crores as shortfall for the financial year

2007-08. The deficit claimed is not correct and in fact there has been surplus in the relevant year .

- vii. Out of the total power purchase cost of Rs.174.52 crores for the financial year 2007-08, a sum of Rs.18.49 crores is for purchase of power through UI mechanism and a sum of Rs.24.68 crores is on account of arrears due to revision of UI charges. These charges are directly related to the inefficiency of the MeSEB to adhere to the grid frequency and ought not to be passed on to the consumers in the tariff.
- viii. The sum of Rs.65 crores claimed as revenue requirement due to non-recovery of dues from Government Departments cannot be passed on to the consumers, or included in the ARR for 2007-08. Government had made an adhoc payment of Rs.50 crores to MeSEB, which needs to be clarified..
- ix. MeSEB has claimed interest and finance charges of Rs.76.24 crores as against a sum of Rs.55.57 crores allowed by the Commission in the tariff order. Such higher financing charges ought not to be allowed as it would amount to financing the inefficiencies of MeSEB.

- x. MeSEB has included a sum of Rs.21.96 crores on account of their prior period charges. Such expenditure ought not to be passed on to the consumers as it has no correlation to the consumer base for the relevant year.
- xi. Any extra expenditure over and above the expenditure previously allowed, with regard to Employees expenses, Repair and Maintenance expenses and Administrative & General Expenditure ought not to be allowed, unless the MeSEB is in a position to completely justify the need for such extra expenditure.

Issues relating to Financial Year 2008-09

- xii. MeSEB on its own account has a surplus of Rs.60.38 crores establishing that the projections made by the MeSEB for the tariff year 2008-09 were abnormally high.
- xiii. The surplus of Rs.60.38 crores as submitted by MeSEB on provisional basis is itself very low and the actual surplus ought to be much higher. MeSEB ought to have provided the audited accounts for the financial year 2008-09

- xiv. The MeSEB needs to provide the breakup of the power purchase cost incurred by MeSEB for 2008-09 as it is apprehended that the MeSEB has included the UI charges as a part of the power purchase cost of MeSEB. Such UI ought not to form a part of the power purchase cost to be passed on to the consumers.

- xv. MeSEB has also included a sum of Rs.31.95 crores in the ARR on account of net prior period charges. There is no justification for allowing such charges to be passed on to the consumers. MeSEB has provided no detail or justification whatsoever for allowing such expenditure to be passed on in the tariff.

- xvi. The sum of Rs.17.26 crores claimed by MeSEB on account of non-achievement of revenue gain for 2% reduction in aggregate technical and commercial losses ought to be outrightly rejected by the Hon'ble Commission.

- xvii. Cross-subsidies prevailing in the system have to be reduced in terms of the provisions of the Electricity Act, 2003 and the National Tariff Policy.

07. The learned Counsel also prayed for a few days time to submit further written submissions.

08. The Respondent (the Meghalaya State Electricity Board) was represented by their learned Member Finance who categorically denied and refuted the written and oral submissions made by the learned Counsel for the Petitioner / Appellant. The learned Member Finance also prayed that the Commission be pleased to summarily reject the submissions contained in Paragraphs 24 onwards of the Petitioner / Appellant's Memorandum as these related to the financial year 2008-09, whereas the Hon'ble Tribunal had in their Order dated 09 February 2009 directed the Commission *to undertake truing-up exercise of financial year 2007-08 with the financial data ending March 2008.*

09. The learned Member Finance stated that the Respondent desires to submit their detailed response to each of the issues raised by the Petitioner / Appellant in their aforesaid Memorandum and orally reiterated by their learned Counsel during hearing. For such purpose, the Respondent prays for at

least two weeks time and for postponement of the hearing on the matter, till then.

10. Carefully considering the issues raised by the learned Counsel on behalf of the Petitioner / Appellant, and by the learned Member Finance on behalf of the Respondents, the Commission passed Orders on 29 July 2009 allowing both parties to submit their additional Memorandum as desired, if any, and fixed the matter for further hearing on 17th August 2009 .

11. On 03 August 2009, the Petitioner / Appellant submitted their additional Memorandum dated 03.08.2009 along with enclosures, and indicated on record, that they had provided a copy of same to the Respondents.

12. On 12 August 2009, the Respondent submitted their further detail response vide their letter No.MESEB/SE(RA)32/69 dated 12 August 2009 and enclosure thereto, and indicated on record, that they had provided a copy of same to the Petitioner / Appellant. The response of and issues raised by the

Respondent in their above stated memorandum are briefly, as follows –

General Issues -

- i.* The MeSEB Report dated 03.07.2009 gives all the details of data required for truing up for FY 2007-08.
- ii.* The exercise of truing up to be undertaken by the Commission relates to FY 2007-08. Therefore, the issues relating to FY 2007-08 only need to be considered for the purposes of present proceedings.
- iii.* For the purposes of understanding the issue involved, it is relevant to note the position, as in Table-I below:

Table-I

FINANCIAL YEAR 2007-08				FINANCIAL 2008-09			
ARR Petition dt. 18.06.2007 (Annex-I to the Report)	Approved Order dt. 17.12.2007 (Annex-I to the Report)	Audited on 14.01.2009 (Annex-II to the Report)	Shortfall/ Excess	ARR Petition dt.31.03.2008 (Annex-III to the Report)	Approved dt.30.09.2008 (Annex-III to the Report)	Provisional (Annex-IV to the Report)	Shortfall/ Excess
Rs.443.09 Cr	Rs.277.60 Cr	Rs.400.25 Cr	Rs.400.25-277.60 Cr = 122.65 Cr	Rs.512.01 Cr	Rs.465.73 Cr	Rs.405.35 Cr	Rs.465.73-405.35 = 60.38 Cr

- iv.* The contents of para 1 are a matter of record and need no reply.
- v.* The content of para 3 are denied. MeSEB on 22.01.2009 submitted the audited “Statement of Accounts 2007-08” to the Commission vide letter No.MeSEB/SE(RA)/33/22. The statement of accounts for FY 2007-08 also include the Balance

Sheet, Profit and Loss Accounts, Audit report and Audit certificate for the year 2007-08. The said Statement of Accounts was also filed before the Hon'ble Tribunal on 28.01.2009. Therefore, it is denied that the MeSEB has omitted to give details.

vi. It is denied that MeSEB is raising any claim towards costs and expenses which have already been rejected by the Hon'ble Commission. Petitioner is making vague and baseless allegations.

vii. All details filed by the MeSEB have been provided to the Petitioner as well .

viii. It is denied that MeSEB is re-agitating any of the issues. It is submitted that the MeSEB is only substantiating the expenses/costs by way of filing the additional report based on the audited figures received from the CAG on 14.01.2009.

ix. It is denied that the details submitted by the MeSEB demonstrate lack of transparency. The Objector be put to strict proof for such a baseless allegation against MeSEB.

Parawise reply for FY 2007-08

- x. MeSEB received the audited figures for FY 2007-08 on 14.01.2009 and it is only after receiving of the audited figures, the MeSEB was able to provide the figure of Rs.122.65 crores as shortfall for FY 2007-08.

- xi. It is denied that UI charges are on account of inefficiency of MeSEB and its inability to reduce loss level in the system. It is submitted that Rs. 24.68 crores as submitted by MeSEB was towards arrears due to revision in UI rate.

- xii. It is submitted that the MeSEB in its ARR Petition for FY 2007-08 did not mention anything about Rs. 65 crores as subsidy. The Commission on 17.12.2007 while approving the ARR Petition for FY 2007-08 deducted an amount of Rs. 65 crores against the State Government outstanding dues. The MeSEB filed a review petition which was also dismissed by the Hon'ble Commission by observing that *the Board is a 100% Government owned licensee and since the dues amounting to Rs.65 crores pertain to the government departments, the government should be able to find a way to transferring the money due to the Board and not allow this to be reflected in a revised tariff.* It is

denied that the MeSEB is raising this issue in its report filed on 09.07.2009.

xiii. The claim of Rs 65 crores is not an outstanding subsidy but revenue for the MeSEB against supply of power to Government department for previous years. Admittedly, MeSEB has clearly set out the quantum of subsidy for Rural Electrification and power purchase as has also been shown in the Audit. The MeSEB is not attempting to re-agitate the issue .

xiv. The contents of para 14 are a matter of record.

xv. Admittedly the Government of Meghalaya on 04.04.2008 issued a communication to the MeSEB wherein the government agreed to pay Rs. 50 crores to the MeSEB for clearing of dues payable to the MeSEB up to 31.03.2008. The figure of Rs. 50 crores shall be incorporated in the accounts of FY 2008-09.

xvi. It is denied that the MeSEB has taken substantial loans only for the purposes of bridging its revenue gap which has occurred due to its own inefficiency. Full details were provided by MESEB.

Prior Period Charge:

- xvii. It is submitted that prior period items are defined as those items which arise:
- (i) on retrospective change in the basis of accounting (it may be noted that retrospective changes in the basis of accounting should be avoided as far as possible).
 - (ii) on correction of Fundamental error in accounting of prior period.
 - (iii) On account of short or excess provision made in previous years.

Therefore it is denied that such charges cannot be allowed to be passed on to the consumers.

The contents of para 20 are denied. It is submitted that the MeSEB is not claiming these expenses for the first time as it had submitted the audited accounts before the Hon'ble Commission on 22.01.2009. It is noteworthy that prior period expenses & Receipts occur on account of a variety of reasons such as

- a. Supplementary Bills that may be served by various agencies,
- b. Rates may be revised subsequently with a retrospective effect,etc.

Such instances cannot be perceived by the MeSEB beforehand and hence cannot be incorporated in the finalized and Audited Balance Sheet of the previous years. However, the Electricity (Supply) (Annual Accounts Rules) 1985 also provides justification for incorporation of such prior Receipts/Payments in the subsequent year (s).

- xviii. It is submitted that the MeSEB in its ARR petition for FY 2007-08 submitted the details of power to be purchased by the MeSEB which was 889.62 MUs for Rs. 224.56 crores (page 16 and page 95 of the Petition). Pursuant to the filing of the petition, the quantum of power to be purchased by the MeSEB was revised on account of improvement in rainfall during FY 2007-08. The Hon'ble Commission in its order 17.12.2007 in para 14 has taken note of the revised figure and against an earlier estimated procurement cost of Rs. 224.56 crores, allowed Rs. 146.87 crores (for 682.06 MUs).

Collection-Efficiency -

- xix. The MeSEB sold 1058.10 MUs in FY 2007-08 and billed for Rs.318.15 crores. It is to be noted that out of Rs. 318.15 crores, the MeSEB only collected Rs.

280.17 crores i.e, 88.06% was the collection efficiency of the MeSEB.

Transmission & Distribution Losses –

- xx. It is noteworthy that out of 1587.21 MUs of power available for sale, 1058.11 MUs were sold resulting in T&D loss of 33.34% (Statement 9 of the audited accounts). The AT&C loss in 2007-08 was 41.82%.

- xxi. It is submitted that the expenditure incurred by the MeSEB was necessary for operation, maintenance and development of power sector in the state. All expenses have been audited by the statutory auditor, i.e., CAG, Govt. of India, and were found to be legitimate. It is therefore submitted that the audited expenditure are justified and be allowed in the ARR for FY 2007-08.

- xxii. MeSEB craves liberty to not reply to para 24 to 40 since it relates to allegations of Objector relating to FY 2008-09. It is reiterated that the issue before the Commission relate to the truing up exercise for FY 2007-08. The Objector has unnecessarily raised objections relating to FY 2008-09.

13. On 14 August 2009, the Petitioner / Appellant submitted a petition along with a copy of the order of the Hon'ble Appellate Tribunal dated 14.08.2009 extending the date for disposal of the instant truing-up proceeding till 10th September 2009, as prayed for by the Petitioner / Appellant. On the same date, the Commission passed Orders granting the Petitioner / Appellant's request as contained in their petition dated 14.08.2009 and re-fixed the instant proceeding for hearing and disposal on 26th August 2009.

14. On 21 August 2009, the Commission asked the Respondents vide its communication No.MSERC/69/2008/Pt-249 dated 21.08.2009 to clarify facts relating to –

- (1). payment of Income-tax during 2007-08 as reflected in their Reports dated 09 July 2009 and 12 August 2009;
- (2). Net prior periods Credits / Charges for 2008-09 as reflected in their Provisional Statement of Accounts for 2008-09 based on the pre-Audited Statement of Accounts for the same period; and
- (3). Details of Subsidy Receipts, if any, during 2008-09.

15. On 25 August, the Petitioner / Appellant submitted their written rejoinder to the reply filed by the Respondents on 12 August 2009 and indicated on record, that they had provided a copy of same to the Respondents.

16. On 26 August 2009, the Respondent submitted the required clarificatory report to the Commission vide their letter No.MeSEB/SE(RA)/32/85, dated 25 August 2009 and enclosures, clarifying the factual position based on records.

17. During hearing on 26 August 2009, the learned Counsel for the Petitioner / Appellant Shri M.J Ramachandan orally reiterated the issues raised in their earlier written Memoranda dated 29 July 2009, 03 August 2009 and 25 August, 2009. In his oral submissions, the learned Counsel, for the Petitioner / Appellant alleged that -

1. The burden of U.I Charges including revised U.I Charges are penal charges imposed on the Operator for having resorted to grid indiscipline. Such charges cannot be passed on to the consumer as a part of tariff.

2. The burden of interest and finance charges on loans raised for capital works cannot form a part of the ARR of the Respondent.
3. Inclusion of the non-recovered areas of Rs.65.0 Crores for supply of power to State Government Departments, as a part of ARR cannot be allowed.
4. Correct analysis of the Statement of Accounts for 2007-08 reveal that MeSEB made a net profit of Rs.81.16 Crores during 2007-08, as against a deficit of Rs.82.1 Crores as claimed by MeSEB.
5. The 2 % revenue gain for causing phased reduction of mandated AT&C losses has not been accounted for in the revised Statement of Accounts submitted by MeSEB.
6. The claim of MeSEB for including an amount of Rs.31.95 Crores in the ARR for 2008-09 against Other Miscellaneous – Prior period Credit / Charges is not covered by their earlier proposal or Commission's approval for the impugned Tariff(D) for 2008-09. This claims needs to be rejected outright .

7. Relief granted by the Commission by way of inescapable downward revision of Tariff (D) needs to be commensurately passed on to all category of Consumers.

18. Responding to the submissions made by the Learned Counsel for Petitioner / Appellant , the Learned Counsel for Respondents Shri M. Malhotra orally reiterated the issues raised in their Memorandum dated 09 July 2009 and 12 August 2009, and claimed that -

1. As revealed by the Audited Statement of Accounts for 2007-08, there was a clear deficit of Rs.122.65 Crores during 2007-08.
2. Recovery of arrears of Rs.65.0 Crores for supply of power to State Government Departments, could not be effected during 2007-08, as State Government agreed to pay an amount of Rs.50.0 Crores as a one-time settlement of all areas upto 31 March 2008. This amount was paid-up by State Government during 2008-09. Hence inclusion of this amount in the revised estimate for ARR for during 2007-08 does not arise.

3. U.I Charges including Arrears due to revision of U.I rates is an integral part of power-purchase cost and needs to be included while determining reasonable tariff.

19. The Commission has carefully considered all issues raised

by –

- (1). the Petitioner / Appellant in their written Memorandum dated 29 July 2009, 03 August 2009 and 25 August 2009, as well as the oral submissions made by their learned Counsels on 29 July 2009 and 26 August 2009, *respectively*;
- (2). the Respondents in their written Memorandum dated 09 July 2009, 12 August 2009 and 27 August 2009, as well as the oral submissions made by their learned Member and 26 August 2009, *respectively*.

20. ANALYSIS and DECISIONS

20.1 After careful and prudent analysis of all facts, data and records connected with the issues and submissions raised and submitted by the Petitioner / Appellant and the Respondent, The Commissions holds and decides as follows –

20.1.1. ALLEGED INAVAILABILITY and INSUFFICIENCY OF
FINANCIAL RECORD AND DATA FOR UNDERTAKING
THE TRUING-UP EXERCISE :

20.1.1.1. The Respondent (MeSEB) has furnished the Commission with a copy of the Audited Statement of Accounts for 2007-08.

20.1.1.2. The Respondent has also furnished a concise Statement capsulating their perception of the ARR for 2007-08 based on the said Audited Statement of Accounts for 2007-08, vide their letter dated 09 July 2009, copy of which has been received by the Petitioner / Appellant. The enclosures to the letter include the Respondent's provisional assessment of their Revised ARR for 2008-09 based on their pre-Audited Statement of Accounts for that period, since the Audited Statement of Accounts for the fiscal year 2008-09 is not yet ready / available.

20.1.1.3. The Respondent (MeSEB) have vide their letter dated 12 August 2009 submitted to the Commission, their memorandum in response to the Petitioner / Appellant's Memorandum dated 28 July 2009. The contents of the memorandum provide the required details for prudently taking up the truing-up exercise for MeSEB's ARR for the fiscal year 2007-08 and reviewing the level of their ARR for the fiscal year 2008-09, with reference to the ARR for the same period, as approved by the Commission vide its' Order dated 30 September 2009. Copy of this

document and enclosures have been received by the Petitioner / Appellants.

20.1.1.4. The Respondent's letters dated 09 July 2009 and 12 August 2009 along with enclosures thereof, read with the copy of the printed Audited Statement of Accounts for the fiscal year 2007-08 provide the details of expenses and revenue generated during the connected periods, and are sufficient and adequate for prudently analyzing and truing-up the ARR for 2007-08 and reviewing the ARR for the fiscal year 2008-09.

20.1.1.5. The records submitted and oral submissions made by the Respondent, as reflected above, do not disclose any attempt on their part to reopen issues decided and disposed by the Commission vide its' Tariff (D) Order dated 30.09.08. Infact, all their submission relate to the instant **truing-up-exercise**. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.2. UNSCHEDULED INTERCHANGE (UI) CHARGES

20.1.2.1. An amount of Rs.18.49 crores was paid by the Respondent as UI charges during the year 2007-08. A further amount of Rs.24.68 Crores was also paid by the Respondent, during the same period, as arrear-dues arising out of revision in UI Rates by the Authority concerned.

20.1.2.2. The accrual of UI charges for drawal of power over the scheduled level is neither irregular nor inefficient, provided it is drawn within the scope of permissible frequency and within the `cap' of not exceeding -(i).12 percent of the scheduled level or 150 MW, whichever is lower, and (ii) not exceeding a daily aggregate of 3 percent of the scheduled level. Drawal of U.I power over and above the aforesaid limitations incur

Additional U.I Charges. The burden of such Additional U.I Charge under the provisions of regulation 7 of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulation, 2009) cannot be included in the ARR of the party concerned, or passed on to the consumer with effect from the 01 August 2009, as per standing CERC directive. It therefore follows that normal UI Charges including arrear of UI Charges due to revision of U.I rates can be otherwise included in the ARR of the party concerned, and the burden thereof passed on to the consumer. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.3. INTEREST and FINANCE CHARGES

20.1.3.1. Analysis of data on record of the instant proceedings reveal that the inclusion of 'Interest and Finance Charges' amounting to Rs. 76.24 Crores in the Audited Statement of Accounts for the fiscal year 2007-08 stands verified as a bonafide item of expenses for payment of interest / finance charges on authorized 'revenue' and 'capital' borrowings of the Respondent. However, as done each year, the interest burden on 'capital' borrowings are capitalized and deducted from the assessed revenue requirements. While including the amount of Rs.76.24 Crores against 'Interest and Financial Charges' under provisional 'Expenses' for the year 2007-08, the Respondent has also debited an amount of Rs.44.47

as `Capitalized Interest & Finance Charges`, besides debiting a further amount of Rs.10.66 Crores as `Capitalized Other Expenses`, This has resulted in the decrease of Respondent's proposed provisional `Gross Expenses' by an amount of Rs.55.13 Crores, that is from the level of Rs.437.14 Crores to a Net Level of Rs. 382.01 Crores. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.4 .OTHER MISCELLANEOUS–PRIOR PERIOD

CREDIT/CHARGES FOR THE FISCAL YEAR 2007-08

20.1.4.1. The Respondent included a net amount of Rs.21.96 Crores as `Other Miscellaneous – Prior period Credit / Charges relating to prior periods' in their proposed ARR Statement for 2007-08 for truing-up. This item of expenses was neither included as an item in the proposed ARR reflected in the Respondents' Petition for fixation of Tariff for the fiscal year 2007-08, nor was it included as an item of approved expense in the ARR approved for the fiscal year 2007-08, vide Commission's Order dated 17 December 2007 in Tariff (D) Application No.1 / 2007. While it was open for the Respondents to come up to the Commission during 2007-08, petitioning the Commission to review its' Order dated 17 December 2007 and to allow a justified level of `Other

Miscellaneous – Prior period Credit / Charges' to be inducted in their ARR for 2007-08, and it would have been open to the Commission to consider the matter, take a decision and pass appropriate Order, the Respondent did not take any appropriate step in time. **In view thereof, this item of expense can not be introduced in the ARR at this time of the truing-up exercise.**

20.1.4.2. However, to arrive at a considered decision on the matter, the details of this amount shown as Other Miscellaneous – Prior period Credit / Charges, during the fiscal year 2007-08, in Respondent's letter No.MESEB/SE(RA)/12/69, dated 12 August 2009 are as analyzed in Table – II below :

20.1.4.3. An analysis of data indicated in Table-II below reveals that the gross prior period charges under reference stands at Rs.33.10 Crores, as against a prior period credit of Rs.11.14 Crores during the same period, resulting in a net prior period charge of Rs.21.96 Crores.

Table - II

FISCAL YEAR 2007-08				
Sl.	Item of expenditure with detailed break up as reported by MeSEB vide their letter No.MESEB/SE(RA)/32/69, dated 12 th .August 2009	Amount included by MeSEB as a part of their ARR based on their Audited Statement of Accounts for 2007-08	Part of the amount claimed by MeSEB as <i>Other (Miscellaneous) Prior period Credit / Charges</i> , but classified by Commission, vide Order dated 10 September 2009 as -	
			Controllable Income / Expenditure	Uncontrollable Income / Expenditure
8	Other (Miscellaneous)			
	- Prior period Credit / Charges			
	1.CREDIT (INCOME)			
	(b).Receipt from Consumers relating to prior period,	9,32,11,814	0	9,32,11,814
	(d).Excess Provision for Depreciation in Prior Period,	74	74	0
	(f).Other excess provision relating to prior period,	1,43,45,406	1,43,45,406	0
	(g).Other income relating to prior Period	38,22,057	38,22,057	0
	TOTAL PRIOR PERIOD INCOME	11,13,79,351	1,81,67,537	9,32,11,814
	2.CHARGES (EXPENSES)			
	(a).Purchase of power relating to prior period	19,57,74,024		19,57,74,024
	(c).Employee costs relating to prior period	58,18,386	58,18,386	
	(d).Depreciation under provided in prior period.	1,74,21,049	1,74,21,049	
	(f).Wheeling charges relating to prior period.	3,16,58,873		3,16,58,873
	(g).Short provision for Income Tax in prior period	7,68,35,981	7,68,35,981	
	(h)Administrative Expenses relating to prior period.	5,71,702	5,71,702	
	(j).Other Expenses relating to prior period	29,32,787	29,32,787	
	Total Prior Period Expenses	33,10,12,802	10,35,79,905	22,74,32,897
	Less Prior Period Income	11,13,79,351	1,81,67,537	9,32,11,814
	Net Prior Period Expenses	21,96,33,451	8,54,12,368	13,42,21,083

20.1.4.4. The Commission is of the opinion that such prior period expenses of a Corporate body may be classified, either as -

- (i). **Controlable Credit / Charge** which can be controlled or regulated and kept within approved levels, by resorting to the required

level of organizational and fiscal discipline. If the approved ARR ceiling has to be exceeded, prior formal approval of the Commission needs to be obtained in the prescribed manner. The practice of allowing unknown or unapproved expense to take place is unacceptable to any form of management.

OR as –

- (ii). **Uncontrollable Credit / Charge** such as cost of power purchased to meet unforeseen shortfalls due to unpredictable and uncontrollable exigencies such as the vagaries of nature, unexpected mechanical or electrical failure of hardware, etc. Even in such cases, fiscal discipline requires appropriate steps to be taken in time, to regularize matters.

20.1.4.5. Be that as it may, the analysis of the said expenses for 'Other Miscellaneous – Prior period Credit / Charges relating to prior periods' in the 'Table-II' above, shows that out of the net amount of Rs.21.96 Crores, an amount of Rs.8.54 Crores can be classified as net controllable expenditure relating to

prior period and the amount of Rs.13.42 Crores as net uncontrollable expenditure relating to prior period.

20.1.4.6. As such, in truing-up the ARR for the fiscal year 2007-08, the **Commission disallows inclusion of the proposed amount of Rs.21.96 Crores in the ARR for 2007-08, for reasons stated in para 20.1.4.1 to 20.1.4.5 above**, but includes the net uncontrollable expenditure relating to prior period part amounting to Rs.13.42 Crores in the trused ARR for the fiscal year 2007-08, against a separate new minor-head, namely - *'Purchase of power and Wheeling Charges therefore, relating to prior period, less Receipts from Consumers relating to prior period'* under the sub-head **'Purchase of power including transmission charges'**. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.5. RECOVERY AGAINST SUPPLY OF POWER TO GOVERNMENT DEPARTMENTS

20.1.5.1. Respondents have adequately clarified in their written submissions on 12 August 2009 that a settlement was made with defaulting State Government Departments and the arrear dues of around Rs.65.00 Crores upto 31 March 2008, was settled for a one-time payment of Rs.50.00 Crores.

This amount was not paid-up by State Government within 31 March 2008. As such, the amount is not reflected in the Audited Statement of Accounts for 2007-08. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.6. REVENUE EXPENDITURE RELATED TO TARIFF, IN EXCESS OF EXPENSE-LEVEL APPROVED BY THE COMMISSION.

20.1.6.1. Careful interpretation of the relevant provisions of the Electricity Act, 2003 and the Meghalaya State Electricity Regulatory Commission (Determination of Tariff) Regulations, 2006 imply that prior approval of the Commission needs to be obtained for incurring tariff related revenue expenses, in excess of approved levels. **The Commission is not be in a position to accord ex-post facto approval, except in the rarest of cases and for the fullest justification on record.** *The Respondents may take note of this requirement and be guided accordingly.*

20.1.6.2. For the present, the revised levels of revenue expenses during the fiscal year 2007-08, as proposed by the Respondent, under different sub-heads, exceed the levels approved by the Commission vide its' Order dated 17 December 2007. The **itemwise excess ranges from 7.5 % to 37.1 % above**

approved levels, as shown in Table-III below. However, the increased levels of audited revenue expenses during the fiscal year 2007-08 appear to be bona-fide and inescapable, except where otherwise specified herein. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

(see next page)

Table-III

ANNUAL FINANCIAL REQUIREMENT FOR 2007-08

Rupees in Crores

Sl. No.	Items	ARR as proposed by MeSEB	ARR allowed by the Commission vide its' Tariff Order dt.17.12.08	ARR based on data given in the Audited Statement of Accounts for	Percentage (%) Increase of ARR based on data given in the Audited Statement of Accounts for 2007-08 over the ARR approved by Commission on 17.12.07

1.	2.	3.	4.	2007-08 5.	6.
	(i). Purchase of Power including transmission Charges	224.56	146.87	203.19	38.3
	Repair & Maintenance	14.63	14.63	17.23	17.7
	Employees cost	89.17	89.17	95.93	7.5
	Administration and General expenses	5.76	5.76	7.32	27.0
	Depreciation	14.71	14.71	12.90	(-)12.3
	Interest & Finance Charges	55.57	55.57	76.24	37.1
	Other Debits (including provision for Bad Debts)	12.13	12.13	2.22	(-)81.6
	Other (Miscellaneous) – Prior period Credit / Charges	0.00	0.00	21.96	NA
	Extra ordinary items	0.00	0.00	0.00	NA
	Provision for Income-tax	0.00	0.00	0.15	NA
	Sub-total – 1	416.53	338.84	437.14	29.0
	Less: Expenses Capitalised				
	i) Interest & Finance Charges	0.00	0.00	44.47	NA
	ii) Other expenses			10.66	
	Sub total --- 2	0.00	0.00	55.13	NA
	Net expenses (1-2) – 3	416.53	338.84	382.01	12.7
	Less:				
	i) Other Income	13.72	13.72	32.39	136.0
	ii) R.E.Subsidy	0.00	10.80	10.80	0.0
	iii) Subsidy against power purchased	0.00	0.00	22.00	NA
	iv) Recovery against supply of power to Government Departments	0.00	65.00	0.00	(-) 100.0
	v) Revenue gain for 2% reduction of AT&C loss	0.00	0.00	0.00	NA
	Sub-total --- 4	13.72	89.52	65.19	(-) 27.1
	Net after deductions (3-4)	402.81	249.32	316.82	27.0
	Add: Return on equity	40.28	28.28	28.28	0.00
	Net for ARR	443.09	277.60	345.10	24.3

Note : ### This reflects the actual amount paid as Part Payment of Income Tax during the year.

20.1.7. AUDITED STATEMENT OF ACCOUNTS FOR 2008-09

20.1.7.1. Corporate bodies are allowed to firm up their previous years accounts, get them audited by

Statutory Auditors, recommended by their Management and approved by their Board / AGM within six months of the close of the previous year. As such, the Respondents are required to submit their Audited Statement of Accounts for the fiscal year 2008-09, within the 30 September, 2009. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.8. BREAK-UP OF POWER PURCHASE COST FOR 2008-09

20.1.8.1. The break-up of power-purchase cost during 2008-09 is adequately reflected in the **provisional statement of accounts**, based on the pre-Audited Statement of Accounts for the fiscal year 2008-09, as submitted by the Respondent vide their letter dated 09 July 2009, which has been copied to the Petitioner, by the Commission. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.9. OTHER MISCELLANEOUS-PRIOR PERIOD CREDIT / CHARGES FOR THE FISCAL YEAR 2008-09

20.1.9.1. The Respondent included a net amount of Rs.31.95 Crores, later amended to Rs.30.89 Crores as 'Other Miscellaneous – Prior period Credit / Charges relating to prior periods' in their proposed

ARR Statement for 2008-09 for truing-up. This item of expenses was neither included as an item in the proposed ARR in the Respondents' Petition for fixation of Tariff for the fiscal year 2008-09, nor was it included as an item of approved expense in the ARR for the fiscal year 2008-09, as approved vide Commission's Order dated 30 September 2008 in Tariff (D) Application No.1 / 2008. While it was open for the Respondents to come up to the Commission during 2008-09, **petitioning** the Commission **to review** its' Order dated 30 September 2008 and to **allow a justified level** of 'Other Miscellaneous – Prior period Credit / Charges' to be inducted in their ARR for 2008-09, and it would have been open to the Commission to consider the matter, take a decision and pass appropriate Orders, the **Respondent did not take any appropriate step in time. In view thereof, this item of expense can not be introduced in, at this stage of truing-up exercise for 2008-09.**

20.1.9.2. However, to arrive at a considered decision on the matter, the details of this net amount shown as Other Miscellaneous – Prior period Credit/Charges, during the fiscal year 2008-09, in Respondent's letter dated 12 August 2009 are analyzed in Table-IV below.

20.1.9.3. An analysis of data reflected in Table-IV below reveals that the gross prior period charges under reference stands at Rs.43.45 Crores, as against a prior period credit of Rs.12.56 Crores during the same period, resulting in a net prior period charge of Rs.30.89 Crores.

20.1.9.4. The Commission holds that such prior period expenses of a Corporate body, may, either be classified as –

(i). **Controlable Credit / Charge** which can be controlled or regulated and kept within approved levels, by resorting to the required level of organizational and fiscal discipline. If the approved ARR ceiling has to be exceeded, prior formal approval of the Commission needs to be obtained in the prescribed manner. The practice of allowing unknown or unapproved expense to take normally take place is unacceptable to any form of management.

OR as –

(ii). **Uncontrollable Credit / Charge** such as cost of power purchased to meet unforeseen

shortfalls due to unpredictable and uncontrollable exigencies such as the vagaries of nature, unexpected mechanical or electrical failure of hardware, etc.

Even in such cases, fiscal discipline requires appropriate steps to be taken in time, to regularize matters.

(see next page)

Table-IV

Rupees in Crores

FISCAL YEAR 2008-09				
Sl.	Item of expenditure with detailed break up as reported by MeSEB vide their letter No.MeSEB/SE(RA)/32/85, dated 25 th .August 2009	Amount included by MeSEB as a part of their provisional ARR based on data taken from their pre-Audited Statement of Accounts for 2008-09	Part of the amount claimed by MeSEB as <i>Other (Miscellaneous) Prior period Credit / Charges</i> , but classified by Commission, vide Order dated 10 September 2009 as	
			Controllable Income / Expenditure	Uncontrollable Income / Expenditure
8	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	
TOTAL PRIOR PERIOD income	12,56,62,952	45,54,610	12,11,08,342
2.PRIOR PERIOD EXPENSES / LOSSES			
(a).Purchase of power relating to prior period	24,96,29,639		24,96,29,639
(b).Employee 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	33,13,737	
(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 to prior period	11,868	11,868	
(h).Other Expenses relating to prior period	7,81,962	7,81,962	
Total Prior Period Expenses	43,45,69,068	15,83,59,998	27,62,09,070
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

20.1.9.5. Be that as it may, the analysis of the said expense under 'Other Miscellaneous – Prior period Credit / Charges relating to prior periods' in the 'Table' drawn up above, shows that out of the net amount of Rs.30.89 Crores, an amount of Rs.15.38 Crores can be classified as net controllable expenditure relating to prior period, and the remaining amount Rs.15.51 Crores as net uncontrollable expenditure relating to prior period.

20.1.9.6. In truing-up the ARR for the fiscal year 2008-09, the **Commission disallows inclusion of the proposed amount of Rs.30.89 Crores 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.15.51Crores in the trused 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 Receipts from Consumers relating to prior period'* under the sub-head **'Purchase of power including transmission charges'**. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.10.DEDUCTION FOR REVENUE GAIN

BY REDUCTION OF AT&C

LOSSES BY A MINIMUM OF 2 %

20.1.10.1.Settled principles of Electricity Reforms and APDRP norms based on the National Tariff Policy, mandate a minimum reduction of 3 % in Aggregate Technical & Commercial (AT&C) losses wherever the AT&C losses exceed 30 %, and by a minimum of 1.5 % wherever the AT&C losses are below 30 %. The minimum acceptable reduction for Meghalaya where the AT&C losses are above 30 %, is therefore 3 %. The Commission has in the past provided for a

minimum gain of 2 % of AT&C Losses or Rs.17.26 Crores, per year, while debiting the value of Net Expenses. The Respondent has neither made a provision for such reduction during the fiscal year 2007-08, or for that matter during the fiscal year 2008-09.

20.1.10.2. In truing-up the ARR for the fiscal year 2008-09, the Commission includes the amount of Rs.17.26 Crores as Revenue gain by 2 % reduction of AT&C losses and debits the value of Net Expenses to that extent, as shown in Table-V below. *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

20.1.11. PHASED REDUCTION OF CROSS SUBSIDIES

20.1.11.1. The provisions of the Electricity Act,2003 and the National Tariff Policy mandate phased reduction of cross subsidies, in electricity tariff. In fixing the tariff for 2007-08 and later for 2008-09, the Commission appears from records, to have taken a conscious but unrecorded decision to gradually phase out cross subsidies, within the different categories of tariff, in the State. The Commission will continue with these efforts, until

donewith. . *This disposes of the issues raised by the Petitioner / Appellant in this regard.*

21. TRUING-UP ARR 2007-08

21.1. In compliance to the Order dated 09 February 2009 of the Hon'ble Apellate Tribunal, the Commission after due hearing of the parties concerned and careful consideration of all issues submitted by the parties, both in writing and made orally during hearing on 29 July 2009 and 26 August 2009, **has analyzed and concluded all such issues, with due prudence, vide paras 20.1.1 to 20.1.11 above.**

21.2. In further compliance to the Order dated 09 February 2009 of the Hon'ble Apellate Tribunal, the Commission has carefully analyzed, examined and trused the Revised Annual Revenue Requirement Statement for the fiscal year 2007-08, as drawn up on the basis of the Audited Annual Statement of Accounts for 2007-08 and submitted by the Respondent (MeSEB) on 09 July 2009. In doing so, the Commission finds, decides and directs as follows –

21.1.1. Respondents had vide their tariff petition dated June 2007, petitioned the Commission for a net Annual Revenue Expenditure of Rs.416.53 Crores during the fiscal year 2007-08, with a consequential ARR of Rs.443.09 Crores during the same period, as per

details already reflected in Table-V below. After due consideration, the Commission vide its' Order dated 17 Dec' 2007 allowed a net revenue expenditure of Rs.338.84 Crores during the fiscal year 2007-08, with a consequential ARR of Rs.277.60 Crores for the same period, amounting to 63.6 per cent of the ARR sought by the Respondents for the same period. The Audited Statement of Accounts for the fiscal year 2007-08, reflects a net audited revenue expense of Rs.382.01 Crores during the fiscal year 2007-08, as per details reflected in Table-V below, with a consequential ARR of Rs.345.10 Crore for the same period. This amount of Rs.345.10 Crores exceeds the ARR of Rs.277.60 Crores approved by the Commission for the said period by 24.3 per cent.

21.1.2. The revised item-wise revenue expenditure during the fiscal year 2007-08 based on the Audited Statement of Accounts, as submitted by the Respondents, vide their letter dated 9th July 2009, (totalling to a gross amount of Rs.437.14 Crores) is found to be reasonable and inescapable, except where otherwise specified herein, with reference to the factual position discussed in paras 20.1.1 to 20.1.11 above). **However, in respect of the item relating to a net expenditure of Rs.21.96 Crores for `Other Miscellaneous – Prior Period Credit / Charges', decided** vide para 20.1.4.1 of this Order,

above, that this item of expenditure is excluded from consideration in calculating the trueed ARR for the fiscal year 2007-08.

21.1.3. Whereas, settled principles of electricity reforms and APDRP mandate a minimum reduction of 3 % in (AT&C) losses wherever the AT&C losses exceed 30 %, and by a minimum of 1.5 % wherever the AT&C losses are below 30 %, the minimum acceptable reduction for Meghalaya is 3 % since the AT&C losses are above 30 %. The Commission has in the past provided for a minimum gain of 2 % of AT&C Losses or Rs.17.26 Crores, per year, while deciding the ARR level. The Respondent has not made a provision for such debit in their revised revenue requirement for the fiscal year 2007-08. In trueing-up the ARR for the fiscal year 2007-08, the Commission includes the amount of Rs.17.26 Crores as Revenue gain by 2 % reduction of AT&C losses and debits the amount to the Respondents revenue requirement for the said period, as shown in Table-V below.

21.1.4. It is verified from records that the Respondent has actually paid an amount of Rs.0.50 Crores as Income Tax on 29 February 2008 to the Income Tax Circle, Shillong. The approved provision for such

purpose during 2007-08 is Rs.0.15 Crores. In view of the inescapable nature of this expenditure, the revenue requirement against this purpose, during the said year is increased from 0.15 Crore to 0.50 Crore, in the trused ARR for the fiscal year 2007-08, as reflected in Table-V.

21.1.5. The Commission has vide its' decision recorded at para 20.1.4.5 and 20.1.4.6 above held that on analysis, the item of revenue expenses for 2007-08 under the sub-head `Other Miscellaneous – Prior period Credit / Charges relating to prior periods' amounting to Rs.21.96 Crores(Net), an amount of Rs.13.42 can be classified as net uncontrollable expenditure relating to prior period. As such, in truing-up the ARR for the fiscal year 2007-08, the Commission disallowed inclusion of the proposed amount of Rs.21.96 Crores in the ARR for 2007-08, for reasons stated in paras 20.1.4.1 to 20.1.4.5 above, **but includes the net uncontrollable expenditure relating to prior period part amounting to Rs.13.42 Crores in the trused ARR for the fiscal year 2007-08, against a separate new minor-head, namely - `Purchase of power and Wheeling Charges therefore, relating to prior period, less Receipts from Consumers relating to prior period'**

under the sub-head 'Purchase of power including transmission charges'.

21.1.6. Consequently, the Commission trues-up the Annual Revenue Requirement of MeSEB (Respondent) for the fiscal year 2007-08, as per details indicated in Table-V, and fixes the ARR at Rs.319.65 Crores which is 15.1 per cent higher than the level of Rs.277.60 Crores earlier approved vide Commission's Order dated 17 December, 2007.

21.1.7. However, the Audited Annual Statement of Accounts for 2007-08 show that MeSEB earned Rs.318.15 Crores as revenue from the sale of power during that period, besides a revenue of Rs.32.80 Crore as Subsidies & Grants, and a further amount of Rs.32.39 Crores as other income, totaling Rs.383.34 Crores. This amount far exceeds the trued ARR of Rs.319.65 Crores. The Commission, does therefore, not consider it necessary to revise the Tariff(D) for 2007-08, retrospectively.

21.1.8. The matter is disposed, accordingly.

(see next page)

Table-V

ANNUAL FINANCIAL REQUIREMENT FOR 2007-08

Rupees in Crores

Sl. No.	Items	ARR as proposed by MeSEB	ARR allowed by the Commission vide its' Tariff Order dt.17.12.08	ARR based on data given in the Audited Statement of Accounts for 2007-08	Truised ARR for 2007-08 as decided by the Commission, on review vide its' Order dt.10.09.09	Percentage (%) Increase/Decrease over the ARR approved by the Commission dt.17.12.07
1.	2.	3.	4.	5.	7	
	(i). Purchase of Power including transmission Charges	224.56	146.87	203.19	203.19	
	(ii).Purchase of Power and Wheeling Charges therefore, relating to prior period less Receipts from Consumers relating to prior period	0.00	0.00	0.00	13.42	
	Repair & Maintenance	14.63	14.63	17.23	17.23	
	Employees cost	89.17	89.17	95.93	95.93	
	Administration and General expenses	5.76	5.76	7.32	7.32	
	Depreciation	14.71	14.71	12.90	12.90	(-)
	Interest & Finance Charges	55.57	55.57	76.24	76.24	
	Other Debits (including provision for Bad Debts)	12.13	12.13	2.22	2.22	(-)
	Other (Miscellaneous) – Prior period Credit / Charges	0.00	0.00	21.96	0.00	
	Extra ordinary items	0.00	0.00	0.00	0.00	
	Provision for Income-tax	0.00	0.00	0.15	##0.50	
	Sub-total – 1	416.53	338.84	437.14	428.95	
	Less: Expenses Capitalised					
	i)Interest & Finance Charges	0.00	0.00	44.47	44.47	
	ii) Other expenses			10.66	10.66	
	Sub total --- 2	0.00	0.00	55.13	55.13	
	Net expenses (1-2) – 3	416.53	338.84	382.01	373.82	

Less:						
i) Other Income	13.72	13.72	32.39	32.39	1	
ii) R.E.Subsidy	0.00	10.80	10.80	10.80		
iii) Subsidy against power purchased	0.00	0.00	22.00	22.00		
iv) Recovery against supply of power to Government	0.00	65.00	0.00	0.00	(-) 1	
Departments	0.00	0.00	0.00	17.26		
v) Revenue gain for 2% reduction of AT&C loss						
Sub-total --- 4	13.72	89.52	65.19	82.45	(-	
Net after deductions (3-4)	402.81	249.32	316.82	291.37		
Add: Return on equity	40.28	28.28	28.28	28.28		
Net for ARR	443.09	277.60	345.10	319.65		

Note : ### This reflects the actual amount paid as Part Payment of Income Tax during the year.

22. TRUING-UP ARR 2008-09

22.1. In compliance to the Order dated 09 February 2009 of the Hon'ble Apellate Tribunal, the Commission after due hearing of the parties concerned and careful consideration of all issues submitted by the parties, both in writing and made orally during hearing on 29 July 2009 and 26 August 2009, **has analyzed and concluded all such issues, with due prudence, vide paras 20.1.1 to 20.1.11 above.**

22.2. In further compliance to the Order dated 09 February 2009 of the Hon'ble Apellate Tribunal, the Commission has carefully analyzed, examined and trused the Revised Annual Revenue Requirement Statement for the fiscal year 2008-09, as drawn up on the basis of the pre-Audited Annual Statement of Accounts for 2008-09 and submitted

by the Respondent (MeSEB) on 09 July 2009. In doing so, the Commission finds, decides and directs as follows –

22.2.1. Respondents had vide their tariff petition dated 31 March 2008, petitioned the Commission for a net Annual Revenue Expenditure of Rs.524.90 Crores during the fiscal year 2008-09, with a consequential ARR of Rs.512.01 Crores during the same period, as per details already reflected in Table-VI below. After due consideration, the Commission vide its' Order dated 30 September'2009 allowed a net revenue expenditure of Rs.495.88 Crores during the fiscal year 2008-09, with a consequential ARR of Rs.465.73 Crores for the same period, amounting to 90.9 per cent of the ARR sought by the Respondents for the same period. The pre-Audited Statement of Accounts for the fiscal year 2008-09, reflects a net pre-audited revenue expense of Rs.451.23 Crores during the fiscal year 2008-09, as per details reflected in Table-VI below, and a proposed revised ARR of Rs.405.35 Crore for the

same period. **The revised ARR amounting to Rs.405.35 Crores, as proposed by the Respondent(MeSEB) for the fiscal year 2008-09, is 12.9 per cent lesser than the ARR of Rs.465.73 Crores as approved by the Commission vide its' Tariff(D) Order dated 30 September,2008.** Nevertheless, the proposed revised ARR of Rs.405.35 Crores for the fiscal year 2008-09 is 26.8 per cent higher than the trused ARR of 319.65 Crores for the preceding fiscal year.

22.2.2. The revised item-wise revenue expenditure during the fiscal year 2008-09 based on the pre-Audited Statement of Accounts, as submitted by the Respondents, vide their letter dated 9th July 2009, (totalling to a gross amount of Rs.451.23 Crores) is found to be reasonable and inescapable, except where otherwise specified herein, with reference to the factual position discussed in paras 20.1.1 to 20.1.11 above). **However, the item relating to a**

net expenditure of Rs.31.95 Crores (*later revised to Rs.30.89 Crores vide MeSEB letter dated 25 August'2009*) for **`Other Miscellaneous – Prior Period Credit / Charges'**. As decided vide para 20.1.9.1 of this Order, above, that this item of expenditure is excluded from consideration in calculating the trueed ARR for the fiscal year 2008-09.

22.2.3. Whereas, settled principles of electricity reforms and APDRP mandate a minimum reduction of 3 % in (AT&C) losses wherever the AT&C losses exceed 30 %, and by a minimum of 1.5 % wherever the AT&C losses are below 30 %, the minimum acceptable reduction for Meghalaya is 3 % since the AT&C losses are above 30 %. The Commission has in the past provided for a minimum gain of 2 % of AT&C Losses or Rs.17.26 Crores, per year, while deciding the ARR level. The Respondent has not made a provision for such debit in their revised revenue requirement for the fiscal year 2008-09. In

truing-up the ARR for the fiscal year 2008-09, the Commission includes the amount of Rs.17.26 Crores as Revenue gain by 2 % reduction of AT&C losses and debits the amount to the Respondents revenue requirement for the said period, as shown in Table-V above.

22.2.4. The Commission has vide its' decision recorded at para 20.1.9.5 and 20.1.9.6 above held that on analysis, the item of revenue expenses for 2008-09 under the sub-head `Other Miscellaneous – Prior period Credit / Charges relating to prior periods' amounting to Rs.30.89 Crores(Net), an amount of Rs.15.51 can be classified as net uncontrollable expenditure relating to prior period. As such, in truing-up the ARR for the fiscal year 2008-09, the Commission disallowed inclusion of the proposed amount of Rs.20.89 Crores in the ARR for 2008-09, for reasons stated in para 19.9.1 to 19.9.5 above, **but includes a part of the net uncontrollable expenditure relating to prior period amounting to**

Rs.15.51 Crores in the trused 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 Receipts from Consumers relating to prior period`* under the sub-head ‘Purchase of power including transmission charges’.

22.2.5. Consequently, the **Commission trues-up the Annual Revenue Requirement (ARR) of MeSEB (Respondent) for the fiscal year 2008-09**, as per details indicated in Table-VI, and **fixes the ARR at Rs.371.65 Crores which is 20.2 per cent lesser than the level of Rs.465.73 Crores** earlier approved vide Commission’s Order dated 30 September 2008. Nevertheless, the trused ARR of Rs.371.65 Crores for the fiscal year 2008-09 is 16.2 per cent higher than the trused ARR Rs.319.65 Crores, for the preceding year 2007-08.

22.2.6. The matter is disposed, accordingly.

TABLE-VI

REVISED ANNUAL REVENUE REQUIREMENT FOR 2008-09

Rupees in Crores

Sl. No.	Items	ARR as proposed by MeSEB	ARR allowed by the Commission vide its' Tariff Order dt.17.12.08	ARR based on data given in the Audited Statement of Accounts for 2007-08	Truised ARR for 2008-09 as decided by the Commission, on review vide its' Order dt.10.09.09	Percentage (%) Increase of Truised ARR over the ARR approved by Commission on 30.09.2008
(1)	(2)	(3)	(4)	(5)	(7)	(8)
	(i). Purchase of Power including transmission Charges	264.89	264.89	201.89	201.89	(-) 23.7
	(ii).Purchase of Power and Wheeling Charges therefore, relating to prior period less Receipts from Consumers relating tor prior period				15.51	NA
	Repair & Maintenance	29.17	29.17	20.09	20.09	(-) 31.1
	Employees cost	102.81	102.81	102.41	102.41	(-) 0.3
	Administration and General expenses	8.78	8.78	4.35	4.35	(-) 50.4
	Depreciation	15.37	15.37	14.85	14.85	(-) 3.3
	Interest & Finance Charges	93.88	64.86	65.69	65.69	1.2
	Other Debits (including provision for Bad Debts)	10.00	10.00	10.00	10.00	0.0
	Other (Miscellaneous) - Prior period Credit / Charges	0.00	0.00	31.95	0.00	NA
	Provision for Income-tax	0.00	0.00	0.00	0.00	NA
	Sub-total - 1	524.90	495.88	451.23	434.79	(-) 12.3
	Less: Expenses Capitalised					(-) 1.2
	i)Interest & Finance Charges	41.17	41.17	40.67	40.67	NA
	ii) Other Income	0.00	0.00	0.00	0.00	NA
	Sub total --- 2	41.17	41.17	40.67	40.67	(-) 1.2
	Net expenses (1-2) -- 3	483.73	454.71	410.56	394.12	(-) 13.2
	Less:					
	i) Other Income	0.00	0.00	0.00	0.00	33.49
	ii) R.E.Subsidy	0.00	0.00	33.49	0.00	NA
	iii) Subsidy against power purchased	0.00	0.00	0.00	0.00	NA
	iv) Recovery against supply of power to Government Departments	0.00	0.00	0.00	0.00	NA
	v) Revenue gain for 2% reduction of AT&C loss	0.00	17.26	0.00	17.26	0.00
	Sub-total --- 4	0.00	17.26	33.49	50.75	194.0
	Net after deductions (3-4)	483.73	437.45	377.07	343.37	(-) 21.5
	Add: Return on equity	28.28	28.28	28.28	28.28	0.00
	Net for ARR	512.01	465.73	405.35	371.65	(-) 20.2

23. REVISION OF TARIFF(D) FOR 2008-09

23.1. The Commissions notes that the Tariff (D) as fixed vide Commission's Orders dated 30 September, 2009 in comparison to the existing Tariff (D) prior to said revision, as fixed by Commission's earlier Order dated 17 December,2007 was as follows –

23.1.1. L.T (Domestic) Category: Tariff (D) 2008-09 for the LT (Domestic) Category ranged from **(-) 10.3 percent below** to **25.0 per cent above** the Tariff (D) 2007-08, of the corresponding sub-category or slab.

23.1.2. H.T Category: Tariff (D) 2008-09 for the HT Category ranged from **27.3 percent to 100.0 per cent above** the Tariff (D) 2007-08, of the corresponding sub-category or slab, except for the

Water Supply HT Category where the Tariff(D) 2008-09 was (-) 43.3 percent lesser than the Tariff(D) 2007-08 in respect of Demand Charges and (-) 12.5 percent lesser than the Tariff(D) 2007-08 in respect of energy charges.

23.1.3. **E.H.T Category:** Tariff (D) 2008-09 for the EHT Category ranged from **62.5 percent to 84.3 per cent above** the Tariff (D) 2007-08, of the corresponding sub-category or slab.

23.2. REVISION OF TARIFF (D) 2008-09 : Taking into consideration the **truised revised level of Annual Revenue Requirement of Rs.371.65 Crores for the fiscal year 2008-09, as decided by the Commission** vide para 22.1.1.5 of this Order, above, which is 20.2 per cent lesser than the earlier ARR of Rs.465.73 Crores, – the **Commission hereby revises downwards, the Fixed (Demand) Charge as well as Energy Tariff(D) for 2008-**

09, with effect from the date of the impugned revision, namely with effect from 01 October,2008 provided that –

- 23.3.1. There will be **no revision of the fixed charges** for different sub-categories of the L.T Category of Consumers, in terms of Tariff(D) fixed vide Commission's Order dated 30 September 2008.
- 23.3.2. The downward revision of Tariff(D) **shall not result in a Unit Demand or Energy Charge being revised to a level which is less than 10 per cent above the corresponding unit-rate as fixed vide Commission's Order dated 17 December,2007.**
- 23.3.3. In respect of Unit Demand or Energy Charges fixed vide Commission's Order dated 30 September,2009 **which were lesser than the corresponding unit-rate** as fixed vide Commission's Order dated 17 December,2007 – **status-quo will be maintained in respect of such unit rates, and there will be no further downward revision in terms of these Orders.**
- 23.3.4. The unit demand or energy charge rates in respect of all remaining categories **will be commensurately revised**

downwards, so that (1).the LT(Domestic Category), (2).the HT Category, (3) the EHT Category and (4).Outside State Sales under Bilateral / UI arrangements Category, **collectively generate a net annual revenue of Rs.371.65 Crores.**

23.3.5. The Unit Rates of Demand Charges / Energy Charges are accordingly, hereby revised, and fixed in the manner specified in column (3) of Table-VII, below. These rates shall be deemed to have come into effect from 01 October 2008 and shall remain valid till the Tariff (D) is next revised by the Commission.

23.3.6. The Respondent(MeSEB) shall take effective steps to recover arrear-dues according to these revised rates, from 01 October 2008 onwards, from all Consumer who have not yet paid as per Tariff(D) Rates for 2008-09, within 31 March 2010.

TABLE - VII

showing revision of tariff for different categories / slabs

vide Commission's Order dated 10 September 2009

in partial modification of Commission's Order dated 30 September 2008 in Tariff (D) Petition No.1 of 2008

Sl.	Category	Different Slabs	Fixed Charges per KW in Rupees per month	Unit Rate as per Revised Tariff vide Commission's Order dated 10 September 2009 - DC in Rs. Per KVA per month EC in Paise per unit.
(1)	(2)	(3)		(4)
L.T (Domestic) CATEGORY				
1	Domestic (DLT)	First 100 Units	25	225
		Next 100 Units		264
		Above 200 Units		363
2	Commercial (CLT)	First 100 Units	70	400
		Next 100 Units		475
		Above 200 Units		500
3	Industrial (ILT)	First 500 Units	100	400
		Next 500 Units		478
		Above 1000 Units		500
4	Agriculture (AP)	All Units	30	132
5	Public Lightining (PL)	All Units	70	490
6	Water Supply (WSLT)	All Units	60	400
7	General Purpose	First 100 Units	50	440
		Next 100 Units		475
		Above 200 Units		505
8	Office Employees		0	44
H.T.CATEGORY				
9	General Purpose / Bulk Supply including Domestic HT		DC per KVA in INR	225.00
			Unit Rate in Paise per Unit	225
10	Commercial (CHT)		DC per KVA in INR	242.00
			Unit Rate in Paise per Unit	286
11	Industrial (IHT)		DC per KVA in INR	110.00
			Unit Rate in Paise per Unit	333
12	Water Supply (WSHT)		DC per KVA in INR	170.00
			Unit Rate in Paise per Unit	280
E.H.T CATEGORY				
13	Industrial		DC per KVA in INR	100.00
			Unit Rate in Paise per Unit	323

23.3.7. The Respondent (MeSEB) shall take effective steps to adjust excess amounts billed and collected as per

Tariff(D) Rates for 2008-09, in terms of these revised rates, from all consumers who were billed and have paid-up as per the Tariff (D) Rates 2008-09, within 31 March 2010. Such adjustment are to be made against the future Demand / Energy Charge bills of all such consumers with a view to ensure that all amounts recovered in excess are fully adjusted within 31 March 2010.

23.3.8. The Commission specifies the detailed analysis of the revision ordered vide para 23.2.4 above, in Table-VIII, below, for record and guidance.

(see next page)

TABLE – VIII showing revision of tariff and total revenue for different categories / slabs vide Commission's Order dated 10 September 2009 in partial modification of Commission's Order dated 30 September 2008 in Tariff (D) Petition No.1 of 2008										
Sl.	Category	Fixed Charges per KW in Rupees per month	Different Slabs	Unit Rate as per		Percentage Increase in Tariff (30.09.08) Over Tariff(17.12	Estimated Sale of Energy in this category in MU's /	Revision of Tariff with a decrease of 25.07 %, subject to the revised tariff	Rounded-up Tariff in Rupees per KVA per month for	Total Revenue Rupees in Crores
				Tariff Order 17 Dec 2007	Tariff Order 30 Sep 2008					

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	
					.07	Billing Demand (BD) in respect of Demand Charge (DC)	being not less than 10 % above the tariff for 2006-07 in terms of Tariff Order dt.17-12.07	Demand Charges (DC) for DC and in Paise per Unit for Energy Charge (EC)		
LT (Domestic) CATEGORY										
1	Domestic (DLT)	25	First 100 Units	205	235	14.6	107.58	225.5	225	24.20
			Next 100 Units	240	275	14.6	51.87	264.0	264	13.69
			Above 200 Units	330	390	18.2	32.66	363.0	363	11.85
2	Commercial (CLT)	70	First 100 Units	395	400	1.3	10.72	400.0	400	4.29
			Next 100 Units	460	475	3.3	10.72	475.0	475	5.09
			Above 200 Units	505	500	(-)0.9	9.19	500.0	500	4.59
3	Industrial (ILT)	100	First 500 Units	385	400	3.9	0.47	400.0	400	0.19
			Next 500 Units	435	480	10.3	0.70	478.5	478	0.33
			Above 1000 Units	460	500	8.7	3.51	500.0	500	1.75
4	Agriculture (AP)	30		120	150	25.0	0.613	132.0	132	0.08
5	Public Lightening (PL)	70		445	500	12.4	1.494	489.5	490	0.73
6	Water Supply (WSLT)	60		445	400	(-)10.1	6.425	400.0	400	2.57
7	General Purpose	50	First 100 Units	440	440	0.0	1.97	440.0	440	0.87
			Next 100 Units	475	475	0.0	1.97	475.0	475	0.93
			Above 200 Units	505	505	0.0	5.01	505.0	505	2.53
8	Office Employees			40.00	45.00	12.5	40.00	44.0	44	0.44
Sub-total									74.13	
H.T CATEGORY										
9	General Purpose / Bulk Supply including Domestic HT		DC per KVA in INR	150.0	300.0	100.00	BD 46432	(-) 25.07 % 224.79	225.00	12.53
			Unit Rate in Paise per Unit	199	300	50.8	79.16	(-) 25.07 % 224.79	225	17.81
10	Commercial (CHT)		DC per KVA in INR	220.0	280.0	27.3	BD 4869	242.00	242.00	1.41
			Unit Rate in Paise per Unit	260	350	34.6	6.15	286	286	1.76
Sl.	Category	Fixed Charges per KW in Rupees	Different Slabs	Unit Rate as per		Percentage Increase in Tariff(30.09.08) Over Tariff(17.12.07)	Estimated Sale of Energy in this category in MU's / Billing Demand (BD) in respect of	Revision of Tariff with a decrease of 25.07 %, subject to the revised tariff being not less than 10 % above the	Rounded-up Tariff in Rupees per KVA per month for Demand Charges (DC) for DC and in Paise	Total Revenue Rupees in Crores
				Tariff Order 17 Dec 2007	Tariff Order 30 Sep 2008					

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
						Demand Charge (DC)	tariff for 2006-07 in terms of Tariff Order dt.17.12.07	per Unit for Energy Charge (EC)	
11	Industrial (IHT)	DC per KVA in INR	100.00	145.00	45.0	BD 112774	110.00	110.00	14.88
		Unit Rate in Paise per Unit <small>(With rebate of 10 paise per Unit)</small>	266	445	67.3	252.93	(-) 25.07 % 333.43	333	84.22
12	Water Supply (WSHT)	DC per KVA in INR	300.00	170.00	(-)43.3	BD 5594	170.0	170.00	1.14
		Unit Rate in Paise per Unit	320	280	(-)12.5	19.52	280.0	280	5.46
Sub-total									139.21
E.H.T CATEGORY									
13	Industrial	DC per KVA in INR	80.00	130.00	62.5	BD 88530	(-) 25.07 % 97.40	100.00	10.62
		Unit Rate in Paise per Unit <small>(With rebate of 10 paise per Unit)</small>	236	435	84.3	288.08	(-) 25.07 % 325.94	323	93.04
Sub-total									103.66
OUTSIDE STATE SALES (BILATERAL / UI)									54.65
GRAND TOTAL = (74.13 + 139.21 + 103.66 + 54.42)									371.65

The Commission orders, accordingly, this 10th.day of September, 2009.

(P.J.Bazeley)

CHAIRMAN

Meghalaya State Electricity Regulatory Commission,

Shillong.