

The Brihan Mumbai Electric Supply & Transport Undertaking

(OF THE BRIHAN MUMBAI MAHANAGARPALIKA)

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NOT BY NAME

OUR REF. : CER/T-1(3)/ 72 /2016

DATE : 6 MAY 2016

To,
The Secretary,
Maharashtra Electricity Regulatory Commission,
13th Floor, World Trade Centre,
Centre No. 1, Cuffe Parade,
Colaba, Mumbai - 400 005

Sub.: Report of the Committee constituted under notification dated 3/12/2015 in Case No. 182 of 2014 (Petition of the Tata Power Company Ltd. for approval of Revised Network Rollout Plan)

Sir,

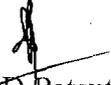
Please find enclosed herewith BEST's submissions on the Committee's Report dated 28th March, 2016 in Case No. 182 of 2014 in the matter of petition for submission of revised network rollout plan in compliance to the direction of the Hon'ble Commission in Case No. 90 of 2014 and the direction of the Hon'ble ATE in Appeal Nos. 246 and 229 of 2012.

The delay in submission is mainly due to the submission of revised MYT Petition and compliance thereof, which may please be condoned. The Hon'ble Commission is requested to kindly consider our submissions in the above matter, please.

Thanking you,

Encl.: As above.

Yours faithfully,


(R. D. Patsute)
Chief Engineer
Regulatory

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI

FILING NO.: /2016

CASE NO.: 182 OF 2014

IN THE MATTER OF:

Petition for submission of Revised Network Rollout Plan in compliance to the direction of the Hon'ble Commission in Case No. 90 of 2014 and the direction of the Hon'ble ATE in Appeal Nos. 246 and 229 of 2012.

AND IN THE MATTER OF:

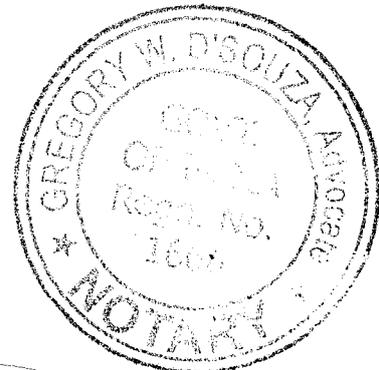
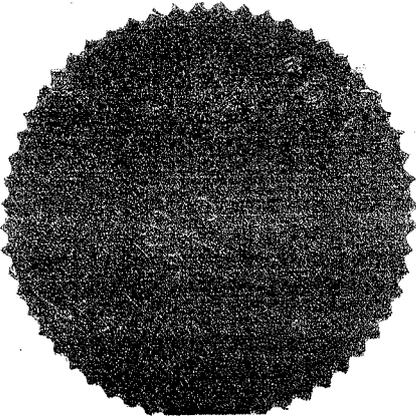
Tata Power Company Limited,
Bombay House, 24, Homi Mody Street,
Mumbai-400001

----- Petitioner

AFFIDAVIT VERIFYING THE PETITION

I, Rajendra Dadaram Patsute, son of Dadaram Patsute, aged 48 years, having my office at BEST Bhavan, BEST Marg, Colaba, Mumbai – 400 001 do solemnly affirm and state as follows:

1. I am Chief Engineer (Regulatory) of the Brihanmumbai Electric Supply and Transport Undertaking of Municipal Corporation of Greater Mumbai (i.e. BEST). I am duly authorized and competent to make this Affidavit.
2. The statements made in the petition, are based on information and / or record maintained by BEST in its usual course of business, which I believe to be true.



3. I say that there are proceedings pending before (i) Hon'ble APTEL under the Appeal No. 243 of 2014 and the Appeal No. 21 of 2016, and (ii) Hon'ble Supreme Court of India under the Civil Appeal No. 4074 of 2015 and the Civil Appeal No. 4862 of 2015, wherein inter alia TPC and BEST are parties and wherein issues arising and / or relief sought are relevant to the issues arising in the present matter pending before the Hon'ble Commission.

Solemnly affirmed at Mumbai on this **6 MAY 2016** 2016 that the contents of this affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.


Deponent

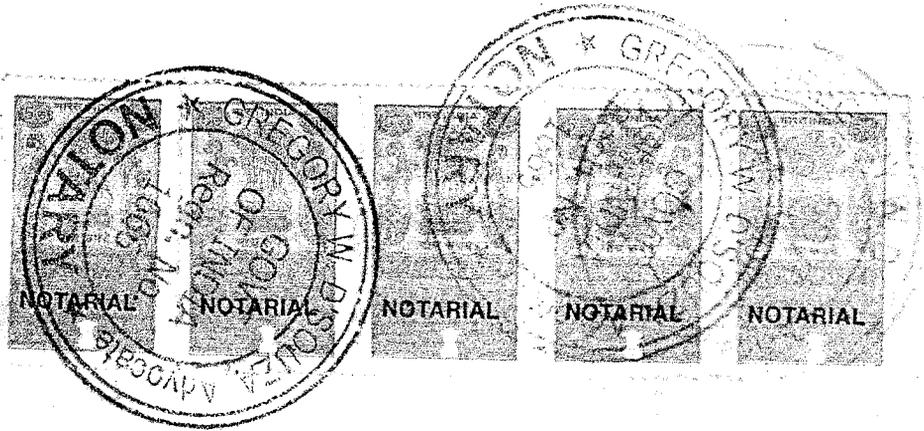
Identified before me



BEFORE ME

GREGORY W. D'SOUZA
ADVOCATE & NOTARY
Kalpak Estate, Bldg. No. B-11,
Shop No. 40, Antop Hill,
MUMBAI-400 037.

6 MAY 2016



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI

CASE NO. : 182 OF 2014

IN THE MATTER OF:

Petition for submission of Revised Network Rollout Plan in compliance to the direction of the Hon'ble Commission in Case No. 90 of 2014 and the direction of the Hon'ble ATE in Appeal Nos. 246 and 229 of 2012.

AND IN THE MATTER OF:

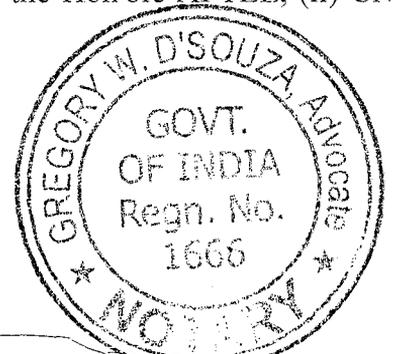
Tata Power Company Limited,
Bombay House, 24, Homi Mody Street,
Mumbai-400001

----- Petitioner

**WRITTEN SUBMISSIONS ON BEHALF OF BEST REGARDING THE REPORT
DATED 28TH MARCH, 2016 OF THE COMMITTEE, IN CASE NO. 182 OF 2014**

1. **Related proceedings pending before Hon'ble APTEL and Hon'ble Supreme Court of India.**

At the outset, BEST clarifies that there are proceedings pending before (i) Hon'ble APTEL under the Appeal No. 243 of 2014 and Appeal No. 21 of 2016, and (ii) Hon'ble Supreme Court of India under the Civil Appeal No. 4074 of 2015 and the Civil Appeal (Diary) No. 11771 of 2015, wherein inter alia TPC and BEST are parties and wherein issues arising and / or relief sought are relevant to the issues arising in the present matter. BEST states that the above (i) Appeal No. 243 of 2014 and Appeal No. 21 of 2016 are pending hearing and final disposal before the Hon'ble APTEL, (ii) Civil



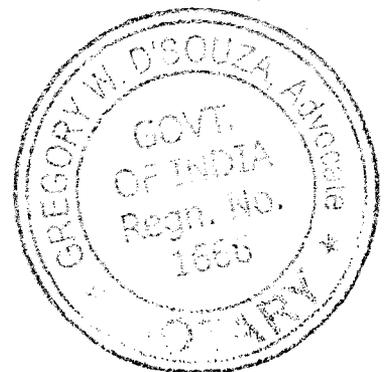
Appeal No. 4074 of 2015 and Civil Appeal (Diary) No. 11771 of 2015 are pending hearing and final disposal before the Hon'ble Supreme Court of India. Without prejudice to the aforesaid Appeal No. 243 of 2014, Appeal No. 21 of 2016, Civil Appeal No. 4074 of 2015 and Civil Appeal (Diary) No.11771 of 2015, BEST is now dealing with the present matter, as hereunder

2. **Pleadings have already been filed by BEST in the present matter.**

It is clarified that BEST has already filed its Reply dated 29.07.2015, Additional Reply dated 11.08.2015, Further Reply dated 07.09.2015, Reply dated 07.09.2015 to TPC's Submissions on meaning of "New Connection/New Consumer" dated 07.09.2015 and Reply dated 07.09.2015 to TPC's Submissions on Observations, Findings and Directions of Hon'ble APTEL's Judgment dated 28.11.2014, and Written Submissions dated 21.09.2015, in this Case No. 182 of 2014. BEST reiterates that the contents of the aforesaid Pleadings, and submits that the same be deemed to be and are part of these Written Submissions.

3. **Appeal No. 21 of 2016 filed before APTEL by BEST against MERC and Ors., to impugn the Interim Order dated 9.11.2015 made by MERC in Case No. 182 of 2014, to inter alia constitute the Committee to make recommendation to MERC, on certain aspects.**

BEST states that on 09.11.2015, MERC made the Interim Order dated 09.11.2015 in the Case No.182 of 2014 filed by TPC, to inter-alia constitute a Committee to make recommendation to MERC on certain aspects, which would be considered by MERC while approving the network rollout plan of TPC. BEST, being aggrieved and dissatisfied with the impugned Interim Order dated 09.11.2015 made by MERC in the Case No.182 of 2014, has filed the Appeal No. 21 of 2016 before Hon'ble APTEL to challenge and seek setting aside of the impugned Interim Order dated 09.11.2015, as well as for



dismissal of the pending Case No.182 of 2014 filed by TPC. BEST states that the Appeal No. 21 of 2016 is pending for hearing and final disposal before the Hon'ble APTEL. *

4. **The Report dated 28.3.2016 of the Committee, does not entail or require TPC to provide for adequate or, timely rollout of its distribution network, in its area of supply common with BEST**

It is pertinent that the Report of the Committee does not entail or require TPC to provide for adequate or timely rollout of its distribution network in its licensed area which overlaps the area of supply of BEST. BEST submits that the Report of the Committee has failed and neglected to specify the time period for creation and roll out of the entire and independent distribution network of TPC in its licensed area which overlaps the area of supply of BEST. On the contrary, the Report of the Committee has suggested that TPC may target to set up the LT distribution system in areas where the DSS/CSS already exists, in a specified period of time, say 2 years. It is significant that the areas where the DSS/CSS of TPC already exists, are limited or restricted only to areas such as Dharavi, Carnac, Parel, Lower Parel, Elphinstone, Mahalaxmi, Haji Ali, etc. Thus, the Report of the Committee has basically suggested that TPC may roll out its separate and independent distribution network in a phased manner, and that too only in a limited or restricted area. It is further significant that the Report of the Committee has failed and neglected to even consider, much less specify any time frame for the rollout of distribution network of TPC in areas where DSS and/or CSS are yet to be set up by TPC, in its licensed area which overlaps the area of supply of BEST. It is submitted by BEST that such phased rollout of distribution network by TPC in only the limited or restricted area, as well as non requirement of adequate and timely rollout of distribution network by TPC in the other areas in a specified time frame, under the Report of the Committee, is ex facie contrary to and in violation of the Electricity Act, 2003, and the Rules and Regulations made thereunder, and in particular of the indispensable requirement of the Universal Service Obligation.



5. **The Report dated 28.3.2016 of the Committee, does not entail or require TPC to specify the minimum capacity of the distribution network to be rolled out by TPC, in its area of supply common with BEST**

It is pertinent that the Report of the Committee has failed and neglected to even consider, much less require TPC to specify, the minimum capacity of the distribution network to be rolled out by TPC, in its area of supply common with BEST. It is significant that the Report of the Committee has suggested that TPC may roll out its distribution network in a phased manner in only limited and restricted areas, such as Dharavi, Carnac, Parel, Lower Parel, Elphinstone, Mahalaxmi, Haji Ali, etc., over a time frame of 2 years. In this regard, it is significant that the load demand projected by TPC for such limited and restricted areas, is a mere and only 120 MW, out of the total load demand of 1196 MW for the entire area of supply of BEST common with TPC. It is humbly submitted by BEST that such failure and neglect by the Committee to even consider, much less require TPC to specify, the minimum capacity of the distribution network to be rolled out by TPC, in its area of supply common with BEST, is ex-facie a grave irregularity and/or lapse, which vitiates the Report of the Committee. BEST submits that the Committee ought to and should have required TPC to specify the minimum capacity of its distribution network for catering, to say at least 50% of the total load of 1196 MW for the entire area of supply of BEST common with TPC.

6. **The Report dated 28.3.2016 of the Committee, is not conducive for creation of a level playing field for BEST and TPC, in the area of supply common to BEST and TPC**

It is pertinent that the Report of the Committee is not at all conducive for creation of a level playing field for BEST and TPC and/or promoting genuine competition between BEST and TPC, in the area of supply common to BEST and TPC. BEST humbly submits that there can never be any level playing field, if TPC is allowed to cater to consumers in limited or restricted areas, such as Dharavi, Carnac, Parel, Lower Parel, Elphinstone, Mahalaxmi, Haji Ali, etc., and that too with only a part/partial rollout of its distribution

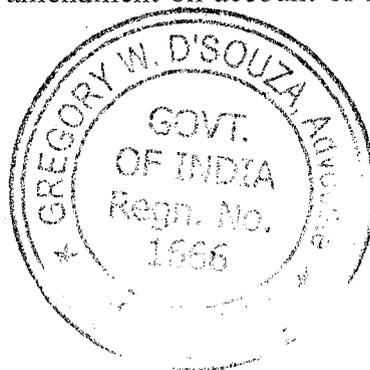


network in a phased manner over a time frame of 2 years, whereas BEST has to bear the cost of maintaining its exhaustive distribution network for its entire area of supply and for catering to all consumers in its entire area of supply. As such, compare to BEST, TPC would be bearing only a relatively smaller maintenance cost for its relatively smaller and phased distribution network in the said limited or restricted areas. BEST therefore submits that failure or neglect of TPC to comply with its Universal Service Obligation, would be gravely detrimental and prejudicial to the interests of BEST and its consumers.

7. **The Report dated 28.3.2016 of the Committee is not adequate and specific for the Process of Switchover and/or migration of consumers in the area of supply common to BEST and TPC.**

It is pertinent that in order to carry out Process of Switchover and/or migration of consumers in the area of supply common to BEST and TPC the Committee has failed to consider following practical difficulties and specific requirements.

- i) Other Distribution Licensee shall have to forward the completed Application *along with connection details specifying exact location of the premises with sketch / bearing* to the existing distribution licensee.
- ii) The time period of three days considered for sharing the information by existing distribution licensee pertaining to any arrears / disputes /court cases etc with the consumer after receipt of information from the other distribution licensee is inadequate and it needs to be at least 15 days considering unforeseen delay and meticulous compliance requirements from either licensees and consumer.
- iii) In addition to this, there is possibility of detection of defect or tampering during laboratory testing after removal of meter. In such cases there shall be provision of preferring and recovery of claims arising out of amendment on account of such defects or tampering.

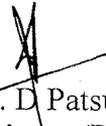


8. The Report dated 28.3.2016 of the Committee does not envisage practical difficulty in developing parallel network and ignores practical engineering aspects

BEST reiterates that it is incorrect to duplicate retail distribution network. The distribution network from receiving substation to service positions has been developed as a part of infrastructure necessary to give electric supply. It is essential that we do not disturb this infrastructure and make it weak.

Digging up the city indiscriminately spoiling its beauty and causing inconvenience to public, is incorrect and should be avoided as far as possible. The position taken by Committee that parallel network will have to be developed by TPC is, therefore, incorrect and ignores practical engineering aspects.

9. In the circumstances and for reasons afore stated, BEST humbly submits and prays that the Report of the Committee deserves to and should be discredited and disregarded, and the present Case No. 182 of 2014 filed by TPC ought to and should be dismissed with costs.


(R. D Patsute)
Chief Engineer (Regulatory)
For Brihanmumbai Electric Supply
& Transport Undertaking

Place: Mumbai

Date:

6 MAY 2016

