

4.4 Identification of 'new consumer'

4.4.1 MERC Order

The Commission in para 50 of the Interim Order has stated that the EA 2003 defines a 'consumer' as any person who is either supplied by a Licensee or is connected to the works of a Licensee. In other words, anyone who does not qualify to be defined as a 'consumer' is a new consumer.

4.4.2 TPC-D's submission

According to TPC-D, the following consumers can be classified/identified as 'new consumer':

- a) Any new consumer who is applying for electricity supply for the first time
- b) Any case of Permanent Disconnection
- c) Any person who is receiving Temporary Supply; and
- d) Any case of redevelopment.

In order to arrive at this interpretation of the term 'new consumer', TPC-D has relied on the definition of the term 'consumer' and 'works' as given in the Act. As per Sections 2(15) and 2(77) of the Act:

"(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government stations, or the load centre, as the case may be"

"(77) "works" includes electric line, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force."

TPC-D's interpretation of the term 'new connection' and 'new consumer' requires satisfying of two basic aspects, viz:-

- i. Any person who has made an application for supply of power; and
- ii. The premise is not connected, for the time being, to the works of the licensee for the purpose of receiving supply of electricity.

Based on the above interpretation, TPC-D submitted as under:

- a) Any new consumer who is applying for supply of electricity for the first time can be classified as 'new consumer', as the premises was not permanently connected, for the time being, to the works of any licensee for the purpose of receiving supply of electricity.
- b) In case of Permanent Disconnection, the said premise is not permanently connected for the time being to the works of the licensee for the purpose of receiving supply of electricity. Therefore, it can be classified as 'new consumer'.
- c) In case of temporary connection, it is the builder who applies for the same for construction purposes. However, once the building is built, it leads to a change in nature of premises. From builder's point of view, the building under construction is one premise but once it is built, each unit/dwelling inside the building becomes separate premises. Since, none of the new premises are for the time being permanently connected to the works of any licensee for the purpose of receiving supply of electricity, they can be classified as 'new consumers'.
- a) In case of 'redevelopment projects', once the existing building is demolished for construction of a new building, it effectively leads to change in premises. Since the new premises, which comes up at the same place, is not permanently connected for the time being to the works of any licensee for the purpose of receiving supply of electricity, therefore the owners or occupiers of such new premises can be classified as a 'new consumers'.

4.4.3 RInfra-D's submission

RInfra-D submitted that its interpretation of the term 'new consumer' is same as that submitted during the proceedings in Case No. 182 of 2014. The Commission has recorded RInfra-D's submission in its Interim Order in Case 182 of 2014 as follows:

"RInfra-D has submitted further that a new consumer is necessarily one in whose premises there does not exist any network at all, and only in such circumstances can a Distribution Licensee lay down its network to effect supply."

During the meeting with the Committee, RInfra-D reiterated its above submission and said a 'new consumer' is a consumer who has never been connected to the distribution system of any Licensee and is seeking connection for the first time. In addition, RInfra-D also submitted that any redeveloped premises cannot be treated as 'new consumer' since network of RInfra-D already existed and consumers in that premises were supplied using that network. Also, if redeveloped premises are treated as "new" due to disconnection of the network from "Point of Supply", then it will amount to all the existing consumers of RInfra-D being treated as "New" on disconnection thereby defeating the distinction between "Switchover" and "New" consumers.

4.4.4 MSEDCL's submission

MSEDCL submitted that considering the provisions of the EA 2003, a 'New Consumer' shall mean any person who has made an application for supply of power and whose premises is, for the time being, not connected to or is permanently disconnected from the works of a Distribution Licensee for receiving supply of electricity.

4.4.5 Committee's Recommendations

The consumer is defined in the Act as under:

“(15) “consumer” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government, or such other person, as the case may be”(emphasis added)

The Committee is of the view that the terms 'premises', 'for the time being connected ...with the works of a licensee', are very important for classification of new consumers. The Committee is of the view that **new consumers are those applicants, who were not consumers earlier nor are they presently consumers of either Distribution Licensee, by virtue of neither being connected to nor receiving supply from either Distribution Licensee.**

In addition to the above obviously new consumers, based on detailed deliberations of the Committee and discussions with RInfra-D and TPC-D in the meetings held with the Distribution Licensees, the Committee is of the view that the following persons shall also qualify to be categorised as 'new consumer' for the following reasons:

4.4.5.1 Change from Temporary Connection to Permanent Connection

The Temporary connection is also a 'consumer' of the Licensee, as he is receiving supply for his own use and the premises is also connected to the network of the Distribution Licensee for the time being for such purpose.

The Committee considered two Cases of change from temporary connection to permanent connection, viz., Case 1 - New residential/multi-user commercial building, and Case 2 - New Single Point of Supply Premises, as under:

In Case I, i.e., in case of a new residential/multi-user commercial building, the builder will apply for temporary connection for construction purposes and the premises in this case is different from the premises for which permanent supply is

required. Once the building is completed, each individual flat/office would constitute separate premises, and application for permanent supply has to be made for each such premises. The builder originally submits separate application for permanent supply for such premises.

In case the separate application for permanent supply for such premises is made by the Builder to the second Distribution Licensee from whom the temporary supply was not taken, then the same shall amount to an application for permanent supply for a premises that is not connected to the network of the distribution licensee for the time being, and the premises itself has changed. Hence, this would qualify as an application from a new consumer.

In Case 2, i.e., in case of a new single point of supply premises, the builder/developer will apply for temporary connection for construction purposes and the premises in this case is different from the premises for which permanent supply is required, as the premises for the temporary application is the 'land'. Once the building is completed, application for permanent supply has to be made for the different premises.

Thus, in case the application for permanent supply for such premises is made by the Builder/Developer/Owner to the second Distribution Licensee from whom the temporary supply was not taken, then the same shall amount to an application for permanent supply for a premises that is not connected to the network of the distribution licensee, as the premises has changed from land to building. Hence, this would also qualify as an application from a new consumer. Thus, both the Cases considered by the Committee qualify as an application from a new consumer.

However, as elaborated subsequently, even in such cases, it does not mean that the second Licensee can simply lay the distribution system for such cases, since, the protocol as recommended by the Committee for permitting either Distribution Licensee to set up/extend/augment the distribution system would have to be

applied, and the Distribution Licensee that can undertake the same in the most optimum manner would be permitted to do so.

4.4.5.2 Redevelopment cases

In case of redevelopment including but not limited to SRA scheme or redevelopment of individual building, the existing structure is demolished to make way for construction of a new structure, and the Distribution Licensee has to permanently disconnect the existing single premise/multiple premises.

Thus, as per the definition of 'consumer' as per the Act, such premises are not consumers of the existing Distribution Licensee, as they are no longer connected to the distribution system and are also not receiving supply from the Distribution Licensee. Hence, **all redevelopment cases would be classified as new consumers.**

Since, the premises are permanently disconnected from the distribution system of the licensee, it may be inferred that the distribution licensee's network would be available up to distribution mains and the distribution licensee would be presumed to be present in such area.

However, as elaborated subsequently, even in such cases, it does not mean that the second Licensee can simply lay the distribution system for such cases, since, the protocol as recommended by the Committee for permitting either Distribution Licensee to set up/extend/augment the distribution system would have to be applied, and the Distribution Licensee that can undertake the same in the most optimum manner would be permitted to do so.

4.4.5.3 Permanently Disconnected Cases

The Committee has also considered the issue of whether Permanently Disconnected (PD) consumers applying for reconnection should be considered as 'new' consumers.

The Committee notes that as per the definition of 'consumer' given in the Act, Permanently Disconnected (PD) consumers applying for re-connection would qualify to be considered as 'new consumers', as neither is he receiving supply of electricity nor are the premises connected for the time being with the works of the licensee.

However, the Committee is of the view that such an interpretation could result in defeating the intent of the APTEL Judgment in Appeal No. 246 of 2012, in letter and in spirit. The underlying philosophy of the APTEL Judgment has been that TPC-D should be allowed to duplicate the distribution system only in case of new consumers and in cases where the additional network would contribute to improving the reliability of the distribution system.

It has to be understood that any consumer can apply for voluntary disconnection under Regulations 6.7 to 6.9 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014, and the Distribution Licensee is required to disconnect such consumer within a specified timeframe after the expiry of 30 days from such application for disconnection, subject to payment of all dues by such consumer.

Hence, if all PD cases who apply for re-connection are considered as 'new consumers', then there may be large-scale duplication of the distribution system, on account of the second Licensee setting up distribution system for such 'new' consumers, who first apply for disconnection from the existing distribution system and in parallel, apply for a new connection from the second Licensee.

Thus, theoretically, all 30 lakh consumers of RInfra-D or any combination or category of consumers can apply for disconnection and apply for new connection from TPC-D, who would be permitted to set up the distribution system for such new consumers.

Such interpretation could certainly not have been the intent of the Hon'ble APTEL, when it permitted TPC-D to set up the distribution system only for new consumers and in cases where the network augmentation will improve the reliability of the distribution system.

In view of the above, the Committee recommends that PD cases without redevelopment, who are applying for connection, should not be considered as new consumers for the purposes of deciding whether the second Licensee can set up the distribution system for such consumers.

As regards the PD cases on account of default of electricity bills, the Committee is of the view that in such cases, there may be possibility that a consumer who has been disconnected on account of non-payment of electricity bills would get connected to the network of the second distribution licensee. Hence, the existing outstanding with the first Distribution Licensee would remain unrecovered. Further, the Committee is of the view that a consumer, who is unable to pay/is not willing to pay the electricity bills, should not get the advantages of connecting and taking supply from the other Distribution Licensee. Hence, **PD consumers on account of non-payment of electricity bills shall not be considered as new consumer.**

Thus, the Committee recommends that Permanently Disconnected consumers shall not qualify as a new consumer.

4.5 Consumer's Choice of Supply and Network

4.5.1 Hon'ble APTEL Judgment

In para 58 of its Judgment, the Hon'ble APTEL has ruled that

"...Tata Power should therefore, be restricted to lay down its network only in areas where laying down of parallel network would improve the reliability of supply and

benefit the consumer and also for extending supply to new consumers who seek connection from Tata Power..."

In this context, the Committee is of the view that the term 'benefit the consumer' used in the Judgment of the Hon'ble APTEL refers to the benefit of the larger set of consumers of the Licensee and does not mean the benefit of an individual consumer. This is so, because if the Licensee undertakes the capital expenditure for connecting to a consumer even though the other Licensee has already established the distribution system, then that individual consumer will be benefited, as he will have the choice of distribution system, however, such duplication of the distribution system would not benefit the consumers at large, as unnecessary capital expenditure is being incurred. Hence, any mechanism to decide on which Licensee should set up the distribution system, has to ensure that the same results in overall benefit to the larger set of consumers rather than the individual consumer for whom the distribution system has been set up.

4.5.2 MERC Order

The Commission has stated as under in the Interim Order in Case No. 182 of 2014:

"49. The Commission is of the view that consumers' choice of Licensee triumphs over the method of supply. A consumer may seek supply from one or the other Licensee based mainly on considerations such as a comparison of quality of service and tariff, and would not be concerned in the manner in which the supply is made..."

Based on para 49 of the Interim Order in Case No. 182 of 2014, it can be inferred that the Commission has ruled that consumers have a choice of supply and not network.

4.5.3 TPC-D's submission

TPC-D has submitted that the consumer's right to choose the Licensee should be given the highest priority. TPC has proposed the following four scenarios from which any consumer can make a choice:

- Wires of Licensee 1 & Supply of Licensee 1

- Wires of Licensee 1 & Supply of Licensee 2
- Wires of Licensee 2 & Supply of Licensee 2
- Wires of Licensee 2 & Supply of Licensee 1

During the discussions with the Committee, TPC-D elaborated that at present, any consumer in its licence area has three choices of tariff, i.e., tariff of RInfra-D, direct tariff of TPC-D, and changeover tariff of TPC-D. The consumers applying for direct tariff of TPC-D based on tariff differential are not concerned with whose wires they are getting supply from. In such an event, TPC-D cannot ask their consumers to opt for changeover tariff because of restriction on laying network. Moreover, changeover tariff of TPC-D may or may not be equal to the direct tariff. If the changeover tariff is higher than the direct tariff, then the consumers may no longer be willing to migrate to TPC-D, thereby defeating the entire purpose of consumer choice and competition as envisaged in the Act. In view of the above, TPC-D submitted that consumers have a choice of wires as well as supply.

4.5.4 RInfra-D's submission

During the discussions with the Committee, RInfra-D submitted that pursuant to the Hon'ble APTEL Judgment, the consumer does not have a choice of wires to get connected to, rather the choice is limited to only supply. Also, as per Section 43 of the Act, the application of the consumer is for receiving 'supply' and not 'connection' from the Distribution Licensee.

4.5.5 Committee's Recommendations

The Applicant makes an Application requesting 'supply' of electricity from the Distribution Licensee. In the application, the Applicant does not specify the Distribution Licensee on whose wires the supply is to be given; as such a requirement is not present in the Application Form. Under usual circumstances, when there is only one Distribution Licensee in the area of supply, the Distribution Licensee that has received the request for supply shall set up the required distribution system, viz., service line or CSS or DSS and CSS, as applicable, and extend the supply to the premises of the Applicant. Under usual circumstances, the

Applicant also assumes that the Distribution Licensee to whom the Application has been submitted, will set up the requisite distribution system to enable supply of electricity to the premises.

However, under the peculiar circumstances prevailing in the overlapping area of supply between RInfra-D and TPC-D, wherein the changeover protocol is approved and both Distribution Licensees are allowed to supply to consumers through the distribution system of the other Licensee on payment of stipulated charges, it is not necessary that the Distribution Licensee to whom the Application for supply is made, will set up the requisite distribution system to enable supply of electricity to the premises.

It has been argued by TPC-D that the Applicant will apply to the Distribution Licensee for supply of electricity, based on the comparison of tariffs under the two available modes, viz., direct supply and changeover supply, and in case the Applicant chooses the direct supply mode based on the tariff for the same being lower, then such Applicant is entitled to receive supply on the network of the Distribution Licensee to whom the Application has been submitted, as else, the consumer will have to pay the changeover tariffs, which he may not be interested in. On the contrary, RInfra-D has argued that the consumer does not have choice of network and can only choose the supplier of electricity, as the Application is made for receiving supply of electricity.

The Committee is of the view that if the Applicant is allowed to choose which Distribution Licensee should set up the distribution system for supply to his premises, then the whole question of deciding which Distribution Licensee is better placed to set up the distribution system in the most optimum manner, will become infructuous. The issue of whether the Applicant can choose the wires on which to be connected needs to be understood keeping in mind the overarching philosophy of minimising network duplication as laid down by the Hon'ble APTEL in its Judgment in Appeal No. 246 of 2012. Further, as stated earlier, the consumer

benefit has to be seen with respect to the benefit of the larger population of consumers, and not the individual consumer who has applied for supply. Since network duplication is to be allowed only in very specific circumstances, **the Committee is of the view that in the overlapping area of supply between RInfra-D and TPC-D, the Applicant can only choose the Distribution Licensee from whom the supply is to be received, and the decision on which Distribution Licensee will set up the distribution system to effect such supply shall be made based on the criteria recommended by this Committee, subject to acceptance and approval of the Commission after due regulatory process.**

However, in case the individual consumer or group of consumers are willing to bear the entire cost of the distribution system required to enable supply to their premises under the Dedicated Distribution Facility (DDF), then in such a case, the individual consumer or group of consumers have the choice of supply as well as network. In such cases, no consequential additional expenditure is passed on to the other consumers through the ARR and tariff. This will ensure that the larger set of consumers are not adversely affected by the capital expenditure incurred for supplying to the individual consumer or group of consumers.

4.6 Scenarios in which switchover is permitted

4.6.1 MERC Order

In Para 54 of the of the Interim Order in Case No. 182 of 2014, the Commission has ruled that in Scenario 53(a), it is clearly just a question of wheeling of power to the consumer through the network of the Licensee whose network is available in the area. Thus, no switchover is envisaged under this Scenario.

In Para 55 of the Interim Order in Case No. 182 of 2014, the Commission has ruled that switchover is permitted only under Scenario 53(b), i.e., the area which is completely covered by both Distribution Licensees, viz., RInfra-D and TPC-D, and the consumer within such area wishes to shift from their existing supplier to the other.

4.6.2 TPC-D's submission

TPC-D submitted the following with respect to each of the four Scenarios listed by the Commission in the Interim Order in Case No. 182 of 2014:

- a) Scenario 53(a): The consumer shall be connected to the Distribution Licensee whose network exists, unless the Commission takes a view that the reliability issue requires the other utility to lay its distribution system.
- b) Scenario 53(b): The situation of having parallel wires in common areas presents opportunities for both the Licensees to connect the consumers who approach them for power supply. Thus, whichever Distribution Licensee is approached by the consumer for power supply should provide the necessary connection to the consumer.
- c) Scenario 53(c): These are predominantly green field areas and should be open to both Distribution Licensees for extending their wires and connecting to the new consumers, thereby enabling consumer choice.
- d) Scenario 53(d): Either of the Distribution Licensees should be allowed to cater to the new consumer cluster or new consumer group, which can be economically served by economically extending the distribution system based on the choice exercised by the new consumer group or consumer with consumer funded part scheme.

Therefore, according to TPC-D, switchover can happen only in scenario 53(b). However, switchover can also take place under scenario 53(a) at the prerogative of the Commission.

4.6.3 RInfra-D's submission

RInfra-D submitted that migration of consumers between the Distribution Licensees can take place either via changeover or switchover. The Changeover Protocol has already been devised by the Commission in the Order of Case No. 50 of 2009. Based on the scenarios outlined by the Commission in paragraph 53 of the Interim Order in Case No. 182 of 2014, it is clear that switchover can take place only under Scenario

53(b), as only Scenario 53(b) envisages a situation where both the licensees have their service line present up to the consumer's premises.

4.6.4 Committee's Recommendations

Switchover is a case of the consumer migrating from one Licensee to another, and perforce means that only an existing consumer can seek switchover. An application from a new consumer will not be covered under the switchover scenario.

The Hon'ble APTEL has ruled as under in this regard:

"60. Where Tata Power has already laid down its network and some consumers have switched over from RInfra to Tata Power, these consumers can remain with Tata Power. However, they can choose to switch over to RInfra in future on RInfra's existing network as per the switch over protocol to be decided by the State Commission."

It is clear from the above that the distribution system of both Distribution Licensees has to exist up to the Point of Supply, i.e., including service connection, for Switchover to be permitted.

In view of the Hon'ble APTEL Judgment, the Committee has discussed the option of switchover under various Scenarios, as under:

Scenario 53(a): *Location, Municipal Ward or other area which is completely covered by one Licensee, but consumers within such area still wish to shift from their existing provider to the other Licensee*

The Committee observes that the Commission has ruled as under, on Scenario 53(a):

"54. As far as Scenario (a) is concerned, it is clearly just a question of wheeling of power to the consumer through the network of the Licensee whose network is available in the area. Therefore, it is a matter of adjusting payments between such consumer

and the concerned Licensee or between the Licensees. The existing system of accounting already deals with the situation, and therefore no modification to it is called for at present."

Thus, switchover is not permitted under Scenario 53(a).

Scenario 53(b): *Location, Ward or other area which is completely covered by both Licensees, but consumers within such area wish to shift from their existing provider to the other Licensee*

Under Scenario 53(b), both the Licensees (say Licensee A & Licensee B) have a distribution system that 'completely covers' the area. In this Scenario, the specific consumer is connected to both networks (e.g: MIAL, HDFC Bank, Karina Synthetics, etc., plus around 5000-6000 residential consumers). Only existing consumers, who are connected to both Licensees, can be categorised under this Scenario, and new consumers or consumers connected to one Licensee cannot apply under this Scenario. If an existing (Wires + Supply) consumer of Licensee A desires supply from Licensee B, then such consumer shall apply to Licensee B for receiving supply and also apply to Licensee A for disconnection. Once supply from Licensee A is disconnected, Licensee B shall supply to the consumer using its (Licensee B's) wires. Further, if an existing (Wires + Supply) consumer of Licensee B desires supply from Licensee A, then such consumer shall apply to Licensee A for receiving supply and also apply to Licensee B for disconnection. Once supply from Licensee B is disconnected, Licensee A shall supply to the consumer using its (Licensee A's) wires. As the distribution system of both Distribution Licensees already exists in this Scenario, there is no question of any additional capital expenditure for giving connection under this Scenario, as both Licensees have already provided service connection to the consumer and are in a position to effect supply to the consumer on their own wires. **The Committee is hence, of the view that Switchover is permitted only under this Scenario.**

The proposed Switchover Protocol is elaborated in Section 5.1 of this Report. The consumers' premises, which are completely covered by both Distribution Licensees, are limited. During the proceedings, the Committee sought the details of such consumers, to which RInfra-D submitted the list of such consumers under Scenario 53(b). RInfra-D has submitted the list of switchover cases date-wise, and has also submitted that TPC-D has continued to switchover consumers even after November 28, 2014, i.e., the date of the Hon'ble APTEL's Judgment. RInfra-D has contended that Switchover beyond November 28, 2014 is not permitted in view of the Hon'ble APTEL's Judgment. However, this issue is before the Commission in Case No. 151 of 2015 and beyond the scope of this Committee, and the Committee does not make any observation on the same.

The Committee recommends that once the Commission gives its Order in Case No. 50 of 2015 and/or Case No. 151 of 2015, such list of consumers should be frozen after reconciling the lists of both Licensees, and only the consumers in this list shall be eligible for Switchover under this Scenario.

Scenario 53(c)

Under Scenario 53(c), both the Licensees (says Licensee A & B) do not have any network in the area, i.e., un-electrified area, viz., Aarey, Salt pan land, CRZ land, etc. In this Scenario, if a new consumer applies for supply from Licensee A, then Licensee A will give supply by extending/augmenting the distribution system after obtaining the Commission's in-principle approval for the capex. Similarly, if a new consumer applies for supply from Licensee B, then Licensee B will give supply by extending/augmenting the distribution system after obtaining the Commission's in-principle approval for the capex. In other words, additional capital expenditure (by RInfra-D or TPC-D) for giving supply is permitted under this scenario, as both Licensees are not connected and are not in a position to effect supply to the consumer on their own wires. **The Committee is of the view that there is no question of Switchover under this scenario, as this is only for new consumers in new areas, where there is no distribution system.**

In theory, even in this area, the issue of relative economics of network extension/augmentation can be considered before approval in this Scenario based on the DPRs, if required, submitted by the concerned Distribution Licensee. However, as both Distribution Licensees do not have a distribution system in this area, assessment of relative economics may not be required and may delay the approval procedure. Hence, the Committee recommends that in this area, the Distribution Licensee to whom the Application is made, may set up the requisite distribution system, subject to obtaining necessary prior approval of the Commission for the capital expenditure, if required, and fulfilling all other requirements for undertaking capital expenditure. Once the distribution system is set up by either/both Licensees, then this area will move from Scenario 53(c) to any one of Scenario 53(a), 53(b), or 53(d).

Scenario 53(d)

Under Scenario 53(d), both the Licensees are present in the area, but neither Licensee has a distribution system that 'completely covers' the area [as if even one Licensee completely covers the area, then such area will be categorised under Scenario 53(a)]. In this Scenario, the Committee is of the view that in the overlapping area of supply between RInfra-D and TPC-D, as RInfra-D has been supplying electricity to consumers through its own distribution system for several decades, RInfra-D is likely to have completely covered most of the licence area and would have a distribution system that caters to most of the consumers taking supply in this area. The APTEL has also recognised this fact in its Judgment in Appeal No. 246 of 2012. The Committee is of the view that every Application for supply from a new consumer other than under Scenario 53(c) would amount to an Application where both Licensees are only 'present' and do not 'completely cover' such consumer. The Committee has already deliberated and given its recommendation on 'new consumer' earlier in this Report.

Under these circumstances, **there may be few pockets, which fall under Scenario 53(d).** Further, **there is no question of 'switchover' in these areas, as neither Licensee completely covers this area.**

4.7 Evaluation of the economics of network extension/augmentation under Scenario 53(d)

4.7.1 APTEL Judgement

As regards the criteria for laying of the distribution system, the Hon'ble APTEL in its Judgment in para 61 held as under:

“61. ... The State Commission shall consider to give approval for laying down of network by Tata Power only in areas where there are distribution constraints and laying down of a parallel network by Tata Power will improve reliability of supply and benefit the consumers, only after hearing RInfra and the consumers. Similarly, RInfra shall not lay network in any area where only Tata Power's network is existing and use Tata Power network for changeover of consumers, if any, till further orders by the State Commission, except for extending supply to new connections. The State Commission is directed to devise a suitable protocol in this regard after following due procedure. This may require change in licence condition of the licensees which the State Commission shall decide after following due procedure as per law.”

In view of the above, TPC-D shall be allowed to lay its distribution system only in areas where there are distribution constraints and laying down of a parallel network by TPC-D will improve reliability of supply and benefit the consumers.

4.7.2 MERC Order

The Commission, in para 57 of the Interim Order in Case No. 182 of 2014, has stated that whether or not TPC-D will be permitted to lay its distribution system to cater to specific areas and/or consumers will depend on the adequacy of its existing distribution system in the vicinity and also upon the economics of such extension or

augmentation. Further, in para 61 of the Interim Order, the Commission has stipulated the parameters such as loading of network, ageing of network, obsolescence of technology, etc., which determines the adequacy of the distribution system. Such adequacy needed to be assessed for deciding on augmentation or addition to the distribution system for the purpose of supplying electricity at the least cost to consumers.

4.7.3 TPC-D's Submission

In line with its submission that the service connection should be excluded for assessing whether the area is completely covered by the Distribution Licensee, TPC-D has submitted that assessment of the economics of network development and augmentation should be limited to the development of Distribution Mains only and the service line should not be included in the calculation of economics of network development. TPC-D submitted that the following parameters should be used to first assess whether the existing licensees are eligible to release supply to LT and HT consumers or not:

- a) The consumer's right to choose the licensee should be given highest priority
- b) The consumer has the choice of selecting the supplier and the network (in case of dedicated network, the consumer should be ready to pay for the network development)
- c) Either or both the licensees may have CSS or DSS in area where the consumer is located.
- d) Check for availability of spare capacity at existing nearby RSS, DSS or CSS. If it is available, then the load can be released on such available spare capacity.
- e) Service line requirement as per the voltage level to cater to Contract Demand requisitioned by the consumer should not be considered as a part of network rollout plan

- f) In case spare capacity is not available in nearest DSS and CSS, new DSS and CSS should be planned to be installed
- g) Feasibility of DSS/CSS installation should be checked with respect to corridor for cable laying from RSS to DSS or DSS to CSS, space availability for DSS/CSS, adherence to MERC Regulations for release of connection within the specified time frame, etc.; and
- h) A DPR for above capex should be submitted to the Commission for approval.

If both Licensees are found to be eligible, then the decision about laying network and connecting the consumer should be decided thorough the following ‘Network Weightage Table’:

Sr. No.	Criteria	Weightage (%)
1	Spare capacity of Network of both licensees	50
2	Wheeling charges of the existing network of both licensees	10
3	Ratio of Cost of network per unit	10
4	Sales Mix to be maintained at equitable level by both licensees	10
5	Prospective (new) consumers load on network	10
6	Consumer Tariff (including all charges, i.e., landed cost)	10
	Total	100%

TPC-D has submitted the following illustration to show how scoring should be done in order to assess which Distribution Licensee will lay the network:

For eg. It is assumed that a DSS can be loaded maximum upto 70% of its capacity. If Licensee 1 has spare capacity of 40% in nearest DSS (i.e., 30% loaded) and Licensee 2

has spare capacity of 30% (i.e., 40% loaded) in his nearest DSS, the scoring shall be done as under:

Among the loading of capacity, the lowest loaded “L min” will be given a capacity score “C” of 100 marks. The Capacity scores of other licensee(s) will be computed as follows:

a. $C=100 \times L_{min} / L$ where ‘L’ indicates the loaded capacity.

Sample Scoring for Spare Capacity Criteria				
Licensee	Loaded Capacity (%)	Capacity Scoring	Weightage (%)	Score
A	30%	100	50%	50
B	40%	75	50%	37.50

Similar scoring to be done for other criteria.

The Licensee scoring maximum marks as per the final score in the weightage table will be eligible to lay the network and release the connection.

4.7.4 RInfra-D’s Submission

RInfra-D has not proposed any methodology per se to assess the economics of network extension/augmentation. RInfra-D submitted its own ‘Network Planning and Expansion Philosophy’, under which, emphasis is laid on following criteria:

- a) Loading: The capital expenditure planning is always a bottom-up approach, as strengthening/expansion of existing LT network is considered before planning for upgradation or expansion to 11kV and 33 kV level.
- b) Reliability/Redundancy: RInfra-D maintained 'n-1' redundancy at cluster level rather than at individual 33/11 kV sub-station level. Due to this meshed inter-connected network, commissioning of a new 33/11 kV substation results in cascaded effect of improvement in reliability for a large number of customers within that cluster due to availability of additional margin as it enables restoration of supply in case of a contingency.
- c) Cost optimisation: RInfra-D has an extensive distribution system in Mumbai because of its presence for the past eight decades. As a result, in case of

network expansion/augmentation, it is relatively easier for RInfra-D to release new connections by extending/upgrading/augmenting the existing network depending on the quantum of load required. Giving an illustration of providing supply to any new/redevelopment project consumer, RInfra-D submitted that to release supply to such consumer, it would generally require only loop-in-loop-out (LILO) of existing 11 kV cable nearby, whereas for another Licensee having only sparse network, it might be necessary to lay long length 11 kV cables from nearest 33(22)/11kV substation. Consequently, the incremental cost required by RInfra-D for releasing new/re-development loads would be much lesser.

4.7.5 Committee's Recommendations

As stated earlier, while assessing the technical feasibility and cost economics, the Commission will have to take a view on the issue of whether the status quo as on November 28, 2014 or any later date should be considered, as this issue is linked to the Petition filed by TPC-D in Case No. 50 of 2015 regarding permission to complete the capex schemes that have already been commenced in accordance with the earlier directions of the Commission. This issue is outside the scope of work of this Committee.

The Committee is of the view that the criteria have to be practical, unambiguous, and easy to implement on a regular basis.

The Committee is of the view that reliability of the system is achieved by creating redundancy by adopting 'n-1' criteria for network planning, keeping the loading of the network elements within the permissible limits, and replacement of aged and obsolete equipment, etc.

As such, the Committee is of the view that the 'n-1' redundancy criterion proposed by TPC-D and RInfra-D has to be understood with respect to the philosophy of planning of the distribution system. It is noted that the distribution system of RInfra-

D is a meshed network and that of TPC-D is a ring-main system, with the ability to transfer/switch loads to other transformers in case of failure of any transformer. The distribution system is built over three voltage levels, viz., 33/22 kV network, 11 kV network, and LT network. In such case, different approaches have been adopted for maintaining 'n-1' redundancy in the distribution system at various levels. Further, 'n-1' redundancy has been also adopted at cluster/area level. It would be difficult to consider 'n-1' redundancy for laying the distribution system for specific consumer, where 'n-1' redundancy has been maintained at area/cluster level. Hence, **whether 'n-1' redundancy has been fulfilled or will be fulfilled by setting up the distribution system, should not be a criterion for assessing which Distribution Licensee should set up the distribution system for supplying electricity to a particular consumer.**

The Committee is of the view that the criteria of voltage regulation, location and sizes of distribution and power transformers, type and routing of distribution lines, presence of adequate reactive power compensation, and distribution automation and data communication schemes, though relevant and forming part of the planning criteria for designing the requisite distribution system, are very difficult to compare between the Distribution Licensees, which have their own criteria for decision making considering the inherent differences in the network spread at various voltage levels, and have accordingly submitted capex schemes to the Commission that have been approved by the Commission. There being no single unique or correct way of developing the distribution system, it would not be possible to evaluate and compare such aspects between the Distribution Licensees. Hence, **the Committee is of the view that these criteria do not provide practicable and operational criteria to facilitate decision making on which Distribution Licensee shall set up the distribution system.**

As regards the criteria of load flow studies, contingency analysis, and future demand of consumers, the Committee is of the view that while these criteria are certainly criteria that affect the decision making process for setting up of the

distribution system by a Distribution Licensee, **it would be impractical to undertake such analysis on a comparative basis between the Distribution Licensees, for each and every application received by either Licensee in the area covered under Scenario 53(d).**

As regards the criterion of technical losses as per CEA guidelines, the Committee is of the view that the break-up between technical and commercial losses is presently not available for TPC-D and the data for RInfra-D has to be validated by recent data. Further, the technical losses of both distribution systems are at variance because of historical reasons, with TPC-D network comprising a much smaller proportion of LT network, and hence, **it would not be appropriate to apply this as a criterion for selecting the Licensee for undertaking the setting up of the distribution system.**

It is noted by the Committee that network design philosophy adopted by both Licensees is sound enough to provide redundancy, adequacy, and reliability to the desired level. This has also been recognised by the Commission in the Interim Order in Case No. 182 of 2014, as reproduced below:

"61. ... the Commission is of the view that, in the context of the ATE Judgment and the circumstances of Mumbai, the term 'reliability' has to be understood more broadly to mean the adequacy of a network and infrastructure to feed existing and new consumers. As far as consumer supply interruptions are concerned, most areas in Mumbai have a relatively reliable distribution system...."

The existing distribution system, if under-utilised for any reason, will result in pushing up the per unit wheeling charge. If additional distribution system is created when the existing distribution infrastructure is under-loaded, because it is more cost-effective to permit the creation of the additional distribution system on a standalone basis, it will result in sub-optimal utilisation of both the networks, which will result in higher effective overall cost in the long-run. Both, RInfra-D and TPC-D, have submitted details of the present loading level for the different elements of their

distribution system. However, it has to be noted that such loading levels are dynamic and cannot be treated as frozen in time.

The loading of the transformers also depends on the capacity of the transformers. Further, loading varies because of the ability to shift loads under the mesh/ring-main system. While both Distribution Licensees have submitted that the loading level is a criterion considered while planning expansion of their distribution system, the need is for a neutral entity to assess the loading levels of both Licensees for deciding which distribution system is required to be augmented first. Hence, **though theoretically, the loading level and spare capacity are relevant criteria for deciding on which Distribution Licensee will set up the distribution system for supplying electricity to a particular premise, it may be practically difficult to evaluate the same.**

The Commission, in the interim Order in Case No. 182 of 2014 has also referred to the criteria for assessing the reliability/adequacy of the existing distribution system. The Committee has deliberated at length on the criteria for assessing the reliability/adequacy of the existing distribution system. The Committee is of the view that it is difficult to assess the 'ageing' of network, except on a gross basis, as each element of the distribution system would have been set up at a different point in time. Given that the distribution system elements continue to function and operate satisfactorily even beyond their rated useful life, **it may be practically difficult to arrive at any particular conclusion regarding the age, balance life, and obsolescence of technology, for considering the same as a decision making criteria.**

Some of the other criteria proposed by the Distribution Licensees for evaluating the economics of network development are wheeling charges of existing network, network cost per unit, and the need to maintain the sales mix of both Licensees at equitable levels (the mix of subsidising and subsidised sales to be the same for both Licensees). **As regards maintaining an equitable sales mix for RInfra-D and TPC-**

D, the Committee is of the view that the same is beyond the scope of this Committee and the Commission has to take a view on whether such an objective is desirable and if so, the means to achieve it, as this can be achieved primarily by tariff differentiation. The Committee is of the view that the criterion of wheeling charges of the existing network - which is based on the past expenditure and past consumer mix connected on the Licensee's wires - is not appropriate for deciding which Distribution Licensee will set up the distribution system for meeting the future load. The cost of setting up the required distribution system for providing supply to the premises of the Applicant is the only criterion that needs to be considered for optimising the cost. The absolute cost in Rs. lakh/Rs. crore rather than cost per unit may be considered; else it will require the estimation of the units to be handled by the distribution system, which is going to be the same, irrespective of which Distribution Licensee sets up the network.

The Committee is of the view that the ease of giving supply should be evaluated first, as explained below, and the cost optimisation should be evaluated subsequently.

As regards the ease of giving supply, the Committee is of the view that the criteria should be simple and easy to implement. Both the Distribution Licensees have adopted different approaches for planning of distribution system according to the level of development of their distribution system. Hence, the Committee is of the view that the evaluation of ease of giving supply should be in terms of network configuration required to connect the new consumer under Scenario 53(d).

The ease of setting up the distribution system shall be evaluated in the following Levels of priority, which also reflects the cost effectiveness and time for releasing new connection by both the Distribution Licensees:

- a) Level 1 - The LT consumer connection is possible by extending service line from the existing distribution mains without any augmentation in the distribution mains.

- b) Level 2 - The LT consumer connection is possible only after augmentation of nearest distribution mains/laying new LT distribution mains from which the service line is required to be extended.**
- c) Level 3 - The LT consumer connection is possible only after providing new CSS or augmentation of CSS.**
- d) Level 4 - The HT consumer connection is possible only after laying/augmentation of HT cable/mains and associated switchgear.**
- e) Level 5 - The HT consumer connection is possible only after commissioning of new/augmentation of existing Distribution Sub-Station (DSS)/Receiving Station in the vicinity/area.**

Further, the Committee is of the view that the capex requirement up to the first two Levels above, i.e., (a) Level 1 - extension of LT service connection and (b) Level 2 - augmentation/creation of LT distribution mains, will not be significant, and it will affect the time to give supply if such cases are required to be taken up before the Institutional Mechanism. Hence, **for these 2 Levels, there shall be no requirement to approach the Institutional Mechanism discussed subsequently, and the connection can be released by the Distribution Licensee to whom the Application has been submitted.**

One of the issues discussed by the Committee was the suggestion made during the proceedings in Case No. 182 of 2014 regarding tariff solutions such as pooling of the Wires ARR of all DISCOMs for determining the uniform wheeling charges for distribution licensees in Mumbai, in a manner similar to the pooling of transmission tariff in the State of Maharashtra. TPC-D's suggestions are captured in brief below:

- a) The cost of all distribution wires in Mumbai to be pooled to form the Distribution grid, in line with the Transmission grid.
- b) The Licensee will continue to own the existing distribution wires but these wires will be utilised by all/any Licensee to supply.

- c) Uniform wheeling charge to be determined based on the pooled Wires ARR, which will be applicable to all consumers, irrespective of the distribution system to which they are actually connected to.
- d) Preference to be given to under-loaded network before further Distribution Mains augmentation.
- e) Mumbai Appellate Electricity Distribution Council (MAEDC) to be formed, comprising one nominee of each DISCOM and Member/Director of the Commission would be Chairman of MAEDC.
- f) MAEDC to manage the proposed single network of wires, and balance the investment and optimise contribution of each Licensee.
- g) From the supply side, the Licensee shall be responsible for its profits and losses based on its competitive pricing.

The Committee's views on this suggestion and the rationale for the same are discussed below:

- a) The objective of this suggestion is not clear. The solution should address the problems, rather than increasing the problems. The rationale for including MSEDCL and BEST in the proposed dispensation is not clear. Though part of MSEDCL's licence area falls in Mumbai city (Kanjurmarg, Bhandup, Mulund, etc.), there is no other parallel distribution licensee in these areas, so there is no question of other Distribution Licensees using MSEDCL's distribution system in these areas to supply electricity to their consumers in this area. MSEDCL may be included in this solution only to the extent of Chene and Vesave, which overlap with the licence area of RInfra-D and TPC-D.
- b) As regards BEST, due to the protection under the Act given to a Local Authority, BEST is not required to share its distribution system with other Distribution Licensees, and the various Judgments of the Commission, Hon'ble APTEL, and Hon'ble Supreme Court on changeover, etc., are not applicable to BEST. Hence, even if BEST is included in this pooling of Wires ARR, no other Licensee can use these wires to supply to its consumers, unless BEST permits the same under some commercial arrangement. Hence, network

duplication in BEST licence area is inevitable, under the present provisions of the Act.

- c) If the pooling of Wires ARR is done only for RInfra-D and TPC-D, then the uniform Wheeling Charges will also be applicable for TPC-D wire existing in BEST licence area, though BEST's wheeling charges would be different.
- d) The pooling of ARR of transmission licensees and determination of a uniform Transmission Tariff for the entire State of Maharashtra was done primarily with the view to eliminate the pancaking of the transmission charges for Open Access transactions, and also to reflect the fact that the consumers of all Distribution Licensees are also dependent on the State transmission network for purchase of power from outside the State. However, in case of distribution, there is no issue of pancaking of Wheeling Charges as energy does not flow from one distribution system to another, rather it flows from the transmission network to the distribution system.
- e) In case of Transmission, the State Transmission Utility (STU) is a statutory body mandated under the Act with the task of planning the transmission system in the State, and deciding which Transmission Licensee will execute each scheme. However, for distribution, there is no State Distribution Utility, and each Distribution Licensee prepares its own capex plans and submits the same to the Commission for approval. The legal status of the proposed MAEDC or any such other entity, and its authority under law, has to be verified.
- f) It also needs to be noted that in case of Transmission Licensees, each is a separate entity with separate Audited Accounts (with the exception of RInfra-T and TPC-T), whereas in distribution, the Wires business and Supply business do not presently have separate accounts.
- g) The key issue to be addressed here is whether this solution will help prevent duplication of the distribution system, or whether it will result in a situation of both Licensees setting up network and consumer paying more.
- h) The proposed solution may be reconsidered, in case the Act is amended and carriage and content are separated, and in case the protection given to BEST is

removed. However, whether it will achieve the objective of minimising network duplication in the Mumbai area has to be seen.

5 Protocol and Procedure

5.1 Protocol for migration under Scenario 53 (b)

As discussed earlier, the Committee is of the view that migration from one distribution system to another is permitted only under Scenario 53 (b), i.e., the areas that are 'completely covered' by both Distribution Licensees, or in other words, only those consumers for whom the service connection has also been set up by both Distribution Licensees.

The Switchover Protocol is before the Commission in Case No. 40 of 2015. The Committee has studied the submissions of the Licensees in Case No. 40 of 2015 in this regard, and has formulated the Switchover Protocol as under.

The recommended protocol and procedure for migration under this Scenario is detailed below:

Information for Consumer

- 1) Both Distribution Licensees shall publish the list of consumers eligible for Switchover of supply.
- 2) Both Distribution Licensees shall provide the following at their respective consumer service centres and websites:
 - a. Switchover Application Form
 - b. Application Form for Permanent Disconnection
 - c. Detailed procedure for Switchover
 - d. Any related information, which helps consumer make an informed decision regarding Switchover

Application for Switchover

- 3) The Distribution Licensees shall make available the Application Form for Switchover free of cost to the consumer.

- 4) No Consumer who has been disconnected for payment default will be allowed Switchover, without clearing dues of the Existing Distribution Licensee.
- 5) The Consumer shall attach a copy of the last bill served by the Existing Distribution Licensee, proof of its payment and other relevant documents as required.
- 6) The Application for Switchover shall be submitted by the Consumer to the Other Distribution Licensee, along with the Application for Permanent Disconnection addressed to the Existing Licensee.
- 7) The Consumer shall pay Application Processing Fees as per Schedule of Charges of the Other Distribution Licensee as approved by the Commission as per the Supply Code.
- 8) The consumer shall not be permitted to change his/her name or the purpose at the time of Switchover. The consumer may be permitted to change his sanctioned load/contract demand at the time of Switchover.

Processing of Application

- 9) The Other Distribution Licensee shall scrutinise the Application of the consumer for eligibility of switchover. If the consumer is not eligible for Switchover, then the Application shall be rejected citing the reasons therein or the Other Distribution Licensee shall ask additional information to the consumer, if any, within 3 days from the initial receipt of Application.
- 10) The consumer shall submit the additional information, if any, as asked by the Other Distribution Licensee.
- 11) The application shall be treated as complete on receipt of additional information.
- 12) The Other Distribution Licensee shall forward the completed Application to the Existing Distribution Licensee within 3 days of receipt of completed Application.
- 13) The Existing Distribution Licensee shall share with the Consumer with a copy to the Other Distribution Licensee, information relating to any

arrears/disputes/court cases/shortfall in security deposit, etc., and/or Advance Consumption Deposit equivalent to average one month's bill (based on last 12 months billing), for consumers proposing to Switchover, within 3 days of receipt of information from the Other Distribution Licensee.

- 14) The consumer shall pay pending arrears, if any, and Advance Consumption Deposit, and intimate the office of the Existing Licensee where the application for Switchover Application has been submitted, within 5 days of receipt of intimation from the Existing Distribution Licensee.
- 15) After receipt of the above amounts, the Existing Distribution Licensee shall issue the provisional 'no dues' certificate to the consumer with a copy to the Other Distribution Licensee, within 3 days of receipt of payment.

Process of Switchover

- 16) The Other Distribution Licensee shall inspect the premises, if required.
- 17) The Other Distribution Licensee shall estimate the security deposit and applicable charges as approved by the Commission, to be provided by consumer and intimate the same to the consumer, within 3 days of receipt of provisional 'no dues' certificate.
- 18) The Other Distribution Licensee shall schedule switchover in co-ordination with Existing Distribution Licensee with intimation to the consumer, within 7 days from the receipt of payment of security deposit and applicable charges, and execution of Agreement, wherever necessary.
- 19) In any case, the Switchover cannot take more than 30 days from the date of completed switchover Application
- 20) The meter reading on Switchover date shall be taken by Existing Distribution Licensee. The consumer or representatives of consumer shall remain present at the time of meter reading if so desired by the consumer and if it is practicable.
- 21) Such meter reading shall be the final meter reading of the Existing Distribution Licensee and the Existing Distribution Licensee shall raise the final bill based on final meter reading, after adjusting the security deposit and

Advance Consumption Deposit. The Consumer shall pay the difference amount, if any, within 7 days from the date of Switchover. The Existing Distribution Licensee shall refund excess amount, if any, within 7 days from the date of Switchover.

5.2 Recommended Protocol and Procedure for processing Applications under Scenario 53(d)

As discussed earlier, the Committee is of the view that the protocol and procedure for processing new applications having an impact on setting up of distribution system will be required only for Scenario 53 (d), i.e., the areas where both Distribution Licensees are 'present'.

The recommended protocol and procedure for processing new Applications under Scenario 53(d) is detailed below:

Application for new supply

- 1) The Applicant shall make an application for new supply to the Distribution Licensee (say Licensee A), along with all necessary documents, from whom it desires to get the supply of electricity.
- 2) There shall not be any change in the Application Form for new supply from the existing Application Form, as per MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.
- 3) In case of any shortcomings in the Application, Licensee A shall intimate the same to consumer, within 3 days of receipt of Application.

Processing of Application by Licensees

- 4) Licensee A (The Licensee who receives the Application will be Licensee A, for that Application) shall inspect the consumer premises, as per the timelines specified in the MERC SOP Regulations, to confirm the consumer categorisation, voltage level, load, technical requirements, etc., and if the

Level of network extension falls within Level 1 or Level 2 (as defined in Section 4.7.5), Licensee A shall intimate the consumer regarding the applicable charges.

- 5) In case of Level 1 and Level 2, the procedure and time-lines as per the MERC Supply Code for release of new connection, shall be strictly adhered to.
- 6) In case of Level 3 onwards, Licensee A shall forward the copy of the completed Application to Licensee B, within 3 days of completion of inspection.
- 7) Licensee B shall inspect the consumer premises, as per the timelines specified in the MERC SOP Regulations, to confirm the consumer categorisation, voltage level, load, technical requirements, etc., and if the Level of network extension falls within Level 1 or Level 2 for Licensee B, then Licensee B shall intimate Licensee A accordingly.
- 8) Under situation in Sl. No. 7, Licensee A shall intimate the Applicant that the network shall be laid by Licensee B, and hence, instead of normal tariff of Licensee A, the changeover tariff (details of tariff components to be provided) shall be applicable, in case supply is taken from Licensee A.
- 9) In case Applicant desires to avail changeover tariff, then he will intimate Licensee A accordingly, else, Applicant may apply to Licensee B for direct supply or decide to opt for DDF as per Section 4.5.5.
- 10) In case Applicant continues with Licensee A, then Licensee A shall raise the demand note for Service Connection Charges and Security Deposit, etc., on the Applicant. The Committee notes that though there is a difference in the Service Connection Charges approved for Licensee A and Licensee B, in the instant case, Licensee A shall raise the demand note for Service Connection Charges as per its approved Schedule of Charges and intimate regarding the receipt of the same to Licensee B within 3 days of receipt of the same, in order to avoid unnecessary delay in the time to release the new connection. Licensee A shall remit the aggregate amount of Service Connection Charges to Licensee B at the end of the month.

- 11) Under above case, Licensee B shall set up the distribution system for supplying to the Applicant after receiving intimation from Licensee A regarding receipt of Service Connection Charges, as per the MERC SOP Regulations.
- 12) In case the Application does not fall within Level 1 or Level 2 for Licensee B also, then Licensee B shall intimate Licensee A accordingly, within 3 days of inspection of the premises.
- 13) In case the Application does not fall within Level 1 or Level 2 for either Licensee A or Licensee B, then for each Application, both Licensees shall submit the following documents in a sealed envelope, to the Committee on Monday of every week:
 - a. List of completed Applications received as Licensee A and Licensee B, under Level 3, Level 4, and Level 5 in the last week.
 - b. Proposals for each Application received under Level 3, Level 4, and Level 5 upto 2 weeks prior to the date of submission of Proposal (Contents of Proposal detailed subsequently).
- 14) Licensee A has to submit the Proposal (in the Format prescribed as per **Annexure 10.1**) for all Applications received under Level 3, Level 4, and Level 5 in the week before last week. In case Licensee B does not submit the Proposal (in the Format prescribed as per **Annexure 10.1**) for all Applications received under Level 3, Level 4, and Level 5 upto 2 weeks prior to the date of submission of Proposal, then the Committee shall decide the Application based on the Proposal submitted by Licensee A.

Processing of Application by the Committee for Level 3, Level 4, and Level 5 only

- 15) In their Proposals, both Licensees shall submit the Level of distribution connection from the following list to the Committee:

Level 3 - The LT consumer connection is possible only after providing new CSS or augmentation of CSS.

Level 4 - The HT consumer connection is possible only after laying/augmentation of HT cable/mains and associated switchgear.

Level 5 - The HT consumer connection is possible only after commissioning of new/augmentation of existing Distribution Sub-Station (DSS)/Receiving Station in the area.

- 16) Along with indicating the Level of distribution connection, the Licensee shall also indicate the cost estimate for releasing the connection.
- 17) The Licensee shall also submit self-certification to the effect that its Proposal is in accordance with its design principles and its planning philosophy.
- 18) The Distribution Licensee (say Licensee A) that proposes the lowest Level of distribution connection requirement [from Level 3 to 5 above] shall be allowed to set up the distribution system for connecting the new consumer, provided that the proposed cost shall not be higher by a maximum of 10% as compared to that proposed by the other Licensee (say Licensee B). In case the cost proposed by Licensee A is higher by more than 10% as compared to that proposed by the other Licensee (say Licensee B), then Licensee B shall be allowed to set up the distribution system for connecting the new consumer, irrespective of the Level of distribution connection proposed by Licensee B.
- 19) In case both Distribution Licensees submit the same Level of distribution connection, then the Committee shall decide on which Licensee shall set up the distribution system, based on the cost proposed by the Distribution Licensee for laying the distribution system against the Application. The Distribution Licensee proposing lower cost shall set up the distribution system for connecting the new consumer. However, if the difference in cost estimates is within $\pm 10\%$, then the Licensee to whom the Application has been originally made, shall set up the distribution system to supply to such consumer.
- 20) On receipt of Committee's decision regarding network development, the procedure elaborated in steps from Sl. (8) to (11) above, shall be followed.
- 21) To address the grievances as a consequence of the Committee's decision, the Commission may consider authorising the Ombudsman, Mumbai in the matter.

Timelines

- 22) Further, since the above procedure will take time of around 1 month from the date of the Application, the Committee is of the view that the timelines specified under the MERC SOP Regulations shall be considered to be applicable, after the decision regarding which Licensee shall set up the distribution system is communicated to the selected Licensee.

6 Institutional Mechanism

6.1 Institutional Mechanism for processing application for migration

The Committee is of the view that **no separate institutional mechanism shall be required for operationalising the protocol and procedure for migration of consumers under Scenario 53 (b)**. The proposed protocol detailed in Section 5.1 is along similar lines as the present protocol for changeover, which is working quite well since 2009, and both RInfra-D and TPC-D are well aware of the nuances of the same. Hence, the protocol and procedure for migration of consumers under Scenario 53 (b) shall also be implemented in the same manner.

6.2 Institutional Mechanism for processing application for new supply

The Committee is of the view that **an identified institutional mechanism shall be required for processing applications for new supply under Scenario 53(d)**, as the issue of which Distribution Licensee should provide the connection and all related issues, has to be addressed as per the recommended criteria for evaluation.

Based on discussions with RInfra-D, it is understood that the every Application submitted by any builder has multiple premises and hence, around 400-500 Applications may be received every year, which amounts to around 30-40 Applications every month.

In view of the above, **the Committee recommends that each Application under this category (except exempted cases, i.e., Level 1 or Level 2) should be placed before the Institutional Mechanism set up for this purpose.**

6.3 Staffing & Representation

The Committee recommends that the Institutional Mechanism should comprise one Consumer Representative, one Technical Expert, and one Representative from

the Commission, who shall be the Convener of the Committee. The Commission shall nominate appropriate persons through a separate Notification.

As regards representation from the Distribution Licensees, the Distribution Licensees have suggested that one representative of each Distribution Licensee should be made part of this Institutional Mechanism, with the Commission's Member or Director being the Chairman of such entity. The Committee is of the view that given the contentious nature of this exercise and given the history of disputes between RInfra-D and TPC-D on all related manners, **it may not be appropriate to include the representative of each Distribution Licensee as part of this Institutional Mechanism. The representatives of the Licensees may be given 'Invitee' status, and may be called upon by the Institutional Mechanism for getting additional inputs as required.**

Further, **the Institutional Mechanism will require to be supported by a Secretariat, which will track all the Applications and analyse each Application based on the recommended criteria, and put up the Applications for decision of the Committee. The Secretariat may be drawn from the office of the Commission on need basis.**

6.4 Nature of Institutional Mechanism

The Committee recommends that the Institutional Mechanism may be in the nature of a 'Committee' with very specific tasks and delegation of powers.

The office of the Committee shall be within the office of the Commission, and the Commission may provide the necessary space and facilities to the Committee for its functioning.

6.5 Frequency of Committee Meetings

The meeting of the Committee may be convened every fortnight to discuss and process all the Applications received in the previous fortnight, and recommend the action on each Application.

In case no Applications are received in the previous fortnight, then there shall be no meeting in that fortnight.

7 Network Rollout for BEST licence area

7.1 BEST's Submission

BEST, in its submission dated January 15, 2016, reiterated its earlier submission made before the Commission under Case No. 182 of 2014. BEST submitted that:

- a) The Revised Network Rollout Plan submitted by TPC-D is vitiated by uncertainty due to repeated modifications/variations by TPC and is neither adequate nor timely. TPC has illegally adopted a trial and error approach as well as a piece-meal approach in making numerous modifications/variations in its Revised Network Rollout Plan submitted in Case No.182 of 2014.
- b) TPC does not have any backbone distribution network as well as last mile connectivity from such backbone distribution network, for distribution or supply of electricity in retail, throughout the island city of Mumbai. Thus, TPC's network rollout plan is fundamentally flawed as despite being split in to backbone network and last mile connectivity, the Plan explains about the backbone network but is severely restricted and incomplete about the last mile connectivity.
- c) It is pertinent to record that a distribution network consists of both, i.e., DSS level backbone network as well as CSS level LT network and furthermore, service lines and service positions, which are the points from where actual fulfilment of condition provided in Section 43 of the EA 2003 is possible. It is therefore submitted that for all practical purposes, TPC does not have a retail distribution network and neither has sufficiently planned for it in order to meet the obligation under Section 43 of the EA 2003.
- d) TPC has provided misleading information with respect to estimated demand, existing capacity, and availability of locations for establishing DSS/CSS.
- e) The revised Network Rollout Plan as proposed by TPC to meet estimated demand is only to the extent of about 17-20% of the network as that of BEST, which is required to be commissioned and maintained for reliable supply

which amply establishes inadequacy and inconsistency in the Rollout Plan of TPC.

BEST in its submission emphasised that it shall not be a level playing field if TPC is allowed to cater to consumers with only part/partial network rolled out. BEST will have to bear the cost of maintaining its exhaustive network, whereas TPC on the other hand will have to bear relatively smaller maintenance cost on account of its relatively smaller distribution network.

BEST, therefore, submitted that TPC should not be allowed to connect to consumers unless they are USO ready, else it will be detrimental and unfair to the business interests of BEST.

BEST in its further submission dated March 23, 2016, submitted that allowing TPC-D to develop additional network in its area of supply is incorrect from engineering point of view, especially when BEST already has a strong distribution network in place. Nowhere in the world is there a practice of multiple wire licence. Further, interfering fiercely in to the network development activity of BEST may weaken the network of Mumbai city over a period of time.

BEST submitted that Electricity Bill, 2014 is pending before the Parliament of India. The Electricity Bill, 2014, envisages correcting the issues in the Electricity Act, 2003, which will allow the interpretation of parallel wiring. In view of the Bill pending in the Parliament, it would be a prudent decision to wait till it is passed.

7.2 Committee's Recommendations

The APTEL Judgment in Appeal No. 246 of 2012 is not applicable to the overlapping licence area between TPC-D and BEST, as BEST has got special status under the Act and is not obliged to provide Open Access under Section 42(3) of the Act, by virtue of being a Local Authority.

Hence, the Committee is of the view that network duplication by TPC-D is inevitable in the licence area overlapping with BEST, unless the EA 2003 is amended or unless BEST agrees to permit TPC-D to use its network under a commercial arrangement.

Further, the Committee is of the view that it would not be prudent to wait for the enactment of the amendment to the EA 2003, before deciding on the nature of the Network Rollout Plan for TPC-D in the licence area overlapping with BEST.

In a recent Judgment in Writ Petition No. 2641 of 2014 filed by BEST, the Hon'ble High Court of Bombay has ruled as under:

"30. MCGM contends that the only way to escape penalties is to set up distribution networks prior to obtaining a license. This submission needs only to be stated to be rejected. This is wholly illogical and circular: no permission could be granted to lay a network except to a licensed electricity distributor; and, on this reasoning, no entity could get a license without its own separate network already in place..."

Thus, the Hon'ble High Court of Bombay has ruled that it is illogical to expect that the Distribution Licensee should have set up the distribution system before obtaining the Distribution Licensee, or that the Distribution Licensee should have its entire distribution system from day one after issue of the licence.

It is practical that the Distribution Licensee will have to be given some time for setting up the distribution system in a phased manner, and hence, the need for a Rollout Plan.

7.3 TPC-D's Network Rollout Plan for licence area overlapping with BEST

The Committee is of the view that TPC-D's network rollout plan for BEST area should be such that it ensures against selective targeting of consumers, as both Licensees have Universal Service Obligation in the licence area.

Since, it would not be possible to set up the distribution system in the entire licence area at one go, the feasible solution could be for TPC-D to first extend its distribution system to lower voltage levels in areas where the distribution system in the form of DSS and/or CSS are already available, and then take up areas where DSS and/or CSS are yet to be set up. Based on study of the map of the distribution system submitted by TPC-D, it is seen that areas such as Dharavi, Carnac, Parel, Lower Parel, Elphinstone, Mahalaxmi, Haji Ali, etc., already have the DSS/CSS in place and can be targeted first, such that TPC-D is able to supply electricity to all consumers, including LT consumers, in that area. TPC-D 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.

TPC-D may be directed to re-submit its Network Roll-out Plan for the licence area overlapping with BEST, based on the above considerations. The Commission may consider incorporating necessary safeguards while approving the Network Roll-out Plan of TPC-D for the licence area overlapping with BEST, keeping in view the above issues.

Further, TPC-D shall not refuse to give supply to any consumer in the areas specified by the Commission in the Rollout Plan approved by the Commission.

7.4 Protocol for migration in TPC-D licence area overlapping with BEST

The Committee has formulated the Switchover Protocol for the TPC-D licence area overlapping with BEST, as under:

Information for Consumer

- 1) Both Distribution Licensees shall provide the following at their respective consumer service centres and websites:
 - a. Switchover Application Form
 - b. Application Form for Permanent Disconnection
 - c. Detailed procedure for Switchover
 - d. Any related information, which helps consumer make an informed decision regarding Switchover

Application for Switchover

- 2) The Distribution Licensees shall make available the Application Form for Switchover free of cost to the consumer.
- 3) No Consumer who has been disconnected for payment default will be allowed Switchover, without clearing dues of the Existing Distribution Licensee.
- 4) The Consumer shall attach a copy of the last bill served by the Existing Distribution Licensee, proof of its payment and other relevant documents as required.
- 5) The Application for Switchover shall be submitted by the Consumer to the Other Distribution Licensee, along with the Application for Permanent Disconnection addressed to the Existing Licensee.
- 6) The Consumer shall pay Application Processing Fees as per Schedule of Charges of the Other Distribution Licensee as approved by the Commission as per the Supply Code.
- 7) The consumer shall not be permitted to change his/her name or the purpose at the time of Switchover. The consumer may be permitted to change his sanctioned load/contract demand at the time of Switchover.

Processing of Application

- 8) The consumer shall submit the additional information, if any, as asked by the Other Distribution Licensee.

- 9) The application shall be treated as complete on receipt of additional information.
- 10) The Other Distribution Licensee shall forward the completed Application to the Existing Distribution Licensee within 3 days of receipt of completed Application.

Process of Switchover

- 11) The Other Distribution Licensee shall inspect the premises, if required.
- 12) The Other Distribution Licensee shall estimate the security deposit and applicable charges including Service Connection Charges as approved by the Commission, to be provided by consumer and intimate the same to the consumer, within 3 days of receipt of provisional 'no dues' certificate.
- 13) On receipt of all payments, the Other Distribution Licensee shall set up the distribution system for supplying electricity to the Applicant's premises, as per timelines specified in the MERC SOP Regulations, and intimate the Applicant with a copy to the Existing Distribution Licensee, after completion of the work.
- 14) The Existing Distribution Licensee shall share with the Consumer with a copy to the Other Distribution Licensee, information relating to any arrears/disputes/court cases/shortfall in security deposit, etc., and/or Advance Consumption Deposit equivalent to average one month's bill (based on last 12 months billing), for consumers proposing to Switchover, within 3 days of receipt of information from the Other Distribution Licensee.
- 15) The consumer shall pay pending arrears, if any, and Advance Consumption Deposit, and intimate the office of the Existing Licensee where the application for Switchover Application has been submitted, within 5 days of receipt of intimation from the Existing Distribution Licensee.
- 16) After receipt of the above amounts, the Existing Distribution Licensee shall issue the provisional 'no dues' certificate to the consumer with a copy to the Other Distribution Licensee, within 3 days of receipt of payment.

- 17) The Other Distribution Licensee shall schedule switchover in co-ordination with Existing Distribution Licensee with intimation to the consumer, within 7 days from the receipt of payment of security deposit and applicable charges, and execution of Agreement, wherever necessary.
- 18) The meter reading on Switchover date shall be taken by Existing Distribution Licensee. The consumer or representatives of consumer shall remain present at the time of meter reading if so desired by the consumer and if it is practicable.
- 19) Such meter reading shall be the final meter reading of the Existing Distribution Licensee and the Existing Distribution Licensee shall raise the final bill based on final meter reading, after adjusting the security deposit and Advance Consumption Deposit. The Consumer shall pay the difference amount, if any, within 7 days from the date of Switchover. The Existing Distribution Licensee shall refund excess amount, if any, within 7 days from the date of Switchover.

8 Illustrations for New Supply under Scenario 53(d)

In order to facilitate better understanding of the proposed protocol and criteria for evaluation for optimising the distribution system in the overlapping licence area between RInfra-D and TPC-D, the Committee has worked out different Cases, and explained the treatment, for illustration purposes, as discussed below:

Sl. No.	Case	Outcome
1	New LT residential (Group housing, through builder)	Since it is a new connection, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
2	New LT individual connection (irrespective of category)	Since it is a new connection, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
3	New slum - individual or group	Since it is a new connection, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
4	New HT 11 kV consumer	Both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
5	New HT 33 kV consumer	Both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
6	New LT temporary	It is a new connection and as per APTEL order, both Licensees can set up the Distribution System. Since nature of supply is temporary, preference will be given to the Licensee in the following order: a) If connection can be extended by tapping the existing distribution system, then that particular

Sl. No.	Case	Outcome
		distribution system to be used to connect the consumer b) If connection can be extended by laying service line, then that distribution system to be used to connect the consumer c) If both networks need augmentation then which licensee will augment will depend on the prescribed criteria
7	New HT temporary	It is a new connection and as per APTEL order, both Licensees can set up the Distribution System. Since nature of supply is temporary, preference will be given to the Licensee in the following order: a) If connection can be extended by tapping the existing distribution system, then that particular distribution system to be used to connect the consumer b) If both networks need augmentation then which licensee will augment will depend on the prescribed criteria
8	New supply request in salt pan area or such Scenario 53(c) area	Since neither Licensee has distribution system in the area, who will set up the Distribution System will be determined by the Commission while approving the Capex plan
9	Redevelopment of Slum area to new building - LT to LT & LT to HT	Since it is a new connection associated with enhancement of load, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
10	Redevelopment of old residential building to new residential/commercial	Since it is a new connection associated with enhancement of load, and since there is no CSS in premises, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the

Sl. No.	Case	Outcome
	building not having CSS in premises	Distribution System will be determined based on the prescribed criteria
11	Redevelopment of old residential building to new residential/commercial building having CSS in premise	Since CSS is already present in the premises, it may be able to cater to the increased load. Else, the CSS will have to be upgraded. Therefore, this case will fall under Scenario 53(a) and the existing licensee will give supply
12	Permanent Disconnection case going for redevelopment - LT to LT or LT to HT	Permanent disconnection followed by redevelopment becomes new connection and as per APTEL order, in case of new connection both licensees are eligible to set up the distribution system and supply. Which licensee will set up the Distribution System will be determined based on the prescribed criteria
13	Permanent Disconnection case not going for redevelopment	This case will fall under Scenario 53(a) and the existing Licensee will reconnect and give supply
15	Temporary connection - change to permanent	Since it is a new connection, both the Distribution Licensees can set up the Distribution System. Which licensee will set up the Distribution System will be determined based on the prescribed criteria

9 Recommendations

For the Terms of Reference assigned to the Committee, the Committee recommends as under:

A. Interpretation of the Scenarios defined in para 53 of the Interim Order

- 1) The term 'completely covered' by the Distribution Licensee, as per para 53(a) means that the distribution system upto the 'point of supply' also exists, i.e., including the service connection.
- 2) The best method for assessing 'completely covered' would be to tag each existing consumer/premises based on the present distribution system to whom he is connected to, and the Distribution Licensee to whom such existing consumer is connected to would be categorised as 'completely covering' such licence area specific to that consumer.
- 3) If only distribution mains are present, and service connection is absent, then such area has to be classified as the Licensee being 'present' in the area/location/Ward, as categorised by the Commission under para 53(d).
- 4) Scenario 53(c) covers areas where neither Licensee has even Distribution Mains. There are few clearly identifiable areas, such as salt pan area, certain pockets of Aarey, CRZ area, etc., where neither Distribution Licensee presently has a distribution system, because there is no existing consumer in these areas. However, it is not possible for the Committee to identify every such area, though both Licensees, viz., RInfra-D and TPC-D would be aware of such areas.
- 5) As RInfra-D has the distribution network in Vesave village, the same shall be classified under Scenario 53(a), i.e., completely covered by RInfra-D.
- 6) Chene area should be categorised under Scenario 53(a), i.e., 'completely covered' by MSEDCL, and no network duplication by RInfra-D and TPC-D should be allowed in this area.

B. Interpretation of the term 'New Consumer'

- 1) New consumers are those applicants, who were not consumers earlier nor are they presently consumers of either Distribution Licensee, by virtue of neither being connected to nor receiving supply from either Distribution Licensee.
- 2) In addition to the above obviously new consumers, the following persons shall also qualify to be categorised as 'new consumer':
 - a. Change from Temporary Connection to Permanent Connection
 - b. All redevelopment cases
- 3) However, it does not mean that the second Licensee can simply lay the distribution system for such cases, since, the protocol as recommended by the Committee for permitting either Distribution Licensee to set up/extend/augment the distribution system would have to be applied, and the Distribution Licensee that can undertake the same in the most optimum manner would be permitted to do so.
- 4) Permanently Disconnected consumers shall not qualify as a new consumer.

C. Consumer's Choice of Supply and Network

- 1) The term 'benefit the consumer' used in the Judgment of the Hon'ble APTEL refers to the benefit of the larger set of consumers of the Licensee and does not mean the benefit of an individual consumer.
- 2) If the Applicant is allowed to choose which Distribution Licensee should set up the distribution system for supply to his premises, then the whole question of deciding which Distribution Licensee is better placed to set up the distribution system in the most optimum manner, will become infructuous. In the overlapping area of supply between RInfra-D and TPC-D, the Applicant can only choose the Distribution Licensee from whom the supply is to be received, and the decision on which Distribution Licensee will set up the distribution system to effect such supply shall be made based on the criteria recommended by this Committee, subject to acceptance and approval of the Commission after due regulatory process.

- 3) However, in case the individual consumer or group of consumers are willing to bear the entire cost of the distribution system required to enable supply to their premises under the Dedicated Distribution Facility (DDF), then in such a case, the individual consumer or group of consumers have the choice of supply as well as network. In such cases, no consequential additional expenditure is passed on to the other consumers through the ARR and tariff.

D. Scenarios in which switchover is permitted

- 1) Switchover is not permitted under Scenario 53(a).
- 2) Switchover is permitted only under Scenario 53(b).
- 3) Once the Commission gives its Order in Case No. 50 of 2015 and/or Case No. 151 of 2015, such list of consumers should be frozen after reconciling the lists of both Licensees, and be considered for Switchover under this Scenario.
- 4) There is no question of Switchover under Scenario 53(c), as this is only for new consumers in new areas, where there is no distribution system.
- 5) There is no question of 'switchover' in Scenario 53(d), as neither Licensee completely covers this area.

E. Evaluation of the economics of network extension/augmentation under Scenario 53(d)

- 1) The evaluation criteria have to be practical, unambiguous, and easy to implement on a regular basis.
- 2) Whether 'n-1' redundancy has been fulfilled or will be fulfilled by setting up the distribution system, should not be a criterion for assessing which Distribution Licensee should set up the distribution system for supplying electricity to a particular consumer.
- 3) The criteria of voltage regulation, location and sizes of distribution and power transformers, type and routing of distribution lines, presence of adequate reactive power compensation, and distribution automation and data communication schemes, though relevant and forming part of the planning criteria for designing the requisite distribution system, do not provide

practicable and operational criteria to facilitate decision making on which Distribution Licensee shall set up the distribution system.

- 4) It would be impractical to analyse the criteria of load flow studies, contingency analysis, and future demand of consumers on a comparative basis between the Distribution Licensees, for each and every application received by either Licensee in the area covered under Scenario 53(d).
- 5) It would not be appropriate to apply the criterion of technical losses as per CEA guidelines for selecting the Licensee for undertaking the setting up of the distribution system.
- 6) Though theoretically, the loading level and spare capacity are relevant criteria for deciding on which Distribution Licensee will set up the distribution system for supplying electricity to a particular premise, it may be practically difficult to evaluate the same.
- 7) It may be practically difficult to arrive at any particular conclusion regarding the age, balance life, and obsolescence of technology, for considering the same as a decision making criteria.
- 8) As regards maintaining an equitable sales mix for RInfra-D and TPC-D, the Committee is of the view that the same is beyond the scope of this Committee and the Commission has to take a view on whether such an objective is desirable and if so, the means to achieve it, as this can be achieved primarily by tariff differentiation.
- 9) The Committee is of the view that the criterion of wheeling charges of the existing network - which is based on the past expenditure and past consumer mix connected on the Licensee's wires - is not appropriate for deciding which Distribution Licensee will set up the distribution system for meeting the future load.
- 10) The cost of setting up the required distribution system for providing supply to the premises of the Applicant is the only criterion that needs to be considered for optimising the cost. The absolute cost in Rs. lakh/Rs. crore rather than cost per unit may be considered.

- 11) The ease of giving supply should be evaluated first in terms of network configuration required to connect the new consumer under Scenario 53(d), and the cost optimisation should be evaluated subsequently.
- 12) The ease for setting up the distribution system shall be evaluated in the following Levels of priority, which also reflects the time and cost effectiveness for releasing new connection by both the Distribution Licensees:
 - a. Level 1 - The LT consumer connection is possible by extending service line from the existing distribution mains without any augmentation in the distribution mains.
 - b. Level 2 - The LT consumer connection is possible only after augmentation of nearest distribution mains/laying new LT distribution mains from which the service line is required to be extended.
 - c. Level 3 - The LT consumer connection is possible only after providing new CSS or augmentation of CSS.
 - d. Level 4 - The HT consumer connection is possible only after laying/augmentation of HT cable/mains and associated switchgear.
 - e. Level 5 - The HT consumer connection is possible only after commissioning of new/augmentation of existing Distribution Sub-Station (DSS)/Receiving Station in the vicinity/area.
- 13) The capex requirement up to the first two Levels above, i.e., (a) Level 1 - extension of LT service connection, and (b) Level 2- augmentation/creation of LT distribution mains, will not be significant, and it will affect the time to give supply in case such cases are required to be taken up before the Institutional Mechanism. Hence, in these 2 cases, there shall be no requirement to approach the Institutional Mechanism, and the connection can be released by the Distribution Licensee to whom the Application has been submitted.

F. Protocol for migration under Scenario 53 (b)

- 1) The recommended Protocol for migration under Scenario 53 (b) is detailed in Section 5.1.

G. Protocol and Procedure for processing Applications under Scenario 53(d)

- 1) The recommended Protocol and Procedure for processing Applications under Scenario 53(d) is detailed in Section 5.2.

H. Institutional Mechanism

- 1) No separate institutional mechanism shall be required for operationalising the protocol and procedure for migration of consumers under Scenario 53 (b).
- 2) An identified institutional mechanism shall be required for processing applications for new supply under Scenario 53(d).
- 3) Each Application under Scenario 53(d) (except exempted cases, i.e., Level 1 and Level 2) should be placed before the Institutional Mechanism set up for this purpose.
- 4) The Institutional Mechanism should comprise one Consumer Representative, one Technical Expert, and one Representative from the Commission, who shall be the Convener of the Committee. The Commission shall nominate appropriate persons through a separate Notification.
- 5) The representatives of the Licensees may be given 'Invitee' status, and may be called upon by the Institutional Mechanism for getting additional inputs as required.
- 6) The Institutional Mechanism will require to be supported by a Secretariat, which will track all the Applications and analyse each Application based on the recommended criteria, and put up the Applications for decision of the Committee. The Secretariat may be drawn from the officers of the Commission on need basis.
- 7) The Committee recommends that the Institutional Mechanism may be in the nature of a 'Committee' with very specific tasks and delegation of powers.
- 8) The office of the Committee shall be within the office of the Commission, and the Commission may provide the necessary space and facilities to the Committee for its functioning.

- 9) The Committee meeting may be convened every fortnight to discuss and process all the Applications received in the previous fortnight, and recommend the action on each Application.
- 10) In case no Applications are received in the previous fortnight, then there shall be no meeting in that fortnight.

I. Network Rollout for BEST Licence Area

- 1) Network duplication by TPC-D is inevitable in the licence area overlapping with BEST, unless the Act is amended or unless BEST agrees to permit TPC-D to use its network under a commercial arrangement.
- 2) It is practical that the Distribution Licensee will have to be given some time for setting up the distribution system in a phased manner, and hence, the need for a Rollout Plan.
- 3) The Committee is of the view that TPC-D's network rollout plan for BEST area should be such that it ensures against selective targeting of consumers, as both Licensees have Universal Service Obligation in the licence area.
- 4) The feasible solution could be for TPC-D to first develop its distribution system to lower voltage levels in areas where the backbone distribution system in the form of DSS and/or CSS are already available, and then take up areas where DSS and/or CSS are yet to be set up.
- 5) Based on study of the map of the distribution system submitted by TPC-D, it is seen that areas such as Dharavi, Carnac, Parel, Lower Parel, Elphinstone, Mahalaxmi, Haji Ali, etc., already have the DSS/CSS in place and can be targeted first, such that TPC-D is able to supply electricity to all consumers, including LT consumers, in that area.
- 6) TPC-D may target to set up the LT distribution system in areas where the DSS/CSS already exist, in a specified period of time, say 2 years.
- 7) TPC-D may be directed to re-submit its Network Roll-out Plan for the licence area overlapping with BEST, based on the above considerations.

- 8) The Commission may consider incorporating necessary safeguards while approving the Network Roll-out Plan of TPC-D for the licence area overlapping with BEST, keeping in view the above issues.
- 9) TPC-D shall not refuse to give supply to any consumer in the areas specified by the Commission in the Rollout Plan approved by the Commission.

J. Protocol and Procedure for processing Applications under Scenario 53(d)

- 1) The Protocol and Procedure for processing Switchover Applications in TPC-D licence area overlapping with BEST is detailed in Section 7.4.

10 Annexures

10.1 Annexure I: Format for submission of Proposal to the Committee

- a) Proposal for
 - i. Application No.:
 - ii. Name of Applicant:
 - iii. Address of Premises applied for:
 - iv. Date of receipt of Application:
- b) Tariff category:
- c) Total load applied for (kW/ MW or kVA/MVA).
- d) Applicable Level, i.e., Level 3 or Level 4 or Level 5
- e) Item wise details of network addition proposed in the following Format:

Sr. No.	Item	Unit	Quantity

- f) Total cost involved for catering to total load applied for
- g) Certificate:

Certified that proposed network addition is as per the design philosophy adopted by the licensee, wherein all factors necessary for maintaining reliability, redundancy and adequacy of network at all voltage levels have been taken into consideration.
- h) Single line diagram (SLD) of existing and proposed network. Any network addition already approved (within approved Capex/ Outside approved capex) to be indicated in different color.

10.2 Minutes of Meeting of the Committee

Date : 18 December, 2015 at 1100 hrs

Venue: MERC, 12th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Shri. Prafulla Varhade, Director (EE), MERC welcomed the members of the Committee. He briefly explained the parallel distribution licensee scenario in the Mumbai and its suburbs.

The Commission’s interim Order dated 9 November, 2015 was discussed for charting out the way forward. It was decided to hear the preliminary views of Distribution Licensees on the scope of work of the Committee.

During the meeting it was decided that the discussions amongst the members of the Committee will not be disclosed outside till the submission of final report to the Commission.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.3 Minutes of Meeting of the Committee

Date : 18 December, 2015 at 1430 hrs

Venue: MERC, 12th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)
 Shri Rajendra Patsute, BEST Undertaking, Invitee
 Shri Kapil Sharma, RInfra, Invitee
 Shri Bhaskar Sarkar, Tata Power Co. Ltd, Invitee

Shri. Prafulla Varhade, Director (EE), MERC welcomed the representatives of the Distribution Licensees. MSEDCL has not attended the meeting. Representatives of the Distribution Licensee thanked the Commission for giving them opportunity to submit their views before the Committee and assured that they will provide full support to the Committee. The Committee heard the preliminary views from respective Distribution Licensees. Licensees were requested to submit their written submissions on the following by 11 January, 2016:

- a. Written submissions elaborating their views on the Scope of Work of Committee
- b. Planning criteria and philosophy for capital works related to Distribution network
- c. Submissions on the issues in interim Order dated 9 November, 2015, if any

During the meeting it was decided to schedule further detailed discussion with the Distribution Licensees subsequent to receipt of their submission on above issues.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.4 Minutes of Meeting of the Committee

Date: 21 January, 2016 at 1130 hrs

Venue: MERC, 12th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Shri Kapil Sharma, RInfra-D, Invitee
 Shri Kishor Patil, RInfra-D, Invitee
 Shri G. Thakkar, RInfra-D, Invitee
 Shri. Sandeep Khule, RInfra-D, Invitee
 Shri. Shabbir Dharwala, RInfra-D, Invitee
 Shri. D. S. Palekar, RInfra-D, Invitee

Discussions held

Shri Prafulla Varhade, Director (EE), MERC welcomed the representatives of Reliance Infrastructure Limited - Distribution (RInfra-D). The Committee asked the representatives of RInfra-D to elaborate on the submissions made by them on January 15, 2016. The representatives of RInfra-D explained in detail about RInfra-D's submissions and detail point-wise discussion took place between the Committee and RInfra-D's representatives.

RInfra-D further requested the Committee to make recommendations with respect to status of consumers as on November 28, 2014, i.e., the day of ATE Judgment, rather than as on date. According to RInfra-D, the number of consumers who can be connected on TPC-D's network needed to be frozen as on November 28, 2014, as the APE had restrained TPC-D from laying further distribution network till roll out plan is approved by Hon'ble Commission. If network laid as on date is considered by the Committee, it would amount to regularization of network laid by TPC post ATE Judgment pending proceedings in case 182 of 2014. RInfra-D also said that TPC has already filed Petition in Case No 50 of 2015 and switchover will be permitted only for those consumers as decided by the Hon'ble Commission and that too only in

those areas where network of TPC-D is laid pursuant to directions of Hon'ble Commission in Case No 151 of 2011 and which is yet to be commissioned and capitalized.,As per ATE judgment, Switchover is not permitted for remaining existing consumers of RInfra .

The Committee asked RInfra-D if it can provide information pertaining to areas which are completely covered by both the licensees. RInfra-D agreed to provide such information according to their interpretation of the term 'completely covered', i.e., distribution network existing up to the Point of Supply as defined in Supply Code Regulations, 2005. They also requested the Committee to not consider 'Municipal Ward' as an area for submitting the above information as Municipal Ward is too big an area and it will never be completely covered by either of the Licensees. Besides, if the areas is considered as 'Ward' then the entire licence area of TPC-D and RInfra-D will fall under Scenario 'd' as mentioned in para 53 of the Interim Order in Case 182 of 2014 which is not the intent in the Interim order of the Hon'ble Commission .

RInfra-D also requested the Committee to design the switchover protocol in such a manner that there is no ambiguity in its application.

As regards the issue of consumer choice for wires and supply, RInfra-D stated that, pursuant to ATE judgment, the consumer does not have a choice of wires to get connected to, rather the choice is limited to only supply. Also, as per Section 43 of the Electricity Act, 2003, the application is for receiving 'supply' and not 'connection'. RInfra-D requested the Committee that while formulating the methodology for assessing the adequacy of network; importance should also be given to reliability/redundancy of existing network; in addition to the economics of laying down a new network v/s cost in improving the existing network.

In respect to the issue of New Consumer, RInfra-D submitted that, New Consumer is such a consumer who has never been connected to the distribution system of any licensee and is seeking connection for the first time. On a specific query raised in respect of redevelopment of a premise, RInfra-D also stated that redeveloped premise cannot be treated as New Consumer since network of RInfra-D already existed and consumers in that premises were supplied using that network. Also if redeveloped premises is treated as "new" due disconnection of the network from "Point of Supply" it will amount to all the existing consumers of RInfra being treated

as “New” on disconnection thereby defeating the distinction between “Switchover” and “New” consumers. Without prejudice to the aforesaid, even if owner/occupier of redeveloped premise is treated as New Consumer, licensee who can supply to such premises will be decided based on the economics of laying down new network v/s cost involved in supplying from existing network or upgrading the same to meet the increased demand of redeveloped premise.

In respect of general principle for network planning, RInfra-D stated that capex planning is always done with a bottom-up approach. LT network strengthening or expansion is always considered first before planning for upgradation or expansion at 11kV level and similarly then at 33kV level. This approach helps in keeping the capital requirement minimum and simultaneously utilize the available capacity of the network to its optimum level. In turn, the consumer is benefited due to deferment of capex and the associated wheeling charges.

RInfra also stated that actual realisation of load in respect of new projects is phased over 4-5 years of receipt of application. Load requirement is initially released on the existing LT and/or 11kV network and subsequently over the span of next 3-4 years, the new 33/11kV substation and associated network is developed thus avoiding the burden of wheeling charges from Day 1.

RInfra-D also stated that opportunity to be given to all invitees for giving their comments on the draft report before finalizing and submission of the same to the Hon’ble Commission. It also stated that adequate time period of at least a week to be given for giving the comments on draft report.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.5 Minutes of Meeting of the Committee

Date: 21 January, 2016 at 1630 hrs

Venue: MERC, 12th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

 Shri. R. N. Kulkarni, MSEDCL, Invitee
 Shri. G. V. Dharpawar, MSEDCL, Invitee

Discussions held

Shri. Prafulla Varhade, Director (EE), MERC welcomed the representatives of Maharashtra State Electricity Distribution Company Limited (MSEDCL). MSEDCL had not made any submission with respect to the questions put forth by the Committee in the first meeting held on December 18, 2015. The Committee explained the data requirement to MSEDCL's representatives, who agreed to send replies to the Committee for the above mentioned queries with respect to the licence area of Chene and Vesave, which overlaps with the licence area of RInfra-D and TPC-D.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.6 Minutes of Meeting of the Committee

Date: 22 January, 2016 at 1130 hrs

Venue: MERC, 12th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener

Dr. Ashok Pendse, Member (Consumer Representative)

Shri. Manohar Bagde, Member (Technical Consultant)

Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Shri. Bhaskar Sarkar, The Tata Power Company Ltd., Invitee

Shri. V. R. Shrikhande, The Tata Power Company Ltd., Invitee

Shri. Chintamani Chitnis, The Tata Power Company Ltd., Invitee

Shri. Prafulla Varhade, Convener of the Committee, welcomed the representatives of The Tata Power Company Ltd. (TPC). The Committee asked representatives of TPC to elaborate on the submissions made by them on 20 January, 2016. The representatives of TPC explained their submissions and TPC's reply to each point was discussed in detail between the Committee and the representatives of TPC.

The Committee asked the representatives of TPC whether they have submitted the demarcation of the distribution network as per the Scenarios outlined in paragraph 53 of the Order in Case 182 of 2014, to which TPC replied that it is difficult to make such demarcation. TPC explain and submitted GIS map of their distribution network superimposed over the municipal wards.

As regards certain criteria suggested by TPC for evaluating the capex proposals, the Committee asked TPC to submit the proposed weightage for such criteria for the Committee's consideration.

The Committee also asked TPC to submit the spreadsheets of the submission made in the Annexures as a part of the data requirement circulated post the meeting on December 18, 2015.

During the course of the discussion, TPC clarified that their network rollout plan does not include the service lines. Further, TPC clarified that their Distribution

System comprises of 'Distribution Mains' and 'Service line'. The Committee asked TPC whether according to them service line is a part of wires asset or supply asset, and TPC clarified that it is a part of wires asset.

The Committee asked TPC to explain their understanding of the word 'equitable' as used by them in their submissions. TPC said that 'equitable' means that both competing Licensees should have the same mix of subsidized and subsidizing consumers.

During the discussion, TPC explained that considering the present scenario, choice of network also lies with the consumer. Further, TPC also submitted their understanding that an area can be considered as 'completely covered' by the licensee if the licensee is able to give supply in such area within the timeframe specified in Standards of Performance Regulations.

The Committee asked TPC to illustrate the four scenarios and probable approach with live examples/cases, which TPC agreed to submit.

The Committee asked TPC to explain about their understanding of the term 'New Consumer' to which TPC submitted that their interpretation of the term 'New Consumer' is derived from the definition of 'Consumer' given in the Electricity Act, 2003. TPC further added that the parameters used for the purpose of understanding are the words 'Person', 'Premises' and 'for the time being' as used in the definition of 'Consumer' in the Electricity Act, 2003 and these three parameters are independent of each other.

The Committee asked TPC to submit the data/information at the earliest. The Committee, if required, will hold the meeting with TPC for further discussion in due course, on a date to be intimated later.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.7 Minutes of Meeting of the Committee

Date: 15 March, 2016 at 1130 hrs

Venue: MERC, 13th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Discussions held

The Committee discussed the Draft Report and Recommendations.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.8 Minutes of Meeting of the Committee

Date: 16 March, 2016 at 1030 hrs

Venue: MERC, 13th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Discussions held

The Committee discussed and finalised the issues and the Recommendations for many of the issues.

The Committee decided to seek time extension of around 10 days, in order to address the issues in TPC-D licence area overlapping with BEST area.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

10.9 Minutes of Meeting of the Committee

Date: 28 March, 2016 at 1130 hrs

Venue: MERC, 13th Floor Conference Hall

Present: Shri. Prafulla Varhade, Convener
 Dr. Ashok Pendse, Member (Consumer Representative)
 Shri. Manohar Bagde, Member (Technical Consultant)
 Shri. Palaniappan Meyyappan, Member (Technical Consultant)

Discussions held

The Committee discussed the Draft Report and recommendations.
The Committee finalised and signed the Final Report.
The Committee also decided to submit the Report to the Commission.

Shri. Prafulla Varhade, Convener	Sd/-
Dr. Ashok Pendse, Member (Consumer Representative)	Sd/-
Shri. Manohar Bagde, Member (Technical Consultant)	Sd/-
Shri. Palaniappan Meyyappan, Member (Technical Consultant)	Sd/-

Relevant extracts of the Statutory Scheme

1.1 ELECTRICITY ACT

- **Preamble of the Electricity Act**

*“An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, **promoting competition therein, protecting interest of consumers** and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.”*

- **Section 2: Definitions**

.....

*“(18) "distributing main" means the portion of any main with which a **service line is, or is intended to be, immediately connected;**”*

*(19) "distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the **point of connection to the installation of the consumers;**”*

*“(61) "service-line" means any **electric supply line through which electricity is, or is intended to be, supplied-***

- (a) to a single consumer either from a distributing main or immediately from the Distribution Licensee's premises; or*
- (b) from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;”*

- **Section 14: Grant of licence**

The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person –

- (a) to transmit electricity as a transmission licensee; or*
 - (b) **to distribute electricity as a distribution licensee;** or*
 - (c) to undertake trading in electricity as an electricity trader,*
- in any area as may be specified in the licence:*

.....

*Provided also that the **Appropriate Commission** may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:.....*

- Section 42: Duties of distribution licensee and open access

*(1) It shall be the duty of a distribution licensee to develop and maintain an **efficient, coordinated and economical distribution system** in his area of supply and to supply electricity in accordance with the provisions contained in this Act.*

(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

*(3) **Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.....***

- Section 43: Duty to supply on request

*(1) Save as otherwise provided in this Act, every distribution] licensee, shall, **on an application by the owner or occupier of any premises**, give supply of electricity to such premises, **within one month after receipt of the application requiring such supply:***

PROVIDED that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:...

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

- **Section 46: Power to recover expenditure:-**

*The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of Section 43 any expenses reasonably incurred in providing **any electric line or electrical plant** used for the purpose of giving that supply.*

- **Section 48: Additional terms of Supply:-**

A distribution licensee may require any person who requires a supply of electricity in pursuance of Section 43 to accept -

(a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under Section 53;

(b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom the electricity is supplied.

- **Section 163: Power for licensee to enter premises and to remove fittings or other apparatus of licensee:-**

(1) A licensee or any person duly authorised by a licence may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of –

(a) inspecting, testing, repairing or altering the electric supply-lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee; or

(b) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or

*(c) removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, **any electric supply-lines, meters, fittings, works or apparatus** belonging to the licensee.*

(2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hours notice in writing to the occupier, -

- (a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;
- (b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of electricity belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

1.2 MERC SOP Regulations, 2014

“ ...

2. Definitions

...

(t) “Point of supply ” means the point at the outgoing terminals of the meter/ Distribution Licensee’s cut-outs/ switchgear fixed in the premises of the consumer:

Provided that, in case of HT Consumers, the point of supply means the point at the outgoing terminals of the Distribution Licensee’s metering cubicle placed before such HT Consumer’s apparatus:

Provided further that, in the absence of any metering cubicle or, where the metering is on the LT side of the HT installation, the point of supply shall be the incoming terminals of such HT Consumer’s main switchgear;...”

1.3 BEST v. MERC & Ors., reported as (2015) 2 SCC 438

“26.Section 42 of the Act deals with the duties of distribution licensee and open access. Sub-section (1) thereof provides that it shall be the duty of a distribution licensee to develop and maintain an efficient, coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in the

Act. Sub-section (2) casts an obligation upon the State Commission to introduce open access in phases and subject to such conditions, as may be specified, these conditions may include the cross subsidies and other operational constraints. It is thereafter in sub-section (3) of Section 42 provision is made for wheeling of electricity with respect to supply stating that duties of distribution licensee shall be of a common carrier providing non-discriminatory open access. Thus sub-section (3) provides for open access and casts a duty upon the distribution licensee in this behalf. Here, it excludes local authority, as distributor of electricity from such an obligation. However, when it comes to the duty of distribution licensee to supply the electricity under Section 43, it mandates that same is to be given to the owner or occupier of any premises on his application within one month from the receipt of the said application. This duty under Section 43 imposed upon a distribution licensee does not distinguish between a local authority and other distribution licensee. It is also not a case of the appellant that in a particular area where a local authority is a distribution licensee, there cannot be any other distribution licensee at all.

27. Thus, on a conjoint reading of Sections 42 and 43 of the Act along with the objectives and purpose for which the 2003 Act is enacted, it becomes clear that there are two ways in which a consumer stated in a particular area can avail supply of electricity, as pointed out by the learned Senior Counsel for TPC and noted above. When an application is made by a consumer to a distribution licensee for supply of electricity, such a distribution licensee can request other distribution licensee in the area to provide its network to make available for wheeling electricity to such consumers and this open access is to be given as per the provisions of Section 42(3) of the Act. It is here only that local authority is exempted from such an obligation and may refuse to provide or make its network available. Second option is, under Section 43 of the Act, to provide the electricity to the consumer by the distribution licensee from its own network. Therefore, if in a particular area local authority has its network and it does not permit wheeling of electricity by making available its network, the other distribution licensee will have to provide the electricity from its own network. For this purpose, if it is not having its network, it will have to lay down its network if it requires in order to supply electricity to a consumer seeking supply.

28. This interpretation of ours is in consonance of the objective and purpose of the Act. The aforesaid objective is further clarified by the Tariff Policy and the National Electricity Policy under Section 3 of the Act which emphasised the need for efficiency and competition in the distribution business. The provision of open access to consumers ensures right of the consumer to get supply from a person other than the distribution licensee of his area of supply by using the distribution system of such distribution licensee.

30. Once we read the provisions in the aforesaid manner, it becomes clear that **there is no exemption from universal service obligation to any distribution licensee under the Act, on account of the presence of a “local authority” as a distribution licensee in the particular area of supply, which is also reinforced by Para 5.4.7 of the National Electricity Policy which clearly states that the second licensee in the same area shall have the obligation to supply to all consumers in accordance with Section 43.....**

31. It is, therefore, difficult to accept the extreme position taken by the appellant that if local authority is a distribution licensee in a particular area, there cannot be any other distribution licensee in that area without the permission of such a local authority. Not only such a contention would negate the effect of universal supply obligation under Section 43, it will also amount to providing an exception which is not there either in Section 43 or Section 14 of the Act, namely, to treat local authority in special category and by giving it the benefit even that benefit which is not specified under the Act...”

1.4 Hon’ble Commission’s Order dated 22.08.2012 in Case No. 151 of 2011:-

“.....

97. The Commission is of the view that there is a need to issue specific directions to TPCD regarding the capital expenditure to be undertaken over the next one year, in order to ensure that TPC-D meets its USO in the Common Licence area (Suburban Mumbai) within a reasonable time period.....

98. Accordingly, the Commission hereby issues the following directions to TPC-D regarding the network roll out plan and capital expenditure to be undertaken over the next one year from the date of this Order:

(a) TPC-D will have to focus all its energies and capital expenditure and ensure that by the end of one year from the date of this Order, TPC-D has rolled out its entire distribution network in the 11 Clusters identified above (to be redrawn into a Municipal Ward-wise Plan by TPC-D) in such a manner that it is in a position to provide supply through its own distribution network to existing and prospective consumers located anywhere within these Clusters, within the minimum time period of one month specified under the MERC SOP Regulations..

.....

(d) Further, TPC-D should ensure that wide publicity is given to reach the consumers in these identified 11 Clusters, to the effect that TPC-D is in a position to provide

supply using its own network to all consumers interested in taking power supply from TPC-D, within the timelines specified in the MERC SOP Regulations.....”

1.5 Hon’ble Tribunal’s Judgment dated 28.11.2014:-

“5. Keeping in view the rival contentions of the rival parties, the following issues arise for our consideration:

(i) Whether Tata Power has indulged in “Cherry Picking” of changeover consumers supplied electricity on RInfra’s network?

(ii) Whether Tata Power has laid down network selectively to serve high end subsidizing consumers ignoring low end consumers in the proximity?

(iii) Whether the State Commission had power to issue the impugned directions to the Appellant under Section 23 of the Act?

(iv) Whether the State Commission has erred in continuing the interim arrangement for supplying electricity to changeover consumers using RInfra’s network permitted by the Commission by order dated 15.10.2009?

23. The provision for a second distribution licensee in the Act has been given to promote competition the benefit of which should go to the consumers..... The consumer has to ultimately decide the distribution licensee from whom he wants to take the supply. The consumer would normally choose the licensee primarily on the basis of tariff and reliability of supply. For changeover consumer the reliability of supply is the same irrespective of whether the supply is from RInfra or Tata Power. Therefore, the tariff alone is the criteria for the consumer to decide the changeover....

24. The concept of level playing field is that the players in the market get an equal opportunity of competing with each other without any bias and are subjected to same rules of the competition. The competitors should be able to offer the price at which they want to supply power and let the market forces determine the rest. In this case the State Commission has determined the tariff for different categories of consumer for both the licensees following the same Regulations. It is for the consumer to decide the choice of its supplier. However, the State Commission has to ensure that no licensee is putting road blocks in the consumer making his own choice of supplier. In this case it is not established conclusively that Tata Power was intentionally trying to create a road block to avert changeover of certain categories of consumers and indulging in Cherry picking of changeover consumers. By putting restriction on some categories of consumers to changeover to Tata Power, the State Commission has denied choice to certain categories of consumers to avail supply at cheaper tariff to which they are entitled as per the scheme

of the 2003 Act and also as per the changeover protocol devised by the State Commission. Rather than putting restriction on changeover, the State Commission should have taken measures to ensure that adequate publicity is given to the effect that PAN no., etc. were not necessary for applying for changeover and ensured that the internal systems of Tata Power are also functioning accordingly.

26. Therefore, evidently it is the tariff fixed by the State Commission which is ultimately deciding the trend of movement of consumers and in no way can be termed as 'cherry picking' by Tata Power.

44.....The changeover gives low end consumers flexibility to choose supplier depending on the tariff decided by the State Commission from time to time without going into the hassle of change of service line.

48. **If a consumer is satisfied with the changeover arrangement, we feel the consumer cannot be forced to switchover.**

49. Merely because Tata Power has not switched over the subsidized residential changeover consumers in the vicinity of its network, does not establish that Tata Power is selectively laying its LT network as these consumers have not chosen to switch over to Tata Power's system.

56. Therefore, in the circumstances of the present case where a reliable distribution system of Rlnfra is already existing **and** physical constraints in laying down of network by Tata Power **and** very high cost involved in the same, **it is in the overall interest of consumers of Tata Power and Rlnfra that the changeover consumers continue to get supply from Tata Power on the Rlnfra's network. It will also be convenient and economical for the consumer to changeover back to Rlnfra in case Rlnfra's tariff becomes more attractive in future.**

57. Consumer interest is one of the main features of the Electricity Act, 2003.....

58. **Laying down of parallel network** in a congested metropolitan city like Mumbai where a reliable distribution network is already existing is to be viewed differently from situation in other areas in the country where there are deficiencies in the existing distribution network resulting in constraints in maintaining a reliable supply to the existing consumers and extending supply to new consumers. Practical difficulties in laying down the network and extending the 11/0.4 kV network all around the congested areas in multi-storeyed buildings and narrow lanes of slums and the extremely high cost involved in making an unnecessary expenditure has to be considered. In some areas it may be practically impossible to lay down the parallel network by Tata Power due to space constraints. Tata Power itself has stated that it is facing practical difficulties to lay down the distribution network. Tata Power at the same time cannot maintain its right to lay down distribution network selectively even

*in areas where a reliable network of Rlnfra is existing. **Tata Power should therefore, be restricted to lay down its network only in areas where laying down of parallel network would improve the reliability of supply and benefit the consumer and also for extending supply to new consumers who seek connection from Tata Power. Tata Power's Rollout Plan should therefore, be restricted to only such areas. This may also require amendment in the licence condition of Tata Power, after following due process as per law. The Rollout Plan shall be approved by the State Commission only after hearing Rlnfra and the consumers. In the meantime, Tata Power should be restrained to lay down distribution network in the distribution area common to Rlnfra.***

59. However, where Tata Power has already made considerable investment in constructing the distribution system in pursuance of the directions of the State Commission, it should be allowed to be commissioned and capitalized, to feed the consumers as decided by the State Commission. Tata Power may submit a proposal to State Commission in this regard which the State Commission shall consider and decide after hearing the concerned parties including Rlnfra.

60. Where Tata Power has already laid down its network and some consumers have switched over from Rlnfra to Tata Power, these consumers can remain with Tata Power. However, they can choose to switch over to Rlnfra in future on Rlnfra's existing network as per the switch over protocol to be decided by the State Commission.

*61. In view of above, Tata Power is directed to submit its Roll Out Plan as indicated above for approval of the State Commission. In the meantime, Tata Power is restrained to lay down its distribution network in the area common to Rlnfra till further orders of the State Commission on its Rollout Plan as per the directions given in this judgment. **However, Tata Power can supply power to the existing consumers of Rlnfra irrespective of category of consumer on the request of the consumers only through Rlnfra's network by paying the necessary wheeling charges as well as the other compensatory charges including the cross subsidy charges to Rlnfra. However, there shall be no restriction on Tata Power or Rlnfra to lay network for supply to new connections. The State Commission shall consider to give approval for laying down of network by Tata Power only in areas where there are distribution constraints and laying down of a parallel network by Tata Power will improve reliability of supply and benefit the consumers, only after hearing Rlnfra and the consumers. Similarly, Rlnfra shall not lay network in any area where only Tata Power's network is existing and use Tata Power network for changeover of consumers, if any, till further orders by the State Commission, except for extending supply to new connections. The State Commission is directed to devise a suitable protocol in this regard after following***

due procedure. This may require change in licence condition of the licensees which the State Commission shall decide after following due procedure as per law.

72.On the other hand the restrictions imposed by the Commission in the impugned order are restrictions on the licensee on not to supply electricity to all category of consumers, who wish to take supply from the Tata Power other than residential consumers having monthly consumption of less than 300 units.

73. In fact, such a restriction has denied other consumers from exercising their choice of supplier guaranteed by the Act.....

74. The Act has mandated the State Commission to protect the interests of the consumers. The State Commission, while giving any direction to the licensee is bound to ensure that such direction is in the interests of the consumer.....

77. As regards the fourth issue raised by Rlnfra in Appeal No. 229 of 2012, we feel it is perfectly legal for the consumers to changeover from one licensee to another using the network of one of the licensees and, therefore, there is no illegality in continuation of the directions of the State Commission in the order dated 15.9.2009 regarding changeover to Tata Power using Rlnfra's network. However, Rlnfra is entitled to charge from changeover consumers wheeling charges and other compensatory charges including the cross subsidy charges as decided by the State Commission from time to time as per law. The State Commission is also directed to lay down a detailed changeover protocol after hearing the concerned parties

78. Before parting, we wish to state that we have given the above findings in view of the circumstances of the case where difficulties are being experienced in laying distribution network by the parallel licensee namely, Tata Power, to provide connectivity to all consumers in the licensed area common to Rlnfra and **in the ultimate interest of the consumers.**

80. Summary of Our Findings

.....(iii) In view of the practical difficulties in laying down parallel network in Mumbai as pointed out by Tata Power we have given some directions under paragraphs 58 to 61 regarding restricting the Roll out Plan of the Tata Power only to the areas where laying down of parallel network will improve the reliability of supply and benefit the consumers and directions for continuation of changeover arrangement irrespective of category or consumption of consumers, commissioning of network where a substantial expenditure has been incurred by Tata Power in laying down new network on the directions of the State Commission, consumers who had already switched over to Tata Power, laying down network for providing new connection, changeover and switch over protocol, change in licence conditions of the licensees, etc. **However, there shall be no restriction on any**

licensee to lay network for supply to new connections. The State Commission is also directed to decide the detailed protocol for switchover and changeover after hearing all concerned.

(v) Directions given to Tata Power by the State Commission in the impugned order are set aside.....”

1.6 Interim Order dated 09.11.2015

“ ...

45. *From the directions of the ATE set out above, the following observations emanate for the consideration of this Commission:*

- (a) *Mumbai city is unique as it would not be physically and economically viable for TPC-D to create a parallel distribution network for the entire area of its supply common with Rlnfra-D.*
- (b) *TPC-D cannot maintain its right to lay down distribution network selectively even in areas where a reliable network of Rlnfra-D exists.*
- (c) ***TPC-D should be restricted to laying its network in areas where such parallel network would improve the reliability of supply and benefit the consumer.***
- (d) ***TPC-D can extend supply to new consumers who seek connection from it.***
- (e) *The Rollout approval may require amendment of the TPC-D's Licence.*
- (f) *The Rollout should be done after following due process of law and after hearing Rlnfra-D and consumers.*
- (g) ***Where TPC-D has made considerable investment in constructing its distribution system in furtherance of the earlier directions of the Commission, such system should be commissioned and capitalized.***
- (h) *Where TPC-D has already laid down its network and some consumers have switched over from Rlnfra-D to TPC-D, such consumers can remain with TPC-D.*
- (i) *Till such time as the Commission approves the Rollout Plan, TPC-D is restrained from undertaking supply to new consumers through the switch-over mode.*

46. ***..... The Commission has also been directed by the ATE to approve the Rollout of TPC-D in a manner which promotes consumer choice, which is economical for all consumers, and in which there is no wastage of national resources.***

47.**However, throughout its Judgment, the ATE has held that the object of granting a parallel Licence is the supremacy of consumer choice coupled with economics of the cost of supply, as such factors are material for fixation of the tariffs of Licensees.** Therefore, the enforcement of Section 43 will have to be done taking into account the guidelines issued by the ATE in Appeal Nos. 229 and 246 of 2012.
48. **The Commission notes that it has granted the parallel Licence to TPC-D under Section 14 with the objective to promote competition and give choice to consumers.** The Commission is of the view that the clear intent of the ATE Judgment is the same, namely to enable choice to consumers. However, both TPC-D and Rlnfra-D have argued that the method of supply of power should be a paramount consideration in approving the Rollout Plan of TPC-D.
49. The Commission is of the view that consumers' choice of Licensee triumphs over the method of supply. A consumer may seek supply from one or the other Licensee based mainly on considerations such as a comparison of quality of service and tariff, and would not be concerned in the manner in which the supply is made.....
51. That being said, the focus of the ATE Judgment is to ensure that supply of electricity to consumers is done with minimal wastage and duplication of resources, optimum utilization of public funds, and using the existing network of either Licensee wherever possible. **In this light, the Commission is, therefore, of the view that consumer choice is a primary consideration, and also that it is the responsibility of the Licensees and the Commission to ensure that the mode of supply opted for is the most cost effective and avoids duplicating or wasting national resources.**
52. The Commission observes that the interpretations given by TPC-D or Rlnfra-D do not do true justice to the mandate envisaged by ATE. If TPC-D's interpretation is accepted, then in effect TPC-D has the right to lay its lines and supply to any consumer seeking such supply within its distribution area. If the definition of Rlnfra-D is accepted, then TPC-D does not have any right to lay its own lines so long as Rlnfra-D is present in the vicinity, barring a situation in which a completely new area is developed in the area of supply common to both Licensees. **The Commission believes that the mandate actually given by the ATE is to find a via media by which consumer interest is protected and the existing network is used to its maximum potential, and new lines are only laid when reliability and adequacy, and economic viability along with consumer demand require it to be done.**

53. *The Commission is of the view that one of the issues that needs to be addressed in this Case is the responsibility of the Licensees, especially TPC-D, towards consumers who apply for a connection. This would arise in the following Scenarios:*
- (a) *Location, Municipal Ward or other area which is completely covered by one Licensee, but consumers within such area still wish to shift from their existing provider to the other Licensee;*
 - (b) *Location, Ward or other area which is completely covered by both Licensees, but consumers within such area wish to shift from their existing provider to the other Licensee;*
 - (c) *Locations, Wards or other areas where neither Licensee is presently supplying power through its wires;*
 - (d) *Locations, Wards or other areas where either or both Licensees are present, and where the projected growth could considerably increase the number of consumers wishing to avail supply from either Licensee.*
54. *As far as Scenario (a) is concerned, it is clearly just a question of wheeling of power to the consumer through the network of the Licensee whose network is available in the area. Therefore, it is a matter of adjusting payments between such consumer and the concerned Licensee or between the Licensees. The existing system of accounting already deals with the situation, and therefore no modification to it is called for at present.*
55. *As far as Scenario (b) is concerned, **where both Licensees have an existing robust distribution network available**, if a consumer requests a shift from one Licensee to the other, the second Licensee would be permitted to supply to that consumer directly through its own wires.*
56. *As for Scenario (c) above, both Licensees are at liberty to approach the Commission for in-principle approval of their capex proposals (if required under the Guidelines of the Commission for such approval) for servicing those consumers in such areas who have sought or are likely to seek supply from them.*
57. *However, with regard to Scenario (d), which the ATE has also considered in its Judgment, it is obvious that the existing reliability and adequacy of the system coupled with economics and mode of supply will have to be considered. Wherever a Licensee desires to lay lines to supply consumers in such areas, this would have to be assessed on parameters such as the adequacy of the existing network coupled with the cost of augmentation (which may eventually be passed on to all the consumers of that Licensee in future tariffs). The Commission observes that a Licensee who is already present may be in a better physical and economical*

position to augment its network to supply to additional consumers. In some other cases, however, the other Licensee may be in a position to augment its nearby network and provide last-mile connectivity to such area in a more advantageous manner. Thus, the Commission is of the view that whether or not TPC-D will be permitted to lay its network to cater to specific areas and/or consumers will depend on the adequacy of its existing network in the vicinity and also upon the economics of such extension or augmentation. However, both Licensees are obligated to supply on request to all consumers within their area of supply regardless of the manner or method of supply which may be agreed or decided upon. Needless to say, the above directions are also applicable to RInfra-D in terms of the ATE Judgment.....

60. *Reliability of a network is a factor of technology, factors such as loading and aging, environmental factors, demographic movement, population change, etc. Both Licensees have got a Distribution Licence for 25 years. It is obvious that both technology and the servicing environment will undergo changes during this period. Even the present constraints in laying network in congested areas of Mumbai may not be as relevant in the course of time, with technological and other developments. Reliability is, therefore, a dynamic concept and cannot be ascertained by a single indicator.....*
61. *The existing technical parameters of reliability have been provided in the Commission's SoP Regulations, 2014. These are subject to revision or amendment from time to time. As pointed out above, in the context of this Case such technical reliability has to be looked at in a dynamic context extending over a longer period of time. It also has to be ensured that the extension or augmentation undertaken by either Licensee is in the best interest of consumers. 'Reliability' as defined in the SoP Regulations provides an index related to consumer interruptions and their period and frequency. However, the Commission is of the view that, in the context of the ATE Judgment and the circumstances of Mumbai, the term 'reliability' has to be understood more broadly to mean the adequacy of a network and infrastructure to feed existing and new consumers. As far as consumer supply interruptions are concerned, most areas in Mumbai have a relatively reliable distribution network. However, the system needs continuous augmentation and improvement to match growing demand. Thus, the adequacy of existing networks in specific locations or areas is an important consideration in determining the Rollout Plan, its modalities and the methodology for dealing with consumer demand. Parameters such as loading of network, ageing of network, obsolescence of technology, etc. determine the adequacy of the network. The Commission is of the view that such adequacy*

needs to be assessed for deciding augmentation or addition to the network for the purpose of supplying electricity at the least cost to consumers.

62. *While granting the Licence to TPC-D in Case No. 90 of 2014 the Commission had found the Rollout Plan proposed by TPC-D to be inadequate and therefore had directed TPC-D to furnish a revised Plan. The Commission envisaged such a Plan as phased development of TPC-D's network that would enable it to supply existing consumers and any future applicants using its own wires within a reasonable and realistic period of time. However, the subsequent ATE Judgment permits a Licensee to effect supply through the wires of the other Licensee (where they are in place, but excluding BEST which is not statutorily obliged to provide Open Access) in the area common to both in order to meet its USO. The ATE Judgment has also laid down certain other principles and parameters considering which supply to an applicant from one or the other Licensee is to be effected. **The Commission is of the view that, therefore, the term 'Rollout Plan' has now also to be understood in a wider sense to encompass the nature of the response required to such applications for supply in different scenarios mentioned above, which may or may not involve laying or augmentation of network by one or the other Licensee or consideration of an extensive, area-wise physical master plan except perhaps in respect of the BEST area.***
63. ***The Commission notes that TPC-D's right to develop its existing network where it has already made investments for creation of distribution assets is undisputed in terms of the ATE Judgment. TPC-D has already filed a Petition in this regard in Case No. 50 of 2015, on which the Commission will pass appropriate Orders separately.***
65. ***In order to further address and finalise the operational specifics of the matter, the Commission deems it appropriate to constitute a Committee which would make recommendations on the key aspects, as set out in broader sense in Para 62 of this Order, which would be considered by the Commission thereafter while approving TPC-D's Rollout Plan.***
66. *The Committee shall comprise the following:*
 - (a) *Director (Electrical Engineering) of the Commission – Convener*
 - (b) *Consumer Representative(s) (to be nominated by the Commission)*
 - (c) *Technical Consultant(s) (to be nominated by the Commission)*
 - (d) *Representatives of TPC-D, BEST, RInfra-D and MSEDCL - as Invitees*

The nominations referred to above shall be made separately by the Commission after the issue of this Interim Order, and notified on its websites.

67. *The Committee shall provide recommendations on the following matters, in relation to TPC-D's Rollout Plan:*
 - *The protocol and procedure in terms of which any migration of consumers shall take place in the scenarios set out at para. 53 above so that it is cost-effective, swift and consumer-centric;*
 - *Institutional Mechanism to operationalize migration of consumers in terms of deciding how consumer application received or expected from time to time are dealt with.*
 - *Practicable, operational criteria and methodology which may be used for assessing the adequacy of the network of one or the other Licensee in an area from whom a consumer may approach the either Licensee for supply, and the manner in which the most efficient and cost-effective option for providing it may be determined.*
 - *Inputs on Tata Power's physical rollout plan for the common area of supply with BEST and its phasing, including the procedure to be followed for migration of consumers between the two Licensees, keeping in view USO requirements.*
68. *The Commission proposes to undertake the following process before passing its final Order in this Case:*
 - a. *The Committee shall submit its recommendations to the Commission within 90 days of its constitution;*
 - b. *The Commission shall consider the recommendation of the Committee for approval and if it considers necessary, direct TPC-D to revise its Rollout Plan in terms of the approved recommendations of the Committee;*
 - c. *The revised Rollout Plan and the Committee's recommendations shall be made available in the public domain for comments, suggestions and objections, and the Commission shall also hold a Public Hearing.*
69. *The Commission in its final Order will decide on continuation or re-constitution of the Committee for scrutinizing the future capital investment schemes submitted by the parallel Licensees in accordance with the Capital Investment Guidelines in their common area of supply.*