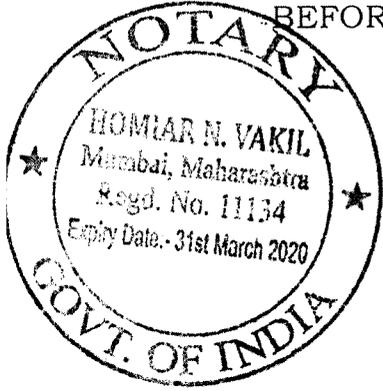


BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION, MUMBAI
CASE NO. 182 OF 2014
AND
CASE NO.40 OF 2015
AND
CASE NO.50 OF 2015

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BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION, MUMBAI.

CASE NO. 182 of 2014

AND

CASE NO. 40 of 2015

AND

CASE NO. 50 of 2015

The Tata Power Company Limited

... Petitioner

**PRELIMINARY / INTERIM AFFIDAVIT IN REPLY ON BEHALF OF
RELIANCE INFRASTRUCTURE LTD**

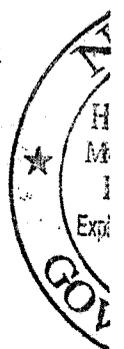
I, Sujit Rao, of Mumbai Indian Inhabitant, Dy General Manager (Legal) of Reliance Infrastructure Limited ("RInfra") above named, having my office at "H" Block, 1st Floor, Dhirubhai Ambani Knowledge City, Navi Mumbai 400 710, do hereby state on solemn affirmation as under:-

1. The present affidavit is being filed for the following limited purposes:
 - a) to seek further time to file a detailed response after further and better particulars are furnished by the Petitioners;
 - b) to submit that in the absence of particulars, the Petitions as filed are not maintainable and are liable to be dismissed; and
 - c) in the alternative, to direct the Petitioners to submit further and better particulars in respect of the subject matter of the Petitions in the event the Petitioners are allowed to proceed with the Petitions.
2. Nothing stated herein is being addressed on the merits of the petitions at this stage. A brief chronology of the events

that have led to the service of the aforesaid Petition on RInfra are set out hereinbelow:

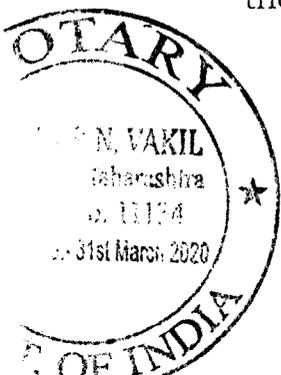
- a) TPC was granted a distribution license on 14-08-2014 in Case No. 90 of 2014. While granting the license this Hon`ble Commission, not being satisfied with the Rollout Plan submitted by TPC, directed TPC to submit a fresh Rollout Plan within 6 weeks from 14-08-2014;
- b) TPC filed a revised Rollout Plan on 09-10-2014;
- c) The Hon`ble Appellate Tribunal for Electricity rendered a judgment in Appeal No.229 and 246 of 2014 giving, inter alia, certain directions (summarized hereinafter for the sake of convenience).
- d) Purportedly in compliance with the said directions TPC vide Petition No.182 of 2014 has sought to submit a purported modified revised Rollout Plan with a prayer to approve the purported revised network Rollout Plan.
- e) The said Petition No.182 of 2014 appears to have been filed on or about 12-02-2015.

3. On or about 10-03-2015 a second Petition being Case No. 40 of 2015 has been filed by TPC, inter alia, for the purpose of approval of a proposed Protocol (purported) with a prayer for approval of the Protocol and with a further prayer (made on 10-03-2015) for an early hearing in respect of the proposed Protocol so that, as stated by TPC, the same "can be revived accordingly "(i.e. based on the suggestions and apprehensions of all concerned parties)", before the arrival of the monsoon season". The Petition further prays that appropriate directives to all distribution licensee in the



Mumbai Region (which it is presumed would mean licensees having common area of supply, that is Rlnfra, BEST and MSEDCL) to ensure that the Protocol is adhered to. Incidentally, MSEDCL which also holds a license in part of the common licensed area which area is developing rapidly, has not been made party to the various Petitions.

4. A third Petition has been filed by TPC being Case No. 50 of 2015, inter alia, praying that this Hon'ble Commission should approve certain proposed commissioning and capitalizing of distribution activities as set out in the Petition, which activities, as claimed by TPC, have been initiated pursuant to the directions of the Hon'ble Commission in Case No. 151 of 2011.
5. Though the Petitions were filed as far back as February 2015 and March 2015, TPC did not move this Hon'ble Commission for issuing notice thereon and the notices thereon have been issued nearly 5 months after the filing of Case No. 182 of 2014 and 4 months after filing of Cases Nos. 40 and 50 of 2015.
6. The prayers in the cases filed have far reaching implications on the distribution of electricity in the licensed area of the various parties and the customers. In fact, when the first changeover Protocol dated 15-10-2009 was issued, and out of which various issues have emanated which have culminated in the judgment in Appeal Nos.229 and 246 of 2012, a hearing was held to invite the views of members of the public.



7. In order to put the various issues arising pursuant to the judgment of the Hon`ble Tribunal, which judgment is made the foundation of the three Petitions by TPC, the relevant observations of the said judgment are extracted hereinbelow:

51. While directing Tata Power to lay down duplicate network in the licensed area where RInfra's network is existing and changeover consumers are availing supply through RInfra's network, it would be necessary to examine the practical difficulties in a congested metropolitan city where a reliable distribution system of RInfra is already existing..... However, it may not be practically possible to switch over the selective consumers due to non-availability of space for putting a second transformer, associated cables, switches and meters by the other licensee.

52.Even if it is to be done by using entire underground cables/sub-stations digging of areas will pose numerous difficulties including getting approvals from the municipal authorities. Even if the parallel distribution network is laid in and around a cluster, it will be at an extremely high cost, which will be ultimately borne by the consumers. The cost of laying a distribution network in a congested metropolitan city will be much more than the normal cost.

55. If some of the consumers who have migrated to Tata Power using the RInfra's network (changeover



consumers), switch over to Tata Power, the RInfra's network will become redundant for which it was earlier getting wheeling charges from the changeover consumer. The fixed charges of the redundant system of RInfra which was earlier earning revenue will then be borne by the consumers of RInfra.

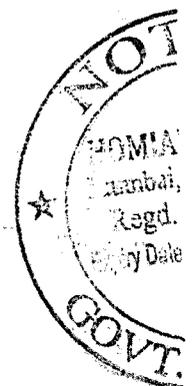
56. Therefore, in the circumstances of the present case where a reliable distribution system of RInfra is already existing and physical constraints in laying down of network by Tata Power and very high cost involved in the same, it is in the overall interest of consumers of Tata Power and RInfra that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

57. Consumer interest is one of the main features of the Electricity Act, 2003. It is also to be ensured that no undue commercial advantage is gained by Tata Power by selectively laying down network to cater to only high end consumers. The interest of RInfra has to be safeguarded to avert any cherry picking by Tata Power for switchover consumers.

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 RInfra 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 RInfra and the consumers. In the meantime, Tata Power should be restrained to lay down distribution network in the distribution area common to RInfra.



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 RInfra.

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.

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 RInfra 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 RInfra irrespective of category of consumer on the request of the consumers only through RInfra's network by paying the necessary wheeling charges as well as the other compensatory charges including the cross subsidy charges to



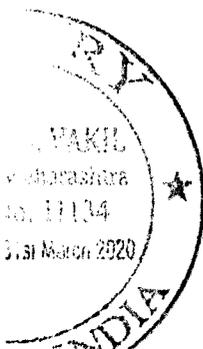
RInfra. However, there shall be no restriction on Tata Power or RInfra to lay network for supply to new connections. The State Commission shall consider to give approval for laying down of network by Tata Power only in areas where there are distribution constraints and laying down of a parallel network by Tata Power will improve reliability of supply and benefit the consumers, only after hearing 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.

A copy of the said judgment in Appeal Nos.229 and 246 of 2012 is annexed as **Annexure 1** hereto.

8. From the aforesaid judgment, the following clearly emerges:
- i) TPC has not laid its network in its licensed area of supply;
 - ii) TPC has put forward the reason for not laying its network as "*practical difficulties in congested metropolitan cities*";
 - iii) If all the licensees are directed to lay parallel network it will result in some network becoming redundant;



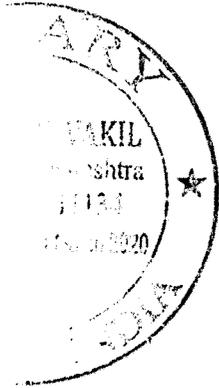
- iv) Where a reliable distribution of Rlnfra already exists it would be in the overall interest of consumers of TPC and Rlnfra that the change over consumers must continue to get supply from TPC on Rlnfra's network with liberty to change over back to Rlnfra in case Rlnfra's tariff becomes attractive – this being so as duplication of network particularly on account of physical constraints and high costs would not be in the overall interest of the consumers;
- v) No undue commercial advantage should be gained by TPC by selectively laying down network to cater to only high end consumers and any cherry picking by TPC for switch over consumers should be avoided;
- vi) TPC cannot claim right to lay down distribution network selectively particularly in view of its self professed difficulties in laying down network and the high cost involved;
- vii) TATA POWER SHOULD BE RESTRICTED TO LAYING DOWN ITS NETWORK ONLY IN AREAS (A) WHERE LAYING DOWN OF PARALLEL NETWORK WOULD IMPROVE THE RELIABILITY OF SUPPLY AND BENEFIT THE CONSUMERS AND (B) EXTEND SUPPLY TO NEW CONSUMERS WHO SEEK CONNECTION FROM TATA POWER. TATA POWER'S ROLLOUT PLAN SHOULD BE RESTRICTED TO SUCH AREA WHICH MAY



REQUIRE AMENDMENT IN THE LICENSE
CONDITIONS OF TATA POWER AFTER
FOLLOWING DUE PROCESS AS PER LAW.

- viii) The Rollout Plan shall be approved by the Hon`ble Commission only after hearing Rlnfra and the consumers.
- ix) In the meanwhile TPC should be restrained to lay down distribution network in the common license area;
- x) Only in areas where TPC has made considerable investment in constructing the distribution system in pursuance to the directions of this Hon`ble Commission, it should be allowed to be commissioned and capitalized to feed the consumers as decided by the Commission, which decision has to be arrived at after hearing the "*concerned parties*".
- xi) TPC is directed to submit its Rollout Plan "*as indicated above*" (i.e. in paragraphs 58, 59 and 60 of the judgment) which would mean that: (a) the Rollout Plan submitted should show that there are no practical or physical constraints in laying down the network; (b) If the rollout plan seeks to duplicate any part of network already existing (which is not possible to make out from the plan submitted as it contains no details), it should demonstrate that the network already existing is not reliable and that laying down of parallel





network would improve the reliability of supply and benefit to the consumers (c) the network proposed to be developed as per the Rollout Plan is not selective (d) how the proposed capitalization of activities as per Case 50 of 2015 is subsumed within the Roll-out Plan and (d) keeping in view the aforesaid it would extend supply to new consumers who seek connection from TPC (para 61 of the judgment).

9. From the aforesaid it is clear that to implement the judgment of the Hon`ble APTEL, license conditions are required to be amended for the distribution licensees and particularly for TPC, a Rollout Plan in consonance with the Hon`ble APTEL is required to be submitted, a Switchover Protocol in accordance with the judgment is required to be submitted and this Hon`ble Commission has to be satisfied that TPC has already made considerable investment in constructing distribution systems in pursuance of the directions of this Hon`ble Commission before TPC is allowed to commission and capitalize that portion of its distribution system.
10. It is respectfully submitted, at the outset, that none of the petitions comply with the directions of the Hon`ble Tribunal. To achieve the implementation of the directions of this Hon`ble Commission, amendment of the license conditions of TPC is a condition precedent, for the license granted to TPC nowhere permits TPC to selectively lay down its network or to connect the consumers selectively or to

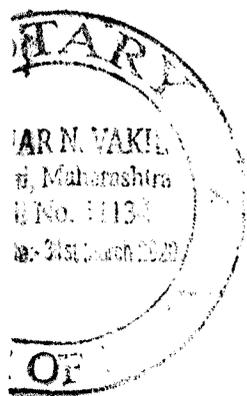
abstain from laying down network on the grounds of physical constraints or high costs and therefore unless the license is amended after following the due process as mandated by the judgment of the Hon'ble Tribunal and Electricity Act 2003 (EA03), the directions of the Hon'ble Tribunal cannot be implemented.

11. Without prejudice to the aforesaid and in any event none of the petitions show the exact location where the network Rollout is intended to be undertaken, how the existing network in the areas (which are not even described) is unreliable, how the laying down of parallel network would improve the reliability of supply and benefit the consumers - existing or new and how the network laying is not selective but is proposed for a representative mix of consumers. The judgment mandates that the Rollout Plan should "*be restricted to only such areas*" and this may entail the requirement of amendment of the license after following due process as per law. On the contrary, the very patchy details submitted in Case No.182 of 2014 refer only to new load that may arise and not to any alleged unreliability of the existing network to supply to existing load or to the new load. In fact, the issue of reliability or improvement of reliability of existing network has not been addressed at all. None of the Petitions show as to where and in which areas investment has been made pursuant to the directions of the Hon'ble Commission.
12. In fact, this Hon'ble Commission, in its order dated 26-06-2015 in Case No 18 of 2015 in respect of TPC-D's Multi

Year Tariff Mid-Term Review Order, has also held that power to consumers who opt for TPC will have to be provided electricity primarily through the wires of RInfra, as per the said judgment. Relevant extract of the order dated 26-06-2015 is as reproduced below:

“7.1

In its Judgment dated 28 November, 2014 in Appeal No. 246 of 2012, the ATE has held that national resources are scarce and should not be squandered by duplicating the distribution network in a common area where an existing Licensee already has a well-established network. In its previous Orders, the Commission has maintained that, in a city like Mumbai, where space is a huge constraint, it is practically impossible for all consumers to have a choice of physical network connectivity to more than one Distribution Licensee even though all have a Universal Service Obligation, and practical solutions have to be found to address the typical problems that arise under such circumstances. The existing distribution network has to be effectively utilised by both Licensees to ensure that only optimum capital expenditure is undertaken, the space constraints are addressed, and public inconvenience and disruptions are minimised. The topography of Mumbai is such that it is surrounded by ocean on three sides, with a high population density, unlike Delhi. Moreover, in Delhi, the Distribution Licensees operate in separate areas of supply, and already have their own extensive distribution networks to which they can add. Hence, in the case of Mumbai, power to consumers who opt



for TPC-D will have to be provided electricity primarily through the wires of RInfra-D, as per the ATE Judgment in Appeal No. 246 of 2012 dated 28 November, 2014.”

13. The purported Rollout Plan annexed to Case No. 182 of 2014 does not show any location or the manner in which the Rollout will take place at such locations. The identification of the location is condition precedent as set out in the Hon'ble Tribunal's judgment to crystallize the reliability or otherwise of the network and to avoid parallel network being set up as also to ensure reliability of supply. TPC has proceeded on a footing that it is entitled to lay network in the entire area, the way it pleases or chooses, thereby giving a complete go by to the said judgment. In fact, the entire approach of TPC in filing the various petitions is in complete and contumacious disregard of the observations of the Hon'ble Tribunal.
14. Without prejudice to the aforesaid any question of a Rollout Plan cannot be addressed without the details of the network that is proposed to be rolled out which details are completely absent in the said petitions. The bare minimum details that would be required are set out in the format **Annexure 2** hereto.
15. In the circumstances it is respectfully submitted that Case No.182 of 2014 is liable to be dismissed and/or rejected on the ground of non-maintainability and in the absence of any application for amendment of the license. Without prejudice to the aforesaid it is respectfully submitted that

Case No. 182 of 2014 is liable to be rejected as being devoid of any particulars as being totally vague.

16. Without prejudice to the aforesaid and in any event it is submitted that the hearing of the case ought to be adjourned for a period of 8 weeks beyond TPC submitting the details as would be required for the purposes of considering the various indicia as laid down by the Hon'ble Tribunal.
17. It is submitted that all the three petitions are interlinked and cannot be isolated from each other. In addition, proceedings have also to be initiated to amend the terms of the license in accordance with the law. This is elaborated hereinafter.
18. The issue of Rollout Plan is inextricably interlinked with the issue of Protocol for switch over. The said issues of Rollout Plan and Protocol are also interlinked with the issue of commissioning and capitalization of distribution activities, all the three of which are inextricably interlinked with the amendment to the license. It is respectfully submitted that these issues cannot be dealt with separately and have to be dealt with compendiously after hearing all concerned parties including the general public, BEST and MSEDCL and after following the procedure in that behalf as prescribed by EA03.
19. Insofar as Petition No.40 of 2015 is concerned apart from the fact that it is completely vague and no details are given, the same is contrary to the judgment of the Hon'ble Tribunal. In any event and without prejudice to the

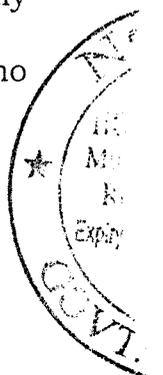


aforesaid, RInfra submits that the interpretation of the said judgment by TPC in the present Petition is completely contrary to the plain language thereof. It is submitted that TPC, in the present Petition, under the guise of seeking approval of Switchover Protocol, has enlarged the scope of limited direction of Hon'ble Tribunal to approve Switchover Protocol for switchover of consumers back to RInfra, wherever such consumers had already switched-over to TPC. It is submitted that TPC has proceeded on the completely erroneous and apparently mischievous footing that new as well as existing RInfra consumers is free to opt any of the distribution licensee's network, which defeats the very basis of the said judgment by apparently seeking to restart the entire matter of cherry picking, only this time under the garb of "consumer choice of network".

20. Section V (1) (a) of the Petition reads as follows:

"For new development in residential, commercial, industrial and any other area, there shall be no restriction on any distribution licensee to develop network for supplying electricity to any type of new consumer."

TPC, in the Section V (1) (a), in respect of purported proposed Protocol is contemplating network laying in respect of new consumers, which is subject matter of Case No. 182 of 2014 filed by TPC in respect of approval of its alleged network Rollout Plan. It is submitted that the same is clearly contrary to the said judgment which categorically holds that if RInfra network exists there can be no duplication.

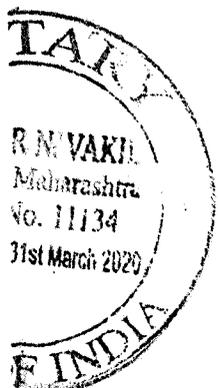


21. Section V (1) (b) and (c) of the Petition reads as follows:

"b. If any existing consumer opts to get connected to another licensee's network for electricity supply, the chosen Distribution Licensee is allowed to lay last mile connectivity if its distribution system backbone is already developed.

c. Any existing consumer can exercise his right to choose any distribution network of his preference by following procedures as depicted in Annexure II"

TPC, in the Section V (1) (b) and (c) in the purported Protocol has proposed laying of duplicate network (under the guise of last mile connectivity) to existing consumer of RInfra by misinterpretation of the said judgment and assuming that existing consumers can choose the network of distribution licensee. The said judgment specifically holds that *"it is in overall interest of consumers of Tata Power and RInfra that changeover consumers continue to get supply from Tata Power on RInfra's network"* (paragraph 56 of the said judgment). TPC is not following the said judgment and in fact purporting to claim a right to selectively lay down the network in an area where RInfra-D's network is existing and switchover of RInfra-D's existing consumers contrary to express finding contained in the said judgment. It is submitted that and as already mentioned above, the fundamental objective and ratio of the said judgment of Hon'ble Tribunal is that there should no duplicity of network in the interest of consumers. In the teeth of the said finding, TPC has unilaterally switched over 385 consumers as on 24.07.2015, details whereof are given



in **Annexure 3** hereto. The relevant correspondence in this regard is annexed and marked as **Annexure 4** hereto.

22. In any event, it is submitted that there could have been no switch over till the Rollout Plan is approved after which, if at all switchover could take place only if it falls within the exception carved out in the said judgment. RInfra-D submits that TPC has switched over existing consumers of RInfra-D in violation of the said judgment pending approval by this Hon'ble Commission of the Rollout Plan to decide on eligible consumers for switchover and also during pendency of Petition filed by TPC themselves for approval of Protocol of switchover of consumers. It is further submitted that,

- i. The said judgment was delivered on 28-11-2014;
- ii. It mandated TPC to first get the Rollout Plan approved as per the findings from this Hon'ble Commission;
- iii. Such Rollout Plan was given devoid of any particulars, material or otherwise only in February 2015;
- iv. As mentioned above, as all the three Petitions filed by TPC pursuant to the said judgment are interconnected, RInfra had identified some data and information required in absence of any particulars. Information required by RInfra is annexed hereto and marked as **Annexure 5** hereto.
- v. RInfra submits that the Switchover Protocol to be decided in the instant petition cannot be used to effect any actual switch-over from RInfra's network to

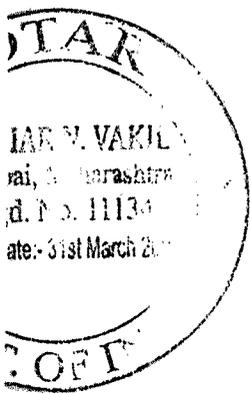


TPC till such time the Hon'ble Commission decides on TPC's petitions in Case No. 182 of 2014 and Case No. 50 of 2015 covering all issues such as cherry picking, advanced stage of completion of works, reliability of existing network, amendment of license conditions of TPC and RInfra, etc. The Switch-over Protocol would merely be exercise to lay down a process for switchover of existing RInfra and BEST consumers to TPC and vice-versa. Also as per paragraph 60 of the said judgment, the Protocol would be used by consumers who have already switched over to TPC network and who wish to migrate back to RInfra network. The said paragraph 60 of the said judgment is quoted below for reference:

"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."

- vi. In view of the aforesaid, it is submitted that TPC be restrained from switching over of existing RInfra consumers pending the decision of this Hon'ble Commission.

The present Petition being Case No. 50 of 2015 is clearly premature and any such switchover after the said judgment would be necessarily subject to the outcome of Case No. 182 of



2014, Case No. 40 of 2015 and the present Petition without prejudice to RInfra's contention that the said petitions as filed are without any particulars.

23. Without prejudice to its submissions above, RInfra is submitting herewith a draft proposed tentative Switchover Protocol in the present reply taking into consideration existing Changeover Protocol issued by Hon'ble Commission in Case No 50 of 2009 and modifying the same to the extent required for Switchover. Copy of the Switchover Protocol is attached herewith and marked as **Annexure 6**.

24. RInfra denies the correctness of the contents of the petition in so far as the same is contrary to or inconsistent with what is stated herein as if the same is set out and traversed in seriatim. RInfra should not taken to have admitted anything except what is admitted by it herein.

25. The proposed Protocol gives a complete go bye to the said judgment and gives TPC the liberty to lay network. The object of framing a Protocol is only to set procedures and not deal with the type of consumers and the manner of laying network. Under the guise of seeking to put a Protocol in place, TPC cannot seek to lay its network wherever it wishes, when the entire case before the Tribunal was that it was not able to lay out its network in Mumbai. Such eligibility would be decided by this Hon'ble Commission after considering Case Nos. 182 of 2014 and 50 of 2015.

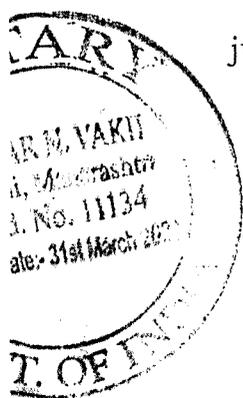
26. TPC has in Section I of the Petition in Case No. 40 of 2015 selectively referred to certain paragraphs of the sad judgment



and the petition under the guise of seeking to put a Protocol in place purports to overcome the said judgment.

27. With reference to Section II and III of the Petition, the parties are now governed by the said judgment and RInfra craves leave to refer to the decisions referred to therein for ascertaining their true meaning, interpretation and legal effect. The contents of sections II (6), (7) and III are TPC's own interpretation of the said judgment which are not admitted. In any event TPC has not at all complied with paragraph 59 of the said judgment on which this Hon'ble Commission can rule. While so contending that it may be allowed to feed consumers to capitalize its investment, the petition seeks blanket permission to supply indiscriminately across its area of supply without a Rollout Plan in accordance with the said judgment being in place and approved and has in fact as mentioned above switched over 385 consumers unilaterally.

28. With reference to section IV (a) of the Petition, a new consumer necessarily is one in whose premises there does not exist any network at all and only in such circumstances can a distribution licensee lay down network to effect supply. With reference to section IV (b) of the Petition, there is a clear bar from the changeover consumers switching to TPC's network in the judgment. They cannot freely move and are bound to take supply on RInfra's network. Only such existing consumers whose switchover this Hon'ble Commission approves on examination of the facts that as on the date of the said judgment where considerable expenditure has been incurred



and network laid could apply for switchover. Such particulars are not before the Hon'ble Commission.

29. In the circumstances it is respectfully submitted that Petition in Case No. 40 of 2015 is liable to be dismissed as non-maintainable and/or as being devoid of all particulars. Without prejudice to the aforesaid and in the event of this Hon'ble Commission deciding to take up Case No. 40 of 2015, TPC be directed to furnish particulars and a detailed Protocol.
30. Without prejudice to the aforesaid and in any event it is submitted that once TPC submits a detailed Protocol and all concerned parties are heard, the Petition can be proceeded with and the hearing of the Petition be adjourned till TPC furnishes a detailed and elaborate draft Protocol so as to elicit views of all concerned.
31. Insofar as Case No. 50 of 2015 is concerned, the hearing thereof is not fixed for 30th July 2015, though it ought to be clubbed along with Case No. 182 of 2014 and Case No. 40 of 2015. The said Petition is devoid of all particulars. In order to address the issues in Case No.50 of 2015 further particulars are required.
32. In the circumstances it is respectfully submitted that Case No. 50 of 2015 is liable to be dismissed as being not maintainable. In any event and without prejudice to the aforesaid it is submitted that if Case No. 50 of 2015 is also to be proceeded with it cannot be proceeded in isolation but in the respectful submission of RInfra ought to be heard compendiously with Case No. 182 of 2014 and Case No. 40 of 2015 and before



proceeding further TPC ought to be directed to furnish particulars in the format annexed at **Annexures 2 and 5** hereto.

33. It is submitted that neither switch over nor selective laying of network nor the incurring of capital expenditure in a selective manner are contemplated by the license of TPC. Under the law TPC is required to Rollout in the entire area of its license and to supply the consumers with electricity on demand. The Hon'ble Tribunal judgment makes an exception to this legal position at the same time directing that license, if required, ought to be amended after following due process as per law. Thus, unless the license is amended the Hon'ble Tribunal's judgment cannot be implemented insofar as the alleged rights claimed by TPC in its said Petitions.

34. It is respectfully submitted that TPC having filed the Petition in February/March 2015, is for some unknown reason precipitating the entire issue without complying with the observations of the Hon'ble Tribunal and having not moved this Hon'ble Commission for such a long time since the judgment of the Hon'ble Tribunal is now attempting to hurry up the entire issue without giving any particulars. In the meanwhile TPC in flagrant violation of the judgment of the Hon'ble Tribunal is proceeding to indiscriminately switch over at its will consumers from RInfra contrary to the mandate and injunction contained in the judgment of the Hon'ble Tribunal. RInfra will furnish details of such switch over at the appropriate time.



35. In the circumstances RInfra respectfully prays:

- a) that Petitions Nos.182 of 2014, 40 of 2015 and 50 of 2015 be dismissed in limine as being not maintainable and/or devoid of all particulars;
- b) in the alternative and without prejudice to the aforesaid TPC may be directed to furnish at least the bare minimum particulars as set out in **Annexures 2 and 5** hereto;
- c) appropriate proceedings in accordance with law may be initiated for amendment of the license;
- d) the hearing of the three petitions may be fixed after giving notice to all concerned parties including MSEDCL and members of the public to a date 8 weeks after TPC furnishes the required particulars;
- e) TPC be restrained from unilaterally switching over consumers and laying network in this regard.

Solemnly affirmed at Mumbai)
This 29th day of July, 2015)

Bechhal.

Before me,

Mulla & Mulla & Craigie Blunt & Caroe

Manab

Partner

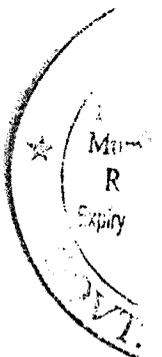
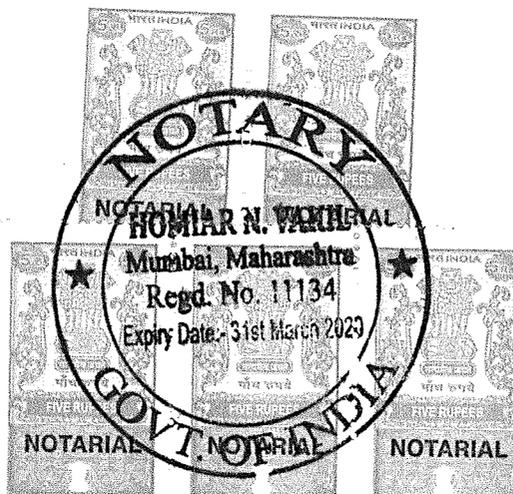
Advocates for Reliance Infrastructure Limited

JWS Vakil

HOMIAR NARIMAN VAKIL
Notary, Govt. of India
Regd. No. 11134
Ms. Mulla & Mulla & Craigie Blunt & Caroe
Advocates, Solicitors & Notaries
Mulla House, 51, M. G. Road,
Fort, Mumbai - 400 001.

29 JUL 2015

Sr. No. 255/2015



NOTARY
HARN. VADIA
Mumbai, Maharashtra
Regd. No. 111/2014
Date - 31st March 2020
GOVT OF INDIA

NOTARY
Mumbai, Maharashtra
Regd. No. 111/2014
Expiry Date: 31/03/2020
GOVT OF INDIA

BEFORE THE MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION, MUMBAI

CASE NO. 182 of 2014

AND

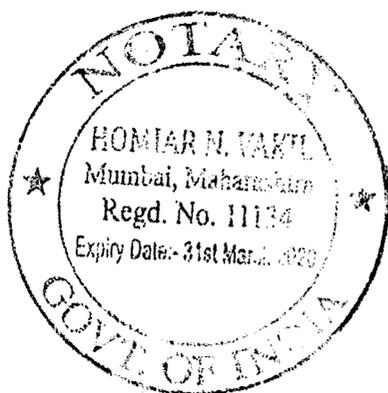
CASE NO. 40 of 2015

AND

CASE NO. 50 of 2015

The Tata Power Company Limited

...Petitioner



PRELIMINARY / INTERIM
AFFIDAVIT IN REPLY ON
BEHALF OF RELIANCE
INFRASTRUCTURE LTD

Dated this 29th day of July, 2015

Mulla & Mulla & Craigie Blunt & Caroe,
Advocates for Reliance Infrastructure Ltd.
Mulla House, 51 M G Road, Fort
Mumbai 400 001

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION, MUMBAI.
CASE NO. 182 OF 2014
AND
CASE NO. 40 OF 2015
AND
CASE NO. 50 OF 2015

The Tata Power Company Limited

...Petitioner

We, Reliance Infrastructure Limited do hereby appoint M/s. Mulla & Mulla & Craigie Blunt & Caroe, Advocates, Solicitors and Notaries to act, appear and plead on our behalf in the above matter.

IN WITNESS WHEREOF, we have set and subscribed our hands to this writing at Mumbai.

Dated this 29th day of July, 2015

We accept

Mulla & Mulla & Craigie Blunt & Caroe

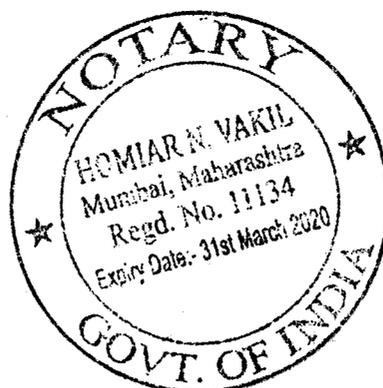
Dr. Anand

Partner

Advocates for Reliance Infrastructure Limited
Mulla House, 51, M.G. Road, Fort,
Mumbai-400 001.

Reliance

Reliance Infrastructure Limited



BEFORE THE MAHARASHTRA
ELECTRICITY REGULATORY
COMMISSION, MUMBAI.

CASE NO. 182 OF 2014

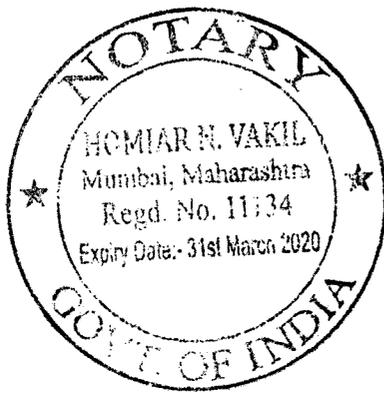
AND

CASE NO. 40 OF 2015

AND

CASE NO. 50 OF 2015

The Tata Power Company Limited
....Petitioners



VAKALATNAMA

Mulla & Mulla & Craigie Blunt & Caroe
Advocates for the Petitioners
Mulla House,
51, M.G. Road, Fort
Mumbai 400001

