

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
WORLD TRADE CENTRE, CENTRE NO.1, 13<sup>th</sup> FLOOR, CUFFE PARADE,  
MUMBAI-400005

CASE NO. 182 OF 2014

IN THE MATTER OF:

The Tata Power Company Limited

... Petitioner

Versus

BEST Undertaking & Ors.

... Respondents

**The Tata Power Company Limited's Reply to Reliance Infrastructure  
Limited's Presentation dated 22.09.2015**

The Tata Power Company Limited ("**Tata Power**") respectfully submits as under:-

1. This Hon'ble Commission by its Order dated 14.08.2014 in Case No. 90 of 2014:-
  - (a) Granted Distribution Licence No. 1 of 2014 to Tata Power, for a period of 25 years from 16.08.2014 for the allocated area of supply.
  - (b) Directed Tata Power to submit its revised Network Rollout Plan, such that the Network Rollout Plan approved by this Hon'ble Commission would form part of the Specific Conditions of Licence in terms of Section 16 of the Electricity Act, 2003 ("**Electricity Act**").
2. Tata Power filed the present Petition on 26.09.2014 seeking approval of its Network Rollout Plan pursuant to this Hon'ble Commission's Order dated 14.08.2014. Tata Power submitted its Revised Network Rollout Plan on 09.10.2014. During the pendency of this Petition, Hon'ble Appellate Tribunal for Electricity ("**Hon'ble Tribunal**") disposed of Appeal No. 246 of 2012 and batch titled as *Tata Power Co. Ltd. Vs. Maharashtra Electricity Regulatory Commission and Ors.* by its Judgment dated 28.11.2014 ("**Judgment dated 28.11.2014**"), returning certain findings, observations and directions. Accordingly, Tata Power submitted a revised Network Rollout Plan on 12.02.2015 after considering the observations, findings and directions returned in Judgment dated 28.11.2014.
3. On 22.09.2015, the present Petition was listed for hearing before this Hon'ble Commission where R-Infra gave its presentation, setting out its submissions/objections on Tata Power's presentation dated 08.09.2015 qua:

- (a) Reliability of R-Infra network.
- (b) Definition of 'new consumer/ connection' and scenarios for laying of network in Mumbai Suburban Area.

Tata Power had filed its presentation in compliance of this Hon'ble Commission's Order dated 12.08.2015.

4. It is submitted that during the said hearing dated 22.09.2015, this Hon'ble Commission directed:

- (a) R-Infra to carry out certain corrections in its presentation dated 22.09.2015 and serve a copy of the revised presentation upon Tata Power.
- (b) Tata Power to file its response to the submissions made by R-Infra in its presentation dated 22.09.2015.

In accordance with the aforesaid directions of this Hon'ble Commission, R-Infra submitted its revised presentation on 23.09.2015, in response to which Tata Power submits as under

**Re: Tata Power's response to R-Infra's presentation dated 22.09.2015**

5. It is submitted that Tata Power seeks liberty of this Hon'ble Commission to place reliance upon all its submissions (qua the issue of reliability of R-Infra Network, definition of 'New Consumer/ Connection', principles laid down in Hon'ble Tribunal's Judgment dated 28.11.2014, regulatory framework guiding network rollout in parallel licensing scenario et al.), filed in Case No. 182 of 2014, the contents of which are not reproduced herein for the sake of brevity and to avoid prolixity. All averments made by R-Infra, which are contrary to or in deviation of the said submissions of Tata Power, are denied except those that are a matter of record or are specifically admitted herein. For the sake of brevity, Tata Power is placing its response to the slide-wise submissions made by R-Infra in its presentation dated 22.09.2015.

**Re: Slide No.2, 3 and 20 of R-Infra's presentation dated 22.09.2015**

6. In the aforesaid slides R-Infra has given the background of Case Nos. 50 of 2009, 151 of 2011 and 85 of 2013 and has highlighted Tata Power's submission (qua space constraints in laying down its network) in those proceedings. R-Infra has also set out the findings of this Hon'ble Commission in its Orders dated 15.10.2009, 22.08.2012 and 30.10.2013 in Case Nos. 50 of 2009, 151 of 2011 and 85 of 2013 respectively.

7. In this regard Tata Power submits as under:
- (a) The present proceedings are with regard to the approval of the network rollout plan as directed by this Hon'ble Commission vide its Order dated 14.08.2014 in Case No. 90 of 2014 and not with regard to the issue of cherry-picking and selective network rollout as sought to be highlighted by R-Infra. Hence, the discussions carried out under Case No. 151 of 2011 and Case No. 85 of 2013 have no relation to the issues before the commission under the current Case No. 182 of 2014.
  - (b) The Order dated 22.08.2012 was challenged by both Tata Power and R-Infra by Appeal Nos. 246 of 2012 and 229 of 2012 respectively before the Hon'ble Tribunal. The Hon'ble Tribunal vide its Judgment dated 28.11.2014 has held that it is tariff fixed by this Hon'ble Commission which is ultimately deciding the trend of movement of consumers and in no way can be termed as cherry-picking by Tata Power. By the said Judgment, the Hon'ble Tribunal has set aside the restrictions imposed by this Hon'ble Commission in its Order dated 22.08.2012 in Case No. 151 of 2011 ("**Order in Case No. 151**") (restrictions on supply to certain categories of consumers), while protecting the investment made by Tata Power for laying/ developing its distribution network in terms of this Hon'ble Commission's Order in Case No. 151. [**Para 59 and 80(v) of the Judgment dated 28.11.2014**]
  - (c) Without prejudice to Para 7(b) above, it is submitted that:
    - (i) Case No. 151 of 2011 was filed by R-Infra, seeking a relief that Tata Power should not be permitted to use its network to supply electricity to the consumers situated in Mumbai Suburban Area. Further, R-Infra had also alleged that Tata Power is selectively laying its network to cater to high end consumers, thereby engaging in cherry-picking. In this context, Tata Power had made submissions qua difficulties which may be faced in laying network in certain areas due to space constraints. [**Para 49(ii), 52(3) 5<sup>th</sup> Bullet of Order in Case No. 151 passed by this Hon'ble Commission**]
    - (ii) R-Infra has wrongly stated that, by this Hon'ble Commission's Order in Case No. 151, switchover is permitted only for low end consumers. In this regard, it is submitted that no restriction was imposed by this Hon'ble Commission for switchover of the following category of consumers from R-Infra to Tata Power:-

- (A) Low end consumers, i.e. the consumers who are consuming less than 300 units per month.
- (B) Existing changeover consumers of any category.
- (C) Consumers of any category who have applied for changeover before 22.08.2012 (i.e. the date on which this Hon'ble Commission had passed its Order in Case No. 151 of 2011).  
**[Para 96(i) and (k) of Order dated 22.08.2012 in Case No. 151 of 2011 passed by this Hon'ble Commission]**

- (d) In any event the Hon'ble Tribunal has by its Judgment dated 28.11.2014 set aside the directions given by this Hon'ble Commission in its Order in Case No. 151. Therefore, the inference sought to be drawn by R-Infra by relying upon the submissions made in Case No. 151 of 2011 are misplaced and ought not be referred or relied upon herein.
- (e) Further, the Hon'ble Tribunal has by its Judgment dated 29.11.2014 in Appeal No. 278 of 2013 and batch has set aside the direction given by this Hon'ble Commission by its Order dated 30.10.2013 in Case No. 85 of 2013 ("**Order in Case No. 85**"). Therefore, the inference sought to be drawn by R-Infra by relying upon the submissions made in Case No. 85 of 2013 are misplaced and ought not be referred or relied upon herein.
- (f) In any event and without prejudice to the above, Tata Power has, while proposing various Scenarios of Network Development (presented by it on 08.09.2015), taken into account the availability of space as a consideration for laying of network to service the consumers. The same is evident from Scenario 1 and 4 proposed by Tata Power in its presentation dated 08.09.2015 at Slide No. 4 and 7 (these slides are also reproduced in R-Infra's presentation dated 22.09.2015 at slide Nos. 44 and 51).
- (g) Without prejudice to the above, it is submitted that:
  - (i) The physical constraints of laying network in Mumbai City are experienced by all licensees and hence there should not be any bar upon Tata Power from laying network based on any such physical constraints. In this regard, it is most respectfully submitted that this Hon'ble Commission may evolve a mechanism to deal with the present issue and create a level playing field for all utilities.

(ii) Tata Power has already evolved many innovative initiatives to address the physical constraints in laying down network in Mumbai. These initiatives have been proposed by Tata Power in Section 7 of the Detailed Network Rollout Plan submitted by it. Some of these initiatives being:-

- (A) Underground Feeder Pillars
- (B) Packaged Substations
- (C) 3-tier DSS & E-house
- (D) HVDS (High Voltage Distribution System)
- (E) Horizontal Directional Drilling (HDD) to avoid disruption of traffic in busy roads
- (F) Multi Civic Amenities Substations
- (G) All weather proof panel for meters

All of these initiatives are designed to address the physical space constraints and have been already implemented at various locations within the Licence area of Tata Power and can be widely replicated in areas wherever physical space constraints are experienced.

*Re: Slide No.4, 61-64 of R-Infra's presentation dated 22.09.2015*

8. In the aforesaid slides R-Infra has given its interpretation of the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014. In this regard it is submitted that the principles laid down by the Hon'ble Tribunal are to be read in context of the provisions of the Electricity Act, 2003 ("**Electricity Act**"). Further, the principles have been laid down for the due consideration of this Hon'ble Commission, while approving Tata Power's Network Rollout Plan.

9. The Hon'ble Tribunal in its Judgment dated 28.11.2014, has laid down the following principles: -

- (a) Consumer choice is paramount. The stated objective of the directions is to protect consumer interest and honour (not constrain) consumer choice while optimizing the cost of network roll-out. The choice of the consumer is to elect its source of supply (choose the distribution licensee from whom he wishes to avail to supply) and mode of supply i.e. whether it wishes to avail supply from a distribution licensee through its own distribution network (Section 43) or from another distribution licensee/ other source from the network of any other

distribution licensee (Section 42). **[Paras 55 to 59 read with Paras 23, 24, 48, 56, 57, 60, 73 and 80 (v) of the Judgment dated 28.11.2014]**

- (b) The Judgment dated 28.11.2014 cannot be interpreted in a manner which would make the provisions of the Electricity Act and the rules and regulations made therein otiose.
- (c) The Hon'ble Tribunal has left the decision qua development of the network in the parallel licensing situation, with this Hon'ble Commission. This Hon'ble Commission has to decide the need and manner of laying of parallel network, while approving the Network Rollout Plan of Tata Power and/ or further development/ augmentation of R-Infra's network.
- (d) If cost optimization is the only factor to be considered by this Hon'ble Commission in determining laying of parallel network, then the Hon'ble Tribunal would have completely barred laying of duplicate network. To the contrary, the Hon'ble Tribunal has tried to find a solution within the statutory framework while considering ground realities. In this regard, the Hon'ble Tribunal has merely laid down certain guidelines (in para 58-61) for the consideration of this Hon'ble Commission while approving Tata Power's Network Rollout Plan (i.e. laying of duplicate network), being:-
  - (i) Duplication of network should be avoided if:-
    - (A) There is a reliable distribution network of a licensee existing in a particular area; AND
    - (B) There are physical constraints in laying down of any new network; AND
    - (C) There is very high cost involved in laying down such parallel network, which is not in consumer interest. **[Para 56 of the Judgment dated 28.11.2014]**
  - (ii) Moreover, the Hon'ble Tribunal has directed that parallel network can be laid to:-
    - (A) Supply electricity to new consumers/ connection;
    - (B) Cater to the demand made by an existing consumer;
    - (C) Improve the reliability of Supply;
    - (D) Benefit the consumers. **[Para 58-61 of the Judgment dated 28.11.2014]**

- (e) By its Judgment dated 28.11.2014, the Hon'ble Tribunal has set aside the restrictions imposed by this Hon'ble Commission in its Order dated 22.08.2012 in Case No. 151 of 2011 (i.e. on the class of consumer to exercise its choice in seeking supply of electricity), while protecting the investment made by Tata Power for laying/ developing of distribution network in terms of the directions of this Ld. Commission in its Order dated 22.08.2012 in Case No. 151 of 2011. **[Para 59 and 80 (v) of the Judgment dated 28.11.2014]**
- (f) In this context Tata Power has filed its Additional Affidavit dated 19.08.2015 qua the observations, findings and directions given by the Hon'ble Tribunal in its Judgment dated 28.11.2014 and principles which governs the laying of parallel network in Mumbai City and Mumbai Suburban Area. Tata Power craves leave of this Hon'ble Commission to refer to rely upon its said affidavit to deduce the correct meaning and interpretation of the Judgment dated 28.11.2014.

**Re: Slide No.5,6,8 and 9 of R-Infra's presentation dated 22.09.2015**

10. The contents of Slide No. 5 to 6 and 8 to 9 require no reply.

**Re: Slide No.7, 21 and 22 of R-Infra's presentation dated 22.09.2015**

11. In the aforesaid slides R-Infra has stated that the Hon'ble Tribunal's Judgment dated 28.11.2014 restricts switchover of existing consumers except to the extent of capex/ network which is yet to be commissioned and capitalized. Further RInfra has also submitted that Tata Power has not given consideration to physical constraints while proposing its network rollout.

12. In this regard it is submitted that R-Infra's submissions relating to switchover of consumers is erroneous. From the perusal of the Hon'ble Tribunal's Judgment dated 28.11.2014, the following is noteworthy:

- (a) There is no restriction imposed by the Hon'ble Tribunal on switchover of consumers.
- (b) On the contrary, the Hon'ble Tribunal has:
- (i) Set aside the restrictions on switchover imposed by this Hon'ble Commission vide its Order in Case No. 151.
  - (ii) Directed this Hon'ble Commission to approve the switchover protocol to be implemented in Mumbai.

13. R-Infra's reading of Para 59 of the Hon'ble Tribunal's Judgment is erroneous. Para 59 of the said Judgment does not impose any restrictions on switchover as

sought to be alleged by R-Infra. In fact, in Para 59 of the said Judgment, the Hon'ble Tribunal has protected the investment made by Tata Power for laying/ developing the distribution network in terms of this Hon'ble Commission's directions in Case No. 151. The Hon'ble Tribunal has protected Tata Power's investment while setting aside the restrictions (in terms of network rollout, changeover and switchover) imposed by this Hon'ble Commission by its Order in Case No. 151.

14. R-Infra's plea that the existing consumers do not have the choice of network is devised to perpetuate its monopoly and deny choice to the consumers which is not in accordance with the provisions of the Electricity Act as well as the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014.

15. With regard to R-Infra's submission that Tata Power has not given consideration to 'physical constraints' while proposing its network rollout, it is submitted that Tata Power has proposed certain Scenarios for developing of network. These Scenarios have been proposed by Tata Power after duly considering the provisions of the Electricity Act and the rules and regulations framed thereunder, the principles laid down in the Judgment dated 28.11.2014 as well as the ground realities of Mumbai. In this context Tata Power craves leave to refer to and rely upon its submission in Para 7(f) hereinabove.

***Re: Slide No.10 and 28 to 43 of R-Infra's presentation dated 22.09.2015***

16. In the aforesaid slides R-Infra has submitted that it has a reliable network. It is further submitted by R-Infra that:

- (a) Reliability indices cannot be compared due to huge difference in consumer/ load density, spread of network etc.
- (b) Reliability is what is experienced by consumer and is not related to loading of the network
- (c) Cluster wise development suggested by R-Infra ensures reliability as well as reduces capex requirements.
- (d) Tata Power's contention that loading of DSS is to be considered for reliability is contrary to its submission in Case 151 of 2011.
- (e) Loading and Tripping has no relation.
- (f) Mapping done by TPC is without considering already existing R-Infra DSS in the same or nearby cluster with 11KV interconnection

17. With regard to the aforesaid submissions of R-Infra, Tata Power submits as under:-



- (a) The example given by R-Infra in Slide No. 29 and 30 is premised on an assumption that, a transformer of 20 MVA is being tripped for a time period of 60 minutes. The possibility of such tripping for such a long time for an under-loaded network of Tata Power is not possible.
- (b) The Interruption Indices (i.e. SAIDI, SAIFI and CAIDI) assumed by R-Infra are the determinants of operational performance of the network. The same cannot be used for planning/ development of network as also admitted by R-Infra in Slide 29.
- (c) It is pertinent to note that Tata Power has considered the reliability parameters of Loading of Power Transformers ("PT") and Distribution Transformers ("DT") as per the format as advised by this Hon'ble Commission, during the course of the present matter, for determining the reliability of the R-Infra Network. The said method is validated by the Integrated Power Development Schemes ("IPDS") Guidelines and MSEDCL's Circular No. CE(Dist)/ D-III/Circular 25680 dated 19.06.2008, which provides for loading on the PTs & Ts as a parameters for strengthening/ augmentation of network. In this regard, Tata Power has provided its detailed submissions qua parameters of reliability and principles of network development in its Additional Submissions dated 15.09.2015 and craves leave of this Hon'ble Commission to refer to and rely upon the same.
- (d) As stated above, the planning parameters for PTs & DTs is the Transformer level loading. The concept of meshing has never been contested by Tata Power. However, it may be appreciated that the concept of meshing and transformer loading are different. While assessing reliability of a network, actual transformer loading is more realistic/ accurate than calculated loadings of a mesh network.
- (e) In the example in Slide No. 32, R-Infra has stated that, a significant amount of additional capex in the form of Work in Progress ("WIP") has been incurred to bring the loading to N-I levels. Tata Power submits that this additional cost can be avoided if the under-loaded capacity of Tata Power's Distribution Sub-Station's existing in the vicinity is considered for improving the reliability of the network. This Hon'ble Commission should consider the distribution network of both R-Infra and Tata Power for improving the reliability of supply to the consumer. This Hon'ble Commission may incorporate a monitoring mechanism whereby such unnecessary expenditure can be avoided. In context

of the above, the DPR of some schemes, already approved by this Hon'ble Commission, may be required to be reviewed/ revisited.

- (f) R-Infra's submission in Slide No. 34 is erroneous as Tata Power has not changed its planning criteria to increase the loading of its network. Infact, Tata Power has maintained the same stand of having the Distribution Substation as criteria for network presence in an area for meeting Universal Service Obligation through development of downstream network.
- (g) R-Infra's submission in Slide 35 is based on the selective reference to the data pertaining to loading of feeders and tripping. It is noteworthy that the data pertaining to tripping as provided by Tata Power in Format 2 is inclusive of faults due to various uncontrollable factors including transient earth faults caused by unbalanced load at consumer end et al. These faults are external to the feeder itself and any utility has no control over it. This is a misrepresentation of facts for sake of convenience by R Infra. The direct relationship between loading and reliability of system can be drawn from the fact that RLDCs and POSOCO are not allowing loading of interstate transmission system beyond certain limit after 31st July 2012 grid collapse. Thus loading of network has been considered as the single most important parameter for assessing network reliability. Hence Tata Power has relied on loading of DTs and PTs as the determining parameter for Reliability of network.
- (h) As regards R-Infra's submission in Slide 36, it is submitted that the network so created by Tata Power over the past 3 years has been specifically laid as per the directions of this Hon'ble Commission by its Order in Case No. 151. The Hon'ble Tribunal in its Judgment dated 28.11.2014 has protected the investments made by Tata Power (as per this Hon'ble Commission's directions in Case No. 151 of 2011) and has permitted loading of the said network. Further the Hon'ble Tribunal has also held that the cost of network rollout should be optimized, while also preserving the choice available to the consumer. In light of the aforesaid principles, Tata Power has, along with its Network Rollout Plan also proposed the loading of its existing under-loaded network to improve reliability of the R-Infra network.
- (i) As regards R-Infra's submission qua loading of Tata Power network in BEST area, it is submitted that that Tata Power's network was historically loaded in the range of 80 % (and not in the range of the present 28% loading) prior to

closing down of the major mills & other loads loaded. It is also submitted that Tata Power had removed number of Consumer Substation in mill area in order to facilitate redevelopment. After the redevelopment has taken place, most of the redeveloped premises have been supplied by BEST.

- (j) R-Infra's approach of cluster wise development, as stated in Slide No. 37, may not be the right approach to ensure the reliability of network. Tata Power reiterates the importance of considering the loading of PTs and DTs as criteria for determining the reliability of network. In this regard, Tata Power has provided its detailed submissions qua parameters of reliability and principles of network development in its Additional Submissions dated 15.09.2015 and craves leave of this Hon'ble Commission to refer to and rely upon the same.
- (k) Even otherwise, the cluster based approach adopted by R-Infra would not ensure reliability of the network as there may be certain pockets/ wards where the Power Transformers may be over-loaded which would have an impact on the reliability of network.
- (l) The cluster based approach adopted by Tata Power was to cover various pockets of geographical area where it is licensed to supply electricity. Whereas, R-Infra's approach is to club the capacities of distinct equipment's to enhance the installed capacity. This is being done to artificially reduce the loading of the equipment's.
- (m) The geographical mapping of R-Infra's PTs is prepared based on the data made available by R-Infra. The mapping is being done to show that the under-loaded assets available in the vicinity are optimally utilized. The distance between two Consumer Substations would have to be evaluated along with the investments, use of resources, economic viability while also giving effect to consumer choice. The said approach of Tata Power is not contrary to the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014.
- (n) As regards Slide 38, it is submitted that while Division may be a larger area, the exercise of mapping the DT's was for the purpose of identifying overloaded DTs of R-Infra that could be relieved by the under loaded DTs of Tata Power. This would ultimately improve the overall reliability of the system for benefit of the consumers.
- (o) As regards Slides 39-43, it is submitted that the objective of the analysis of Tata power was to decide on the Principles of network Rollout whereby it has

been proposed that if a DSS of R-Infra is loaded beyond 70% and also if there is a DSS in the vicinity which is underloaded (which may be of Tata Power or RInfra), that should first be considered for development of the downstream network to relieve the loaded DSS. Specific cases on the ground would be based on individual DPRs which, in our opinion need not be determined at this stage.

*Re: Slide No.11, 12 and 14 of R-Infra's presentation dated 22.09.2015*

18. The contents of Slide No. 11, 12 and 14 requires no reply.

*Re: Slide No.13 and 23 to 27 of R-Infra's presentation dated 22.09.2015*

19. In the aforesaid slides, R-Infra has given its definition of 'New Connection/ Consumer'. It is further submitted that, interpretation of 'New Connection/ Consumer' as given by Tata Power would render the Hon'ble Tribunal's Judgment otiose. R-Infra has further submitted that in even in case of re-developed premises/ structure there is an existing network supplying to that premises/ structure. The Hon'ble Tribunal's Judgment dated 28.11.2014 does not suggest to ignore the cost factor while allowing both the licensees to connect to new consumers.

20. With regard to the aforesaid submissions of R-Infra, Tata Power submits as under:-

- (a) Tata Power had, vide its Affidavit dated 24.08.2015 had submitted its interpretation of the term 'New Connection/ Consumer' as provided in the Hon'ble Tribunal's Judgment dated 28.11.2014. The interpretation of the term 'New Connection/ Consumer' was derived by Tata Power from the provisions of the Electricity Act and the rules and regulations made thereunder.
- (b) Tata Power's interpretation of 'new connection'/ 'new consumer' is as under:-

*"The term 'New Consumer'/ 'New Connection' includes:*

- (a) *Any person who has made an application for supply of power and whose premises is, for the time being, not connected to the works of the distribution licensee for receiving supply of electricity and also includes a person whose premises have been permanently disconnected by a licensee.*
- (b) *Any person who has made an application for supply of power and whose premises is, for the time being, connected to the works of the distribution licensee for only receiving temporary supply of electricity.*

*(c) Any other person/ premises as may be decided by the Hon'ble Commission from time to time."*

(c) It is submitted that there is a difference between the term 'switchover' and the term 'New Connection/ Consumer' (as defined by Tata Power), in terms of the following:-

- (i) A 'New Consumer' means a person who has made an application for supply of power **AND** his premises are for the time being not permanently connected to the works of distribution licensee. While on the other hand a 'switchover' consumer may make an application while he is still connected to the network of a distribution licensee.
- (ii) The term 'switchover' has been used by this Hon'ble Commission and the Hon'ble Tribunal in the context of the choice available to a consumer, in a parallel licensing scenario, to choose its source and mode of supply, where the distribution *networks of both the licensees already exists*. In other terms 'switchover' consumer means that consumer, who was taking supply from one distribution licensee through its distribution network, and who now chooses to avail supply from another distribution licensee on the *existing network* of the other distribution licensee. On the other hand the Hon'ble Tribunal has used the term 'new connection' in context of network rollout for a consumer who is not permanently connected to the network of any distribution licensee. This is irrespective of the fact whether there already exist a network in the area or whether there is no network. However network rollout would have to meet the criteria as set out in the Electricity Act read with the principles laid down in the Hon'ble Tribunal's Judgment dated 28.11.2014 which are highlighted at Para 9 above.

In view of the above, Tata Power's interpretation of the term 'New Consumer/ Connection' does not render the Hon'ble Tribunal's Judgment otiose as sought to be alleged by R-Infra.

- (d) The submission made by R-Infra in Slide No. 24, 25 and 27 is based on the erroneous assumption that the cost optimization is the only factor which is to be considered while determining/ allowing laying of parallel network. If cost optimization was the only factor to be considered by this Hon'ble Commission in determining laying of parallel network, then the Hon'ble Tribunal would

have completely barred laying of duplicate network. To the contrary, the Hon'ble Tribunal has tried to find a solution within the statutory framework while considering ground realities. In this regard, the Hon'ble Tribunal has merely laid down certain guidelines (Para 58-61 of the Hon'ble Tribunal's Judgment dated 28.11.2014) for the consideration of this Hon'ble Commission while approving Tata Power's Network Rollout Plan. The Judgment dated 28.11.2014 cannot be interpreted in a manner which would make the provisions of the Electricity Act and the rules and regulations made therein otiose and deny any choice to the consumer. Monopoly of one distribution licensee in a parallel licensing scenario can never be envisaged either in terms of the provisions of the Electricity Act or the Hon'ble Tribunal's Judgment dated 28.11.2014.

- (e) In any event, Tata Power has provided various scenarios qua laying of network, including for servicing new consumers/ connection, after keeping in mind the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014.

***Re: Slide No.15 and 44 to 59 of R-Infra's presentation dated 22.09.2015***

21. In the aforesaid slides R-Infra has contended that the Scenarios of Network Rollout as provided by TPC are not in accordance with the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014. Further, R-Infra has also provided its Scenarios of Network Rollout as directed by this Hon'ble Commission.

22. In this regard it is submitted that:-

- (a) The Scenarios provided by Tata Power in its presentation dated 08.09.2015 are in accordance with the provisions of the Electricity Act and the rules and regulations made thereunder, the principles as set out by the Hon'ble Tribunal in its Judgment dated 28.11.2014 and also considering the space constraints in Mumbai. In this regard, Tata Power craves leave to refer to its submissions hereinabove as well as its previous submissions filed in the present Petition.
- (b) The Scenarios proposed by R-Infra are premised upon the following:-
  - (i) The consumer does not have a choice of electing its mode of supply.
  - (ii) Cost optimization is the only criteria to be considered while approving Tata Power's network rollout plan.

- (iii) Wherever there exists R-Infra's network, Tata Power is not permitted to lay down its network. In other words, R-Infra has monopoly to lay down/ augment its network in its licensed area.

The aforesaid premise on which R-Infra has proposed its Scenarios are not only in contravention of the provisions of the Electricity Act but also to the principles set out by the Hon'ble Tribunal in Judgment dated 28.11.2014. In this regard, Tata Power craves leave to refer to its submissions hereinabove as well as its previous submissions filed in the present Petition.

- (c) In other words, R-Infra's proposed Network Rollout Scenarios are premised on the economics of laying network and on the assumption that consumers do not have any choice to elect the network of supply. The consumer choice cannot be subjected to the economics alone and solutions will have to be found within the framework of the Electricity Act and the rules and regulations made thereunder read with the principles laid down in the Judgment dated 28.11.2014. R-Infra's submission is devised to perpetuate its monopoly and deny choice to the consumer on one pretext or the other, which is contrary to the basic scheme of the Electricity Act and the concept of allowing parallel licence in a same area of supply.
- (d) As regards, physical constraints in laying of network, Tata Power craves leave to refer to and rely upon its submissions in Para 7(f) hereinabove.
- (e) The growth of consumer load is irrespective of whether R-Infra or Tata Power lays the network. This is the normal practice of network development by any utility across the country where the network gets loaded over a period of time.

**Re: Slide No.16 and 17 of R-Infra's presentation dated 22.09.2015**

23. In the aforesaid slides R-Infra has sought to highlight certain anomalies in Tata Power's submissions when there exists none. In this regard, it is submitted that:-

- (a) There are no contradictory submissions made by Tata Power as sought to be alleged by R-Infra.
- (b) As regards Tata Power's submissions in Case Nos. 151 of 2011 and 85 of 2013, it is pertinent to note that the Hon'ble Tribunal vide its Judgments dated 28.11.2014 and 29.11.2014 has set aside this Hon'ble Commission's Orders in Case No. 151 and Case No. 85, respectively. Therefore, the inference sought to be drawn by R-Infra by relying upon the submissions made by Tata Power in Case 151 of 2011 and 85 of 2013 are misplaced and ought not be referred or

relied upon herein. In this regard, Tata Power craves leave to refer to and rely upon its submissions made in Para 6 and 7 above.

- (c) All the Scenarios proposed by Tata Power not only provides the choice to the consumers but also has been proposed keeping in mind the provisions of the Electricity Act and the principles laid down by the Hon'ble Tribunal in its Judgment dated 28.11.2014.
- (d) As regards the historical under-loading Tata Power's network (in the range of 25% to 28%), Tata Power craves leave to refer to and rely upon its submissions made in Para 17(i) above.
- (e) As regards, IPDS Guidelines for laying of network, it is submitted that IPDS Guidelines contemplates installation of a new DT where existing peak load of the existing DT exceeds 70% of its rated capacity. In order to ensure a reliable network, the transformation capacity is required to be augmented/ strengthened once the peak loading exceeds the critical level of 70%. In this context, it is submitted that any DT or Feeder, with loading of 60% or above shall be considered for network augmentation/ strengthening as any scheme for design, procurement and installation of DT and related element of network require a period of 18-24 months from conception to actual installation after complying with the licence conditions including tendering. As such, the planning has to commence around 24 months before the anticipated load growth to 70% or above in that segment of distribution network. In this regard, the Petitioner craves leave to refer to and rely upon its Submissions dated 15.09.2015.

24. It is submitted that, Tata Power prays that the present submissions be taken on record. Tata Power reserves its right to file additional affidavit(s) to place on record any other information sought by this Hon'ble Commission and/ or required for the consideration of the present matter.



**Bhaskar Sarkar**

**Head Business Strategy & Regulations**

**For The Tata Power Company Limited/  
Petitioner**



Date: 26<sup>th</sup> Sep, 2015

Place: Mumbai



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY  
COMMISSION

WORLD TRADE CENTRE, CENTRE NO.1, 13<sup>th</sup> FLOOR,  
CUFFE PARADE, MUMBAI 400005

CASE NO. 182 OF 2014

IN THE MATTER OF:

The Tata Power Company Limited

... Petitioner

Versus

BEST Undertaking & Ors.

... Respondents

AFFIDAVIT

I, Mr. Bhaskar Sarkar, son of Mr. Arup Kumar Sarkar, aged 49 years, Head Business & Regulations (Mumbai Operation) of The Tata Power Company Limited ("Petitioner/ Tata Power"), having my office at Dharavi Receiving Station, Near Shalimar Industrial Estate, Matunga, Mumbai 400 019, Maharashtra, India, do hereby state on solemn affirmation as under:-

1. I state that I am the authorized signatory of Tata Power, the Petitioner, in the present Petition and as such I am fully conversant with the facts and circumstances of the present case and I am duly authorized and competent on behalf of Tata Power to swear and affirm this Affidavit.

2. I state that I have read and understood the accompanying Submissions in the captioned Petition and the same has been drafted under my instructions and after carefully going through the same, I state that the content of the same are true and correct to my knowledge and belief and it is stated that no part of it is false and nothing material has been concealed there from.



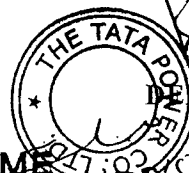
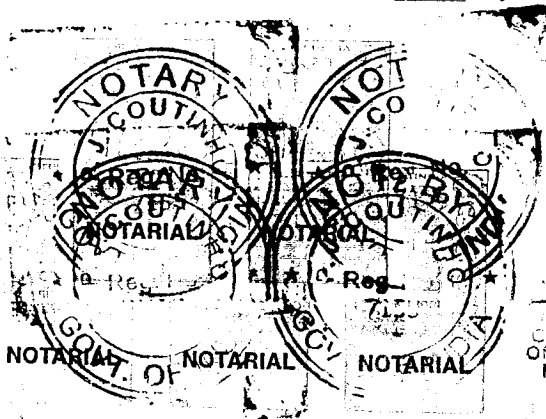
DEPONENT



VERIFICATION

I, the deponent above named, do hereby verify that the contents of my above Affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.

Verified at Mumbai on this 29<sup>th</sup> day of September, 2015.



DEPONENT

BEFORE ME

Peter J. Coutinho

Document AFFIDAVIT

Serial No. 02433 of 29 SEP 2015

Notarial Register No. 211

Peter J. Coutinho - Notary