

The Brihan Mumbai Electric Supply & Transport Undertaking

(OF THE BRIHAN MUMBAI MAHANAGARPALIKA)

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ADDRESS ALL COMMUNICATION BY TITLE
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COURIER : CER/ 110 /2015

DATE: 10 AUG 2015

To,
The Secretary,
Maharashtra Electricity Regulatory Commission,
13th Floor, World Trade Centre,
Cuffe Parade, Colaba
Mumbai – 400 005

Sub.: Petition of Tata Power Company for submission of Revised Network Rollout Plan in compliance to the direction of the Hon'ble Commission in Case No. 90 of 2014 and the direction of the Hon'ble ATE in Appeal Nos. 229 and 246 of 2012 (**Case No. 182 of 2014**)

Ref.: Daily Order dated 30.07.2015

Sir,

In the matter referred above, please find enclosed herewith BEST's Additional Reply to the TPC's Additional Affidavit in Case No. 182 of 2014, for Hon'ble Commission's kind consideration.

Thanking you,

Encl.: As above

Yours faithfully,


(R. D. Patsute)
Chief Engineer
Regulatory

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI

CASE NO. : 182 OF 2014

IN THE MATTER OF:

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

AND IN THE MATTER OF:

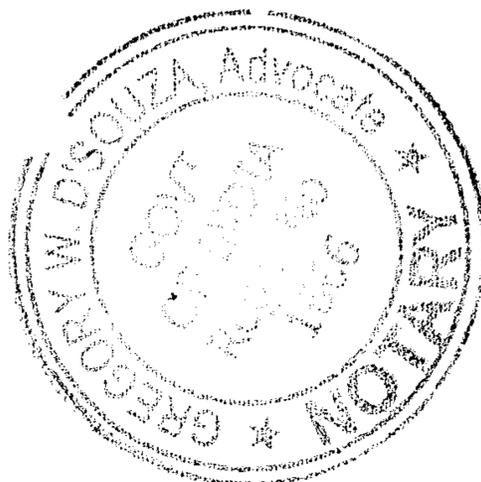
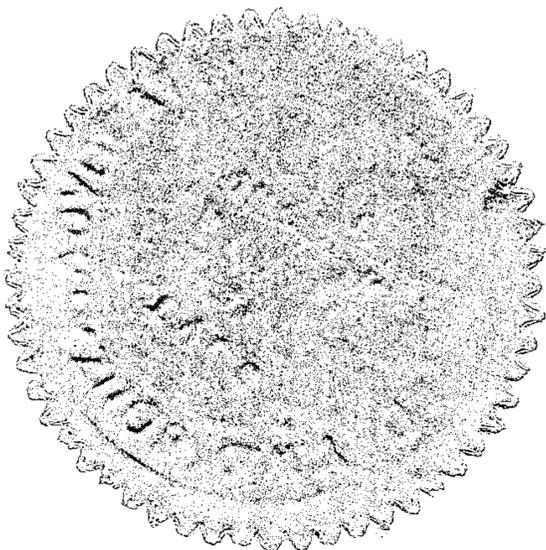
Tata Power Company Limited,
Bombay House, 24, Homi Mody Street,
Mumbai – 400 001

--- Petitioner

AFFIDAVIT VERIFYING THE ADDITIONAL REPLY ON BEHALF OF BEST

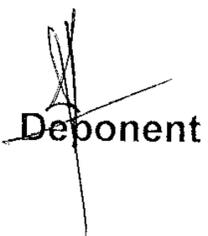
I, Rajendra Dadaram Patsute, son of Dadaram Patsute, aged 48 years, having my office at BEST Bhavan, BEST Marg, Colaba, Mumbai – 400 001 do solemnly affirm and state as follows:

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



3. I say that there are proceedings pending before (i) Hon'ble APTEL under the Appeal No. 243 of 2014, and (ii) Hon'ble Supreme Court of India under the Civil Appeal No. 4074 of 2015 and the Civil Appeal (Diary) No. 11771 of 2015, wherein inter alia TPC and BEST are parties and wherein issues arising and / or relief sought are relevant to the issues arising in the present matter pending before the Hon'ble Commission.

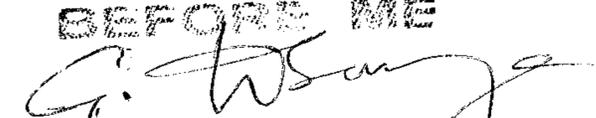
Solemnly affirmed at Mumbai on this _____ day of 11 AUG 2015, 2015 that the contents of this affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.


Deponent

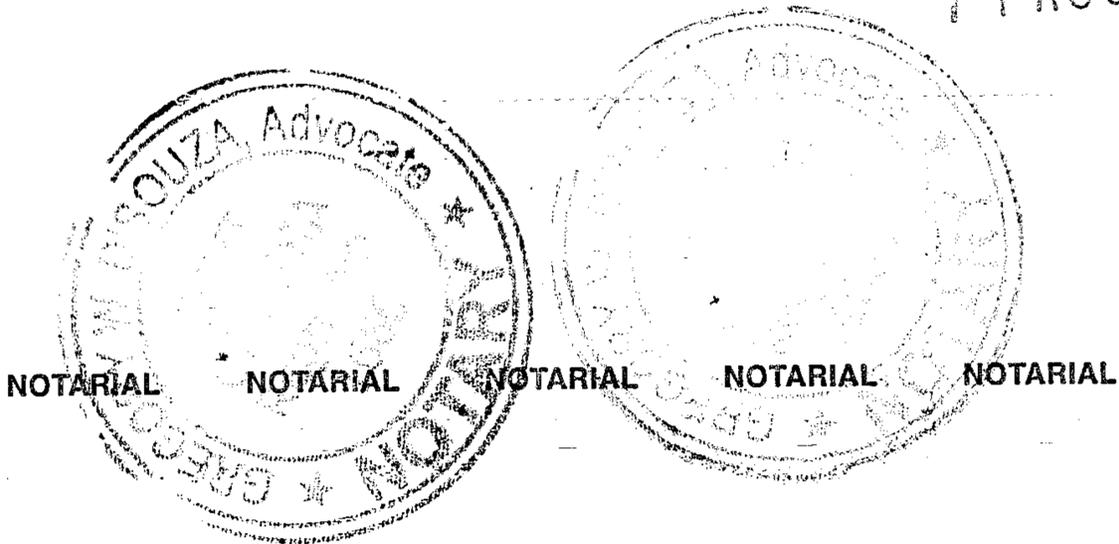
Identified before me

Place: Mumbai

Date: 11 AUG 2015

BEFORE ME

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

11 AUG 2015



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI

CASE NO. : 182 OF 2014

IN THE MATTER OF:

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

AND IN THE MATTER OF:

Tata Power Company Limited,
Bombay House, 24, Homi Mody Street,
Mumbai – 400 001

--- Petitioner

ADDITIONAL REPLY ON BEHALF OF BEST

1. At the outset, BEST denies each and every averment made in the Additional Affidavit of Tata Power Co. Ltd. (i.e. TPC), which is contrary to or inconsistent with that which is stated herein, and humbly submits that nothing in the said Additional Affidavit of TPC be deemed to be admitted by or on behalf of BEST, for want of specific traverse. BEST clarifies that the averments and submissions made herein are in alternative and without prejudice to one another. BEST also craves leave to file a further Affidavit, if necessary.
2. At the further outset, BEST clarifies that there are proceedings pending before (i) Hon'ble APTEL under the Appeal No. 243 of 2014, and (ii) Hon'ble Supreme Court of India under the Civil Appeal No. 4074 of 2015 and the Civil Appeal (Diary) No. 11771 of 2015, wherein inter alia TPC and BEST are



parties and wherein issues arising and / or relief sought are relevant to the issues arising in the present matter, as already stated earlier in the Reply filed by BEST. BEST states that the above (i) Appeal No. 243 of 2014 is pending hearing and final disposal before the Hon'ble APTEL, (ii) Civil Appeal 4074 of 2015 and Civil Appeal (Diary) No. 11771 of 2015 are pending hearing and final disposal before the Hon'ble Supreme Court of India. Without prejudice to the aforesaid Appeal No. 243 of 2014, Civil Appeal 4074 of 2015 and Civil Appeal (Diary) No. 11771 of 2015, BEST is now dealing with the present matter, as hereunder.

3. **PRELIMINARY ISSUES**

- I) It is pertinent that the present Case No. 182 of 2014 is not only a continuation of, but also a part and parcel of, the earlier Case No. 90 of 2014 filed by TPC for grant of distribution licence. Therefore, the Revised Network Rollout Plan submitted by TPC under the present Case No. 182 of 2014, is necessarily required to be examined under a Technical Validation Session (i.e. TVS), thereafter notified to the general public for objections, if any and then decided after a public hearing, by MERC, in compliance with the letter and spirit of Section 15 of the Electricity Act, 2003 and the applicable Rules and Regulations made thereunder. BEST humbly submits that the above proceedings be adopted by MERC to decide the present Case No. 182 of 2014.
- II) It is pertinent that the present Case No. 182 of 2014 is alleged to be filed pursuant to the Judgment dated 28.11.2014 passed by the Hon'ble APTEL in



the Appeal Nos. 246 and 229 of 2012. It is, however, significant that the MERC has already granted distribution license (i.e. Distribution License No. 1 of 2014) dated 14.8.2014 to TPC. In order to comply with the requirements stipulated under the said Judgment dated 28.11.2014 of Hon'ble APTEL, it is necessary to first amend the said distribution license dated 14.8.2014 already granted by MERC to TPC, by duly following the provisions of inter-alia Sections 18 and 15 of the Electricity Act, 2003. As such, BEST humbly submits that such proceedings for amendment of the said distribution license dated 14.8.2014 be first adopted to incorporate the requirements of TPC's Network Rollout Plan made by Hon'ble APTEL in the said Judgment dated 28.11.2014 passed in the Appeal Nos. 246 and 229 of 2012.

- III) It is pertinent that the present Case No. 182 of 2014 is alleged to be filed pursuant to the Judgment dated 28.11.2014 passed by the Hon'ble APTEL in the Appeal Nos. 246 and 229 of 2012. It is, however, significant that the said Judgment dated 28.11.2014 of the Hon'ble APTEL, is neither applicable nor relatable to BEST or its area of supply. In this regard, it is pertinent that the said Appeal No. 246 of 2012 was filed by TPC and the Appeal No. 229 of 2012 was filed R-Infra, before the Hon'ble APTEL, to impugn the Order dated 22.08.2012 made by MERC in the Case No. 151 of 2011. It is further pertinent that the Order dated 22.08.2012 made by MERC in the Case No. 151 of 2011 imposed certain restrictions on TPC with respect to the category of consumers to which TPC could supply electricity by utilising the distribution network of R-Infra and also in respect of areas in suburban Mumbai where TPC was required to lay down its complete distribution network to meet with the Universal Service Obligation of TPC. In this context, it is significant that

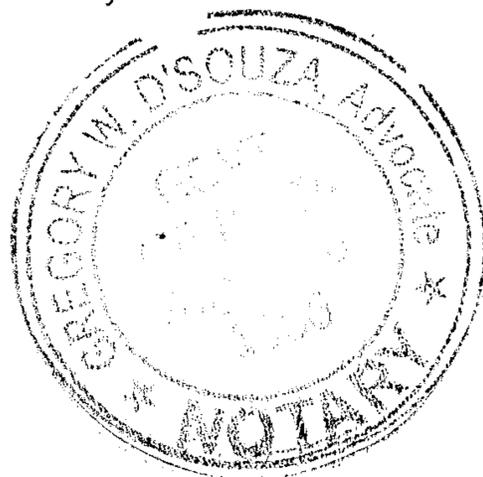


BEST was neither a party before MERC in the said Case No. 151 of 2011, nor a party before the Hon'ble APTEL in the said Appeal Nos. 246 and 229 of 2012. It is also significant that the Order dated 28.08.2012 made by MERC in said Case No. 151 of 2011, was relatable and / or specific to the area of supply common to R-Infra and TPC, i.e. suburban Mumbai and Mira-Bhayandar. Hence, BEST submits that the Judgment dated 28.11.2014 passed by Hon'ble APTEL in the said Appeal Nos. 246 and 229 of 2012 are neither applicable nor relatable to BEST or its area of supply. In the circumstances, the reference to or reliance upon the said Judgment dated 28.11.2014 of Hon'ble APTEL by TPC in the present Case No. 182 of 2014, insofar as BEST or its area of supply is concerned, is malafide and misconceived.

IV) It is pertinent that the Revised Network Rollout Plan submitted by TPC under the present Case No. 182 of 2014 is ex facie :-

(i) not providing for an adequate or timely rollout of distribution network.

The said Network Rollout Plan merely provides for creation and rollout of an independent distribution network in a phased manner over a period of 7 years (i.e. FY 2014-15 to FY 2020-21). It is significant that such phased development of distribution network is contrary to and in violation of the Electricity Act, 2003, and the Rules and Regulations made thereunder, and in particular of the indispensable requirement of the Universal Service Obligation. It is also significant that such phased development of distribution network is only likely to result in selective development of distribution network for "cherry picking" of lucrative consumers of electricity.



(ii) not conducive to level playing field and genuine competition.

The said Network Rollout Plan does not provide equal access to all categories of consumers of electricity, and in particular, for low end residential consumers having consumption between 0-300 units of electricity. The said Network Rollout Plan does not make any specific provision about a creation or rollout by TPC of a distribution network in slum areas and/or low end consumers of electricity.

(iii) not addressing / complying the directions issued and observations made under (a) the Order dated 14.08.2014 made in Case No. 90 of 2014 by MERC, and / or (b) the Judgement dated 28.11.2014 passed in Appeal Nos. 246 and 229 of 2012 by Hon'ble APTEL.

The said Order dated 14.08.2014 of MERC required TPC to submit a Revised Network Rollout Plan, which was cost effective, which provided equal access to all categories of consumers, which created a level playing field and which was optimal for the purpose of meeting the Universal Service Obligation in a time bound manner.

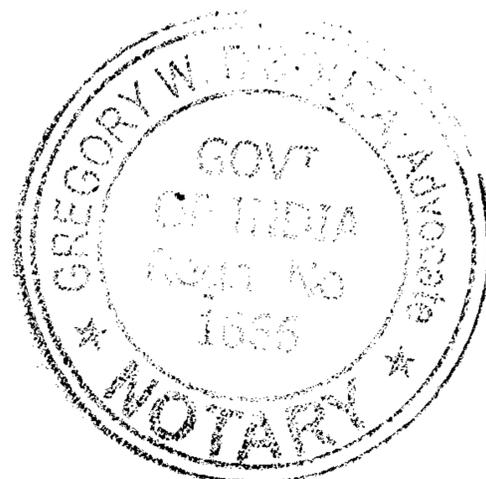
Also, the said Judgment dated 28.11.2014 of Hon'ble APTEL required TPC to create or rollout a distribution network in parallel to an already existing distribution network, only if such creation or rollout of distribution network in parallel by TPC would improve the reliability of supply of electricity and benefit the consumers of electricity. Furthermore, the said Judgment dated 28.11.2014 of Hon'ble APTEL requiring TPC to extend supply to new consumers who seek connection from TPC, would be applicable and relevant only to a consumer in or about whose premises there does not exist / subsist



any distribution network whatsoever. Therefore, TPC cannot extend supply to consumers in or about whose premises there already exists and subsists a reliable distribution network.

4. BEST states that a bare perusal of the Judgment dated 28.11.2014 passed by Hon'ble APTEL in the Appeal Nos. 246 and 229 of 2012 (and in particular Paras 58 to 61 and 80 thereof), clearly makes the following requirements of the Rollout Network Plan of TPC :-

- (i) the Rollout Network Plan of TPC should disclose whether there are practical or physical constraints in rollout of distribution network,
- (ii) in case of such practical or physical constraints, the Rollout Network Plan of TPC should disclose the geographical areas where there are such practical or physical constraints in rollout of distribution network,
- (iii) the Rollout Network Plan of TPC should disclose whether there is already a subsisting distribution network of a pre-existing distribution licensee,
- (iv) in case of such subsisting distribution network, the rollout plan of TPC should disclose and demonstrate that the creation or rollout of a distribution network in parallel by TPC is necessary to improve the reliability of supply of electricity and benefit the consumers of electricity,



(v) the Rollout Network Plan of TPC should disclose whether there are any premises of new consumers, in or about which there is not any distribution network,

(vi) in case of such premises of the consumers, the Rollout Network Plan of TPC should disclose the backbone distribution network and last mile connectivity from such backbone distribution network, for extension of supply of electricity to the premises of such new consumers,

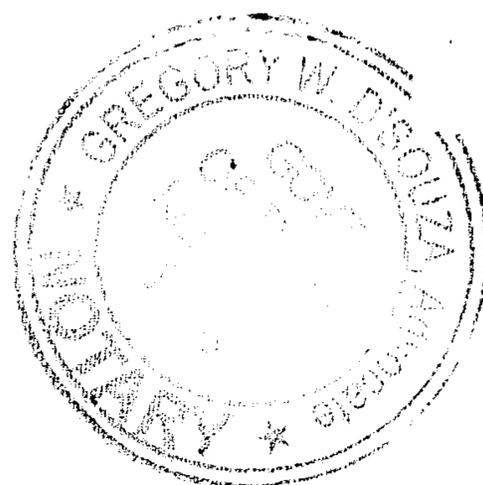
(vii) the Rollout Network Plan of TPC should not selectively create or rollout the distribution network of TPC.

5. However, the Revised Network Rollout Plan submitted by TPC does not at all state, much less specify :-

(a) the subsisting distribution network of a pre-existing distribution licensee,

(b) as to how the subsisting distribution network of a pre-existing distribution licensee is not reliable,

(c) as to how the creation or rollout of distribution network in parallel by TPC would improve the reliability of supply of electricity and benefit the consumers of electricity,



(d) any premises of new consumers, in or about which there is not any distribution network,

(e) as to the backbone distribution network and last mile connectivity from such backbone distribution network, for extension of supply of electricity to the premises of such new consumers,

(f) as to how the creation or rollout of distribution network of TPC is to provide equal access to all categories of consumers of electricity, and in particular to low end consumers having consumption between 0-300 units.

6. BEST is now dealing with the present matter as hereunder :-

A) BEST states that the Revised Network Rollout Plan submitted by TPC under the present Case No. 182 of 2014 does not comply with the observations and directions of MERC in its Order dated 14.8.2014 in Case No. 90 of 2014 as well as the Daily Order dated 30.7.2015 in the present Case No. 182 of 2014.

B) BEST states that the Revised Network Rollout Plan submitted by TPC neither consider entire geographical spread in island city of Mumbai nor indicates whether it would serve all classes of consumers to meet its Universal Service Obligation. The Revised Network Rollout Plan submitted by TPC refers only to new load / growth in demand, which is anticipated to arise in future, and does not at all refer to, much less specify, any purported unreliability of subsisting distribution network of a pre-existing distribution licensee to meet or supply



the existing or new load / growth in demand, as required by the said Judgment dated 28.11.2014 of Hon'ble APTEL. Also, the Revised Network Rollout Plan submitted by TPC proceeds on the basis that TPC is free to choose or selectively create or rollout its distribution network in its area of supply, in contravention of the said Judgment dated 28.11.2014 of Hon'ble APTEL.

- C) BEST has tabulated the original and revised load projection and basis of the load demand on which network rollout is planned by TPC, in the island city of Mumbai, as follows :-

	In Case No. 90 of 2014, TPC's Business Plan for FY 2014-15 to FY 2018-19	In Case No. 182 of 2014, TPC's Revised Network Rollout Plan for FY 2014-15 to FY 2020-21, in the Petition		In Case No. 182 of 2014, TPC's Revised Network Rollout Plan for FY 2014-15 to FY 2020-21, in the Additional Affidavit	
BEST's Maximum Demand in the Island City of Mumbai	Demand estimated and basis of the load demand on which network rollout was planned	Load growth estimated	Basis of the load demand on which network rollout is planned	Load growth estimated	Basis of the load demand on which network rollout is planned
900 MW	450 MW (i.e. 50% of BEST's demand)	280 MW	195 MW	280 MW	139MW

- D) BEST states that although TPC has estimated a growth or rise in load of 280 MW in the island city of Mumbai but the same has been considered only as (i) the natural load growth in the saturated areas in specific wards (i.e. yellow field areas), (ii) the additional load growth due to anticipated redevelopment of existing properties (i.e. brown field areas), and (iii) the addition of load on

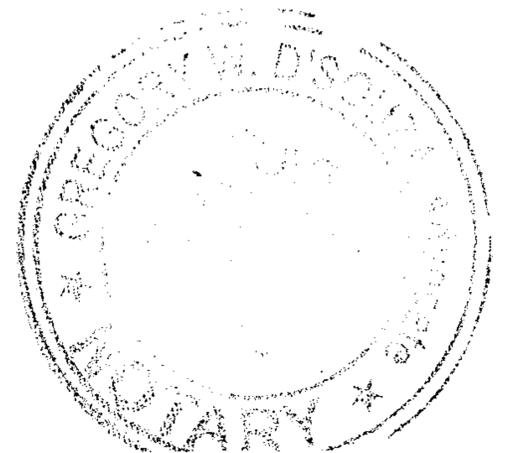


accounts of anticipated new areas for development (i.e. green field areas). It is, however, significant that the load estimated by TPC does not at all reflect or cater to the existing load demand being catered to by BEST in the island city of Mumbai. BEST, therefore, states that the load estimated by TPC does not at all deal with the demand of the existing consumers of BEST, but only selectively seeks to cater to new or fresh load demand in the island city of Mumbai.

- E) BEST submits that although the present maximum demand for the island city of Mumbai is about 900 MW, but TPC in its Revised Network Rollout Plan has merely estimated / projected a limited and meagre additional load of only 139 MW in computation of its entire an independent distribution network for the island city of Mumbai. BEST further submits that the Revised Network Rollout Plan submitted by TPC does not specify the category-wise load demand for consumers and year-wise sales on creation of the backbone distribution network, for the island city of Mumbai.
- F) BEST furthermore states that the Revised Network Rollout Plan submitted by TPC is spread over a period of 7 years (i.e. FY 2014-15 to FY 2020-21) and is moreover catering only to the additional load of 139 MW (i.e. about 50% of load projected by TPC), in the island city of Mumbai. It is significant that the said Revised Network Rollout Plan does not disclose, much less specify, as to how TPC will meet with or satisfy the current and existing load demand of 900 MW, which is being met or satisfied by BEST in the island city of Mumbai.

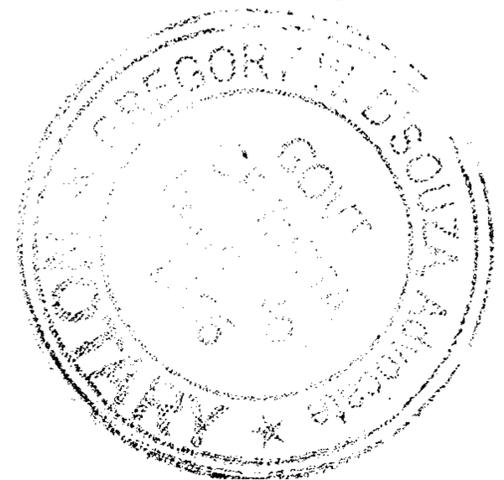


- G) BEST states that the Revised Network Rollout Plan submitted by TPC has projected an addition of 140 MVA DSS capacity, in addition to its allegedly pre-existing 40 MVA DSS capacity, in the island city of Mumbai, to meet or satisfy the additional load demand of 139 MW estimated by TPC in the island city of Mumbai. BEST submits that the allegedly pre-existing 40 MVA DSS capacity and additional 140 MVA DSS capacity (aggregating to 180 MVA DSS capacity) in the island city of Mumbai, is bare minimum capacity and not sufficient for reliable supply of electricity. BEST also submits that such aggregate 180 MVA DSS capacity in the island city of Mumbai, is clearly without the safety of any redundancy for meeting the load demand of 139 MW projected by TPC in its Revised Network Rollout Plan. BEST further states that for meeting even 50% of existing demand of island city of Mumbai the designed capacity of DSS should have been 590 MVA (without any redundancy factor) and 840 MVA (with redundancy factor of 0.7).
- H) BEST states that although the Revised Network Rollout Plan submitted by TPC specifies the year-wise establishment of DSS / CSS, but it does not at all specify the precise geographical address of the proposed DSS / CSS. It is significant that such geographical address of the proposed DSS / CSS, is indispensably necessary to disclose and substantiate compliance with the Universal Service Obligation by TPC. BEST states that as per the network design proposed by the TPC in its Revised Network Rollout Plan, the DSS will feed the downstream CSS network to eventually meet the load demand of the consumer. However, a bare perusal of the GIS Map showing the ward-wise network proposed for the island city of Mumbai (which forms of the Revised



Network Rollout Plan of TPC), clearly discloses that TPC has failed and neglected to establish DSS in the majority of Municipal Wards (i.e. 'B', 'C', 'F/North', 'F/South' and 'G/North') in the island city of Mumbai. BEST states that TPC has planned 140 MVA DSS capacity for projected load demand of 72 MW in the Municipal Wards (i.e. 'A', 'D', 'E' and 'G/South') and does not specified the DSS capacity to meet the remaining load demand of 67 MW in the remaining Municipal Wards of island city of Mumbai. BEST submits that the projection of downstream CSS network by TPC in the island city of Mumbai is completely misconceived and not feasible, in the absence of the establishment by TPC of associated DSS in the majority of the Municipal Wards in the island city of Mumbai.

- I) BEST states that TPC in its Revised Network Rollout Plan has estimated an addition of installed capacity of 140 MVA with approximately 5 No. of DSS in the island city of Mumbai, in phases over a period of 7 years. It is, however, significant that such phased and meagre installed capacity is gravely insufficient to meet its Universal Service Obligation or even 50% of the current load demand (i.e. 900 MW) for the island city of Mumbai.
- J) BEST states that the Revised Network Rollout Plan submitted by TPC provides for rollout of 182 kms. of HV cable and 109 kms. of LT cable spread over a period of 7 years (i.e. FY 2014-15 to FY 2020-21) in the island city of Mumbai. BEST submits that such phased and limited rollout of HV and LT cable clearly discloses the failure and neglect of TPC to meet or comply with its Universal Service Obligation. BEST further submits that the



disproportionate length 182 kms. of HV cable vis-à-vis the length 109 kms. of LT cable, is also a clear indication of the selective rollout of distribution network by TPC to cherry pick lucrative consumers. BEST also submits that the meagre rollout of 182 kms. and 109 kms. of LT cable spread over a period of 7 years is ex-facie insufficient to establish a backbone distribution network and to provide for last mile connectivity to consumers of electricity.

7. In the circumstances and for reasons aforesaid, BEST humbly submits and prays that the said Revised Network Rollout Plan submitted by TPC is gravely inadequate to meet the Universal Service Obligation and duty to supply on request in the spirit of the Electricity Act, 2003 and therefore deserves to be and should be discredited, and the present Petition filed by TPC ought to and should be dismissed, by MERC with costs.



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

Place: Mumbai

Date: 19 AUG 2015

