

**PUBLIC NOTICE**

**Objections/comments on BEST's Petition for inclusion and allowance in favour of BEST the deficit of Transport Business of BEST, in the determination of ARR and Tariff for FY 2004-05 to FY 2008-09  
(Case No. 80 of 2012)**

1. The Brihan-Mumbai Electric Supply and Transport Undertaking (BEST) has filed a Petition for inclusion and allowance in favour of BEST the deficit of Transport Business of BEST, in the determination of ARR and Tariff for FY 2004-05 to FY 2008-09 before the Maharashtra Electricity Regulatory Commission (MERC or Commission) under Sections 51, 61, 62 and 64 of the Electricity Act, 2003, read with MERC (Terms and Conditions of Tariff) Regulations, 2005, read with Regulation 101 of MERC (Multi Year Tariff) Regulations, 2011, read with the Hon'ble Supreme Court's Order dated 8 February, 2011 made in Civil Appeal No. 848 of 2007. The Commission has directed BEST to publish a Public Notice under Section 64(2) of the Electricity Act, 2003 for inviting objections/comments from the public through this Notice.
2. BEST had included the deficit of Transport Business in its Aggregate Revenue Requirement (ARR) Petition of FY 2004-05 and FY 2005-06, however, the Commission disallowed the inclusion of the same in the ARR of Electricity Supply Business in its Order dated 9 March, 2006 in Case No. 4 of 2004.
3. Aggrieved by this Order, BEST had filed Appeal No. 61 of 2006 before the Hon'ble ATE. The Hon'ble ATE in its Judgment dated 18 August, 2006, held that though BEST may continue its Transport Business, it will not enable BEST or authorize the electricity business to subsidise the Transport Business, nor support the said Transport Business or any other business carried by BEST.
4. BEST thereafter filed an Appeal against the Judgment of the Hon'ble ATE dated 18 August, 2006 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, in its Judgment dated 8 February, 2011 in Civil Appeal No. 848 of 2007 between the Municipal Corporation of Greater Mumbai (MCGM) (Appellant) and the Commission (MERC) and others, ruled as under:

*“Undisputedly the appellant was engaged inter alia in the business of distribution of electricity prior to the commencement of the Act. In our opinion it would not be correct to hold that despite the third proviso to Section 51 of the Act, the distribution licensee must not only maintain separate accounts for each of its businesses but must also ensure that the electricity distribution business should not subsidize the other business undertakings. Hence the view of the Tribunal in paragraphs 56 and 57 of its order is not correct.”*

Thus, the Hon'ble Supreme Court ruled that as per the EA 2003, BEST's Electric Supply Business can subsidise the Transport Division, since it is a Local Authority that has been engaged in the business of electricity distribution since before the commencement of the EA 2003.

5. The Commission in the Order dated 16 March, 2012 in the matter of True-up for FY 2009-10 and Provisional true-up for FY 2010-11 (Case No. 125 of 2011) and the Order dated 16 May, 2012 in the matter of ARR and Tariff for FY 2011-12 (Case No. 171 of 2011) has approved inclusion of Transport deficit in the ARR of the Electricity Supply business after deduction to the extent of Return on Equity (ROE) and Return on Internal funds (ROIF) allowed in the respective years. The Commission ruled that the surplus already allowed by the Commission to BEST in the form of ROE and ROIF, which have been given over and above the approved expenses of BEST in the Electricity Distribution Division, may be used by BEST at its discretion to meet some of its Transport Division deficit.

6. In view of the above, BEST has requested the Commission to allow the net transport deficit for the period FY 2004-05 to FY 2008-09 to be recovered by BEST through its Electricity Supply Business. The relevant summary of Transport Division accounts, after adjusting ROE and ROIF in the respective financial years, as per the methodology approved by the Commission, is given below:

**Table 1: Net Transport Deficit**

(Rs. Crore)

Particulars	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	Total
Income	822.17	847.66	889.49	854.89	893.99	
Expenditure	1124.75	1098.24	1253.91	1226.69	1304.80	
Surplus/(Deficit)	-302.58	-250.58	-364.42	-371.80	-410.81	-1700.19
Less: ROE & ROIF allowed the Commission	97.56	100.68	103.34	104.06	104.07	509.71
<b>Net Transport Surplus/(Deficit)</b>	<b>-205.02</b>	<b>-149.90</b>	<b>-261.08</b>	<b>-267.74</b>	<b>-306.74</b>	<b>-1190.48</b>

7. Copies of the following documents can be obtained on written request from the offices of BEST mentioned below:
- Detailed Petition documents along with CD (in English) (on payment of Rs. 50/- by DD/ Cheque/ Cash drawn on “**Brihanmumbai Electric Supply and Transport Undertaking**”)
  - Detailed Petition documents (in English) (on payment of Rs. 25/-).
  - CD of detailed Petition document (in English) (on payment of Rs. 25/-).

**Office:**

Office	Address	Tele / Fax No.
Registered Office	BEST Undertaking, BEST Bhavan, BEST Marg, Colaba, Mumbai – 400 001	22856262 / Fax-22851244
Head Office	Public Relations Officer, BEST Undertaking, BEST Bhavan, BEST Marg, Colaba, Mumbai – 400 001	22856262 / Ext. 395 Fax- 22851244
Divisional Office 1	BEST Undertaking, Customer Care (‘A’ Ward), Electric House, 1st Floor, BEST Marg, Colaba, Mumbai 400001.	22856262 Ext. 513, 523
Divisional Office 2	BEST Undertaking, Customer Care (‘G’ South), 2nd Floor, Transportation Engineering Bldg., Gate No 3, Tilak Road, Dadar, Mumbai 400014.	24183276 / 24146262 Ext. 541.

8. The Commission has directed BEST to invite objections/comments from the public on the above Petition through this notice. Objections/comments may be sent to the Secretary, Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> Floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai-400005 [Fax: 22163976 E-Mail: [best@mercindia.org.in](mailto:best@mercindia.org.in)] by **Wednesday ,21 November 2012**, along with proof of service on General Manager, Brihanmumbai Electric Supply and Transport Undertaking.
9. Every person who intends to file objections/comments can submit the same in English or in Marathi, in six copies, and should mention the full name, postal address and e-mail address, if any, of the sender. It should be indicated whether the objections/comments are being filed on behalf of any organization or category of consumers. It should also be mentioned if the sender wants to be heard in person, in which case opportunity would be given by the Commission at the Public Hearing to be held at **Centrum Hall, Centre No.1, World Trade Centre, Cuffe Parade**,

**Mumbai-400 005 on Thursday, 29 November 2012, at 14.00 Hrs**, for which no separate notice will be given.

10. BEST shall reply to each of the objections/ comments received within three days of the receipt of the same but not later than **Monday, 26 November 2012**, for all the objections/comments received till **Wednesday, 21 November 2012**. Stakeholders can submit their rejoinders on replies provided by BEST either during the public hearing or latest by **Monday, 3 December 2012**.
11. The detailed Petition document is available on BEST's website [www.bestundertaking.com](http://www.bestundertaking.com) and is also available on the website of the Commission [www.mercindia.org.in](http://www.mercindia.org.in) in downloadable format (free of cost).

GENERAL MANAGER  
Brihanmumbai Electric Supply and Transport Undertaking

Dated:           , 2012

Mumbai