

Executive Summary - Tata Power-Transmission MTR

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1. TATA POWER – TRANSMISSION BUSINESS MTR PETITION – EXECUTIVE SUMMARY

1.1 Overall Approach to the Present Filing:

Historical Perspective:

- 1. The Tata Power Company Limited ("Tata Power") is a company established in 1919. On 1st April, 2000, The Tata Hydro-Electric Power Supply Company Limited (established in 1910) and The Andhra Valley Power Supply Company Limited (established in 1916) were merged into Tata Power, to form one unified entity. Consequent to the merger, the Licences of the above mentioned companies were also merged and Tata Power was granted a Licence by the Government of Maharashtra (GoM) for the supply of energy to the public in its Mumbai Licence Area and to supply energy in bulk to Distribution Licensees, vide resolution No: IEA –2001/ CR-10509/NRG-1, dated 12th July, 2001.
- 2. The above mentioned licences were valid till 15th August, 2014. Thereafter, an application was made by the Transmission Business of Tata Power (Tata Power-T) for grant of Transmission Licence in Case No. 112 of 2014. The Hon'ble Commission on 14th August, 2014 granted Transmission Licence to Tata Power for the Transmission Lines and the Receiving Stations (or Transmission Receiving Stations) located in and outside the Mumbai area, owned by Tata Power or proposed to be constructed and owned by Tata Power in future and forming part of the Intra-State Transmission System of Maharashtra for a period of 25 years effective from 16th August, 2014.

1.2 Tata Power - Transmission

3. Tata Power-T is one of the Transmission Licensees of Maharashtra and has completed over a 100 years of operations in Mumbai. During these years of operation, Tata Power-T has continuously ensured that a reliable, technologically advanced and best-in-class transmission network is available for the consumers in and around Mumbai.



- 4. A Transmission network forms the vital link between the Generating stations and load centres for distribution of electricity to the consumers. A Transmission Business unit comprises of Receiving Stations and Transmission Lines. The Receiving Stations of Tata Power-T are located in and around Mumbai. Transmission Lines at various high voltages including EHV underground cables / lines are spread in and around Mumbai and are connected to Thermal as well as Hydro-electric power plants of Tata Power in Maharashtra. The Receiving stations and Transmission Line network including EHV cables are operated and maintained by skilled & trained engineers and staff of Tata Power-T.
- 5. In view of relieving the recent grid congestion scenarios which occurred in the year 2014-15, Tata Power-T dedicatedly supported the STU plans and commissioned following transmission lines within benchmark timelines to enable creation of additional corridor of 800 MW for importing power into Mumbai city:
 - High Ampacity 220 kV Kalwa Salsette Transmission Line No. 3 (300 MW capacity addition to existing corridor)
 - High Ampacity 220 kV Kalwa Salsette Transmission Line No. 4 (300 MW capacity addition to existing corridor)
 - 220 kV double ckt. Inter-connection between MSETCL and Tata Power-T at Borivali (600 MW capacity addition)

The commissioning of all above transmission lines has added a transmission capacity of around 1200 MW.

6. The Transmission system for Mumbai licence area is provided with "Islanding" facility which ensures isolation of Mumbai grid in case of grid failure outside Mumbai thereby ensuring uninterrupted power supply to Mumbai consumers.



- 7. The Transmission line network of Tata Power-T is around 1200 circuit km and comprises of 110 kV and 220 kV overhead lines and Underground cables with N-1 support. There are 21 Transmission Receiving Stations installed, with a combined Transformation capacity of 9400 MVA.
- 8. In addition to local & manual operations of transmission lines and equipment, Tata Power has installed "Supervisory Control and Data Acquisition System" (SCADA) across the transmission network which is operated by Power System Control Centre (PSCC) for real time remote monitoring and control of its all receiving stations. This facilitates faster operations and reduction in the downtime to Transmission System Users (TSUs) in case of power shutdowns through remote operations.

1.3 Filings under Present Petition

- 9. Tata Power-T, in this petition, has presented the following for different years as given below:
 - Impact of Various Judgments on Tata Power-T ARR
 - Truing up of FY 2015-16 based on actual performance
 - Truing up of FY 2016-17 based on actual performance
 - Provisional Truing Up of Projections for FY 2017-18
 - Gap / (Surplus) at the end of FY 2017-18
 - Revised Projections for FY 2018-19 to FY 2019-20
 - Status of Compliance to Directives
- 10. The brief summary of the submission has been presented below:



1.4 Impact of Various Judgments

- 11. Tata Power-T, as a part of this petition, has considered the impact of the Order in Case No. 110 of 2016 dated 19th July, 2017 regarding review of the MYT Order of Tata Power-T dated 30th June, 2016 in Case No. 22 of 2016. The impact is presented below:
- 12. In this Order in Case No. 110 of 2016 amongst five issues raised, the Hon'ble Commission, after due consideration, has reconsidered (i) the Capitalisation of IDC of Rs. 21.74 Crores for 145 kV GIS Sub-Station at BKC and (ii) an additional amount of Rs. 1.53 Crores to Tata Power-T as the net efficiency gain entitlement on account of the revised normative O&M expenses.
- 13. The summary of the total recovery for FY 2014-15 in line with the Order of the Hon'ble Commission in Case No. 110 of 2016 has been presented in the Table below:

Table 1-1: Summary of the Total Recovery for FY 2014-15

	Rs Crores
Particulars	Approved in
	Review Order
Impact of Additional Capitalisation	
Interest on Loan	0.83
Return on Equity	0.51
Sub-total	1.33
Impact of O&M Net Entitlement	
Additional O & M Entitlement	1.53
Total Impact	2.86

- 1.5 Truing Up of FY 2015-16 & FY 2016-17, Provisional Truing Up of FY 2017-18 and Projections for FY 2018-19 & FY 2019-20
- 14. Tata Power-T has presented below the various components of ARR as per the Regulations applicable for the purpose of Truing Up of FY 2015-16 & FY 2016-17, Provisional Truing Up of FY 2017-18 and Projections for FY 2018-19 & FY 2019-20:



1.6 Capitalisation

15. The actual capital expenditure and capitalisation for FY 2015-16 and FY 2016-17, estimated capital expenditure and capitalisation for FY 2017- 18 and the projected capital expenditure and capitalisation for the Control Period FY 2018-19 to FY 2019-20 for Tata Power-T is as shown in the Table below:

Table 1-2: Capital Expenditure and Capitalisation (FY 2015-16 to FY 2019-20)

Rs. Crores

Category	Capital Expenditure				Capitalisation					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
DPR	237.86	180.11	169.58	407.60	642.10	228.18	156.56	216.75	297.15	432.67
Non-DPR	36.34	24.38	28.66	26.89	10.25	38.78	30.97	28.70	37.26	23.97
Total	274.20	204.49	198.24	434.49	652.35	266.96	187.53	245.45	334.40	456.64

1.7 Transfer of Assets from Generation Business of Tata Power to Transmission

16. With the decommissioning of 150 MW Unit 4 at Trombay Generating Station of Tata Power-G in FY 2015-16, the 110 kV switchyard, 22 kV switchyard and all associated equipment now serves only as a Transmission Receiving Station. Hence, in line with the Electricity Act, 2003, it is proposed to transfer these assets to Tata Power-T during FY 2017-18. The impact on the opening GFA, Opening Equity and Opening Loan is shown in the Tables below:

Table 1-3: GFA including Transfer of Assets for FY 2017-18

Rs. Crores

Particulars FY 2017-18

Opening GFA of FY 2017-18

Add GFA of Assets to be b 53.94

transferred

Opening GFA including Assets to c=a+b 3217.55

be transferred



Table 1-4: Opening Equity including Transfer of Assets for FY 2017-18

		Rs. Crores
Particulars		FY 2017-18
Opening Equity of FY 2017-18	а	1038.51
Add Equity of Assets to be	b	16.18
transferred		
Opening Equity including Assets to	c=a+b	1054.70
be transferred		_

Table 1-5: Opening Loan for Assets to be transferred for FY 2017-18

Rs Crores FY 2015-16 FY 2016-17 Loan Opening Balance 14.48 а 0.00 Asset added during the year b 23.41 15.83 Addition of Loan c=b*70% 16.39 11.08 Repayment = Depreciation d -1.90 -5.90 Closing 14.48 19.67 e=a+c+d

17. The ARR for FY 2017-18 has been arrived at considering the revised GFA, Equity and Loan on account of transfer of assets and the same is presented in the Tables below:

1.8 Return on Equity (ROE)

18. With reference to MYT Regulations 2011, Tata Power - T has evaluated the RoE based on actual capitalisation for the period FY 2015-16 and with reference to MYT Regulations 2015, for the period FY 2016-17. The RoE for the Control Period FY 2017-18, FY 2018-19 to FY 2019-20 has been computed based on the projected figures of capitalisation in line with MYT Regulations, 2015. The RoE for the purpose of Truing up and projections for various years has been presented below:



Table 1-6: Return on Equity (FY 2015-16 to FY 2019-20)

Rs. Crores Sr. Particulars FY 2015-16 FY 2016-17 FY 2017-18 FY 2018-19 FY 2019-20 No. 985.39 Regulatory Equity at the 915.61 1,054.70 1,128.33 1,228.65 beginning of the year Less: Equity Portion of Asset de-(10.31)(3.14)capitalised / retired During the Year Capitalisation 266.96 187.53 245.45 334.40 456.64 Equity portion of capitalisation 80.09 56.26 73.63 100.32 136.99 Regulatory Equity at the end of 985.39 1,038.51 1,128.33 1,228.65 1,365.64 the year **Return Computation** 141.92 152.74 174.89 190.44 Return on Regulatory Equity 163.48 @15.5% at the beginning of the Return on Regulatory Equity @50% 7.77 6.21 4.36 5.71 10.62 of capitalisation during the year **Total Return on Regulatory** 148.13 157.10 169.18 182.67 201.06

1.9 Interest and Finance Charges

- 19. The Interest costs have been captured under the following three heads:
 - Interest on Loan
 - Interest on Working Capital
 - Other Finance Charges

Interest on Loan

20. The details of the loans taken for funding the capitalisation for the period from FY 2015-16 to FY 2019-20 have been presented in detail in the respective sections of the Petition. The Interest Amount on the Loans at actuals for FY 2015-16and FY 2016-17 and projected for FY 2017-18 to FY 2019-20 is as shown in the Table below:



Table 1-7: Interest on Loan (FY 2015-16 to FY 2019-20)

Rs. Crores **Particulars** FY 2015-16 FY 2016-17 FY 2017-18 FY 2018-19 FY 2019-20 Opening Balance of Loan 935.36 1003.67 1023.55 1052.99 1132.35 Additions 186.87 234.08 319.65 131.27 171.81 Repayment 118.56 131.06 142.37 154.72 171.58 Closing Balance of Loans 1003.67 1003.88 1052.99 1132.35 1280.42 Overall Interest Rate (%) 10.69% 10.44% 10.44% 10.44% 10.44% **Interest Cost** 103.67 104.75 108.35 114.03 125.89

• Interest on Working Capital

21. The Interest on Working Capital has been computed based on the elements specified in the MYT Regulations, 2011 for FY 2015-16. Similarly, the interest on Working Capital for FY 2016-17 to FY 2019-20 has been computed with reference to MYT Regulations, 2015.

Table 1-8: Interest on Working Capital (FY 2015-16 to FY 2019-20)

						Rs. Crores
Sr.	Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
No.						
1	Maintenance spares at one per cent of	13.22	13.96	17.07	18.61	20.41
	the opening Gross Fixed Assets for the					
2	One-twelfth of the sum of the book value	11.17	29.87	32.18	34.63	37.97
	of stores, materials & supplies					
3	One and a half months equivalent of the	55.65	63.63	82.71	104.96	96.30
	transmission charges					
4	Total Working Capital	80.04	107.46	131.96	158.20	154.68
5	Interest Rate (%)	14.75%	10.31%	9.49%	9.49%	9.49%
6	Interest on Working Capital	11.81	11.08	12.52	15.01	14.68

FY 2015-16: One-twelfth of the sum of book value of stores, materials and supplies at end of each month

• Other Finance Charges

22. The Finance Charges have been considered at actuals which works out to **Rs. 0.03 Crores** for FY 2015-16 as well as for FY 2016-17. Finance charges for the rest of the Control Period i.e. FY 2017-18 to FY 2019-20 has been considered as Nil.



1.10 Depreciation

23. Tata Power - T has computed the Depreciation by applying the rates specified under the MYT Regulations, 2011 for the period FY 2015-16 and under MYT Regulations, 2015 for the period FY 2016-17 to FY 2019-20. Based on the same, the Depreciation works out as given in the Table below:

Table 1-9: Depreciation (FY 2015-16 to FY 2019-20)

					Rs. Crores
Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Opening GFA	2753.94	2986.53	3217.55	3462.99	3797.40
Total Depreciation	118.56	131.06	142.37	154.72	171.58
Average Depreciation (%)	4.31%	4.39%	4.42%	4.47%	4.52%

1.11 O&M Expenditure

24. The O&M expenditure for the period FY 2015-16 and FY 2016-17 has been calculated by applying the norms given in the MYT Regulations, 2011 and the MYT Regulations, 2015 respectively. The same is computed considering the actual number of bays and line lengths in operation. The O&M Expenditure for FY 2017-18 to FY 2019-20 is projected by applying the norms given in the MYT Regulations, 2015 and estimated number of bays and line lengths which would be in operation in the respective years. The bays and line lengths on account of Transfer of Assets from Generation to Tata Power-T has been factored in FY 2017-18. Based on the above, the O&M expenditure has been computed in the Table below:



Table 1-10: O&M Expenditure (FY 2015-16 to FY 2019-20)

Rs. Crores **O&M** Expenditure FY 2015-16 FY 2016-17 FY 2017-18 FY 2018-19 FY 2019-20 **Average Bays for the Year** Between 66 kV and 400 kV 119.44 106.12 124.02 135.70 148.98 Less than 66 kV 61.60 57.13 65.94 71.55 78.58 **Average Transmission Line Lengths for the Year** Between 66 kV and 400 kV 17.41 16.18 14.14 14.88 16.12 **Normative O&M Expenditure** 197.23 177.38 204.84 223.36 244.97

1.12 Income Tax

25. The Income Tax has been computed for FY 2015-16 and FY 2016-17 based on the methodology adopted by the Hon'ble Commission in its MYT Tariff Order for Tata Power-T in Case No 22 of 2016. The Income Tax for FY 2017-18 to FY 2019-20 has been considered as per the latest allowed by the Hon'ble Commission i.e. as per FY 2014-15. Based on the above, the Income Tax for the period from FY 2015-16 to FY 2019-20 is as shown in the Table below:

Table 1-11: Income Tax (FY 2015-16 to FY 2019-20)

					Rs. Crores
Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Income Tax	34.04	23.67	23.67	23.67	23.67

1.13 Contribution to Contingency Reserve

26. The Contribution to Contingency Reserves has been computed at 0.25 % of opening GFA for the period FY 2015-16 to FY 2019-20 subject to not exceeding 5% of the GFA. The Contribution to Contingency Reserves for the period starting from FY 2015-16 to FY 2019-20 is shown in the Table below:



Table 1-12: Contribution to Contingency Reserve (FY 2015-16 to FY 2019-20)

					Rs. Crores
Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Contribution to	6.88	7.47	8.04	8.66	9.49
Contingency Reserves					

1.14 Non-Tariff Income

27. For the period FY 2015-16 and FY 2016-17, Tata Power-T has provided the actual Non-Tariff Income and the same comprises of Recurring items and Non-Recurring items. For FY 2017-18 to FY 2019-20, the Non-Tariff Income has been considered same as that approved in the MYT Order in Case No. 22 of 2016. The Non-Tariff Income for the period FY 2014-15 to FY 2019-20 is as shown in the Table below:

Table 1-13: Non-Tariff Income (FY 2015-16 to FY 2019-20)

					Rs. Crores
Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Non- Tariff Income	108.20	16.89	18.11	19.49	20.97

1.15 Incentive on Transmission Availability

28. The Availability of the Transmission System of Tata Power for FY 2015-16 and FY 2016-17 has been presented as certified by MSLDC. For the period FY 2017-18 to FY 2019-20, no incentive has been considered. However, the same shall be computed and presented at the time of submission of True-up of the respective years. The Incentives considered for the period FY 2015-16 and FY 2016-17 are shown in the Table below:

Table 1-14: Incentive for Transmission System Availability (FY 2015-16 and FY 2016-17)

		Rs. Crores
Particulars	FY 2015-16	FY 2016-17
Incentive	6.88	3.61



1.16 Aggregate Revenue Requirement

29. Based on the actuals for the year for FY 2015-16 and FY 2016-17, the projections of the various elements for period FY 2017-18 to FY 2019-20 and the sharing of Gains / Losses, the ARR for different years is shown in the Table below:

Table 1-15: Aggregate Revenue Requirement (FY 2015-16 to FY 2019-20)

					Rs. Crores
Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
O&M Charges	184.36	170.81	204.84	223.36	244.97
Interest on Long-term Loan	103.67	104.75	108.35	114.03	125.89
Interest on Working Capital	11.81	12.85	12.52	15.01	14.68
Other Finance Charges	0.03	0.03	-	-	-
Depreciation	118.56	131.06	142.37	154.72	171.58
Return on Equity	148.13	157.10	169.18	182.67	201.06
Income Tax	34.04	23.67	23.67	23.67	23.67
Contribution to Contingency Reserves	6.88	7.47	8.04	8.66	9.49
Annual Transmission Charges	607.47	607.73	668.97	722.11	791.34
Less: Non Tariff Income	108.20	16.89	18.11	19.49	20.97
Total Transmission Charges	499.27	590.83	650.86	702.62	770.37
Add: Incentive	6.88	3.61			
Net Aggregate Revenue Requirement from Transmission Tariff	506.15	594.44	650.86	702.62	770.37
TOTAL TRANSPORT TOTAL					

1.17 Gap / (Surplus) for FY 2015-16, FY 2016-17 and Provisional Gap / (Surplus) for FY 2017-18

30. Based on the above calculations, the Revenue for FY 2015-16, FY 2016-17 and FY 2017-18, th net entitlement and the Gap / (Surplus) for FY 2015-16, FY 2016-17 and FY 2017-18 is shown in the Tables below:



Table 1-16: Net Annual Transmission Charges & Gap / (Surplus) for FY 2015-16

Rs. Crores

Sr. No.	Particulars	Approved	Entitlement	Efficiency Gains /	Uncontrollabl	Rs. Crores Net Entitlement
31.140.	i di cidaldi 3	Figures of FY	as per the	(Loss) from	e Factors	after Impact of
		2015-16	Regulations	Controllable	C ructors	Gains / (Loss) from
		1013 10	negulations	factors shared		Controllable factors
				with Consumers		
ı	Revenue					
	-Transmission Charges		445.19			445.19
	- Non Tariff Income	111.30	108.20			108.20
II	Total Revenue		553.39			553.39
ll l	Expenditure					
1	Operation & Maint. Expenses	197.87	197.23	12.87	0.00	184.36
2	Depreciation	115.21	118.56			118.56
3	Int. on Long-term Loan Capital	101.16	103.67			103.67
4	Interest on Working Capital	11.79	11.81			11.81
5	Other Finance Charges	0.00	0.03			0.03
6	Incentive	0.00	6.88			6.88
7	Contingency Reserve	6.83	6.88			6.88
8	Income Tax	66.74	34.04			34.04
9	Return on Equity	146.46	148.13			148.13
П	Total Expenditure	646.06	627.22			614.35
Ш	Pure Gap / (Surplus) for FY 2015-16 (I - II)					60.97



Table 1-17: Net Annual Transmission Charges & Gap / (Surplus) for FY 2016-17

Rs. Crores

Sr. No.	Particulars	Approved Figures of FY 2016-17	Entitlement as per the Regulations	Efficiency Gains / (Loss) from Controllable factors shared with Consumers	Uncontrolla ble Factors	Net Entitlement after Impact of Gains / (Loss) from Controllable factors
ı	Revenue					
	-Transmission Charges					509.07
	- Non Tariff Income	16.83				16.89
II	Total Revenue					525.97
II	Expenditure					
1	Operation & Maint. Expenses	179.18	177.38	6.57	0.00	170.81
2	Depreciation	117.59	131.06			131.06
3	Int. on Long-term Loan Capital	103.08	104.75			104.75
4	Interest on Working Capital	12.41	16.38	-1.76		12.85
5	Other Finance Charges	0.00	0.03			0.03
6	Incentive	0.00	3.61			3.61
7	Contingency Reserve	7.43	7.47			7.47
8	Income Tax	66.74	23.67			23.67
9	Return on Equity	155.38	157.10			157.10
Ш	Total Expenditure	641.82	621.44			611.33
	Past recoveries					
III	Pure Gap / (Surplus) for FY 2016-17 (I - II)					85.37



Table 1-18: Net Annual Transmission Charges & Gap / (Surplus) for FY 2017-18

Rs. Crores

Sr.	Particulars	Net Entitlement
No.	i di dicalalis	THE CENTRE HE HE
140.		
ı	Revenue	679.79
	-Transmission Charges	661.68
	- Non Tariff Income	18.11
II	Total Revenue	679.79
II	Expenditure	
1	Operation & Maintenance Expenses	204.84
2	Depreciation	142.37
3	Interest on Long-term Loan Capital	108.35
4	Interest on Working Capital	12.52
5	Other Finance Charges	0.00
7	Contingency Reserve	8.04
8	Income Tax	23.67
9	Return on Equity	169.18
II	Total Expenditure	668.97
Ш	Pure Gap / (Surplus) for FY 2017-18 (I - II)	-10.82

1.18 ARR including Past Recoveries

31. Based on the approved Gap, the revised ARR for FY 2017-18 and actual Gap / (Surplus) of FY 2015-16 and FY 2016-17, the total amount of past recoveries including carrying cost for future Tariff is presented below:



Table 1-19: Amount to be recovered in FY 2018-19

Rs. Crores

Particulars		As per MYT Order	As per ARR
Past Recovery allowed in the MYT Order	a	-30.94	-30.94
Gap / (Surplus) for FY 2015-16	b	-31.94	60.97
ARR with Past Recovery	c=a+b	-62.88	30.02
Impact of Review Petition	d		2.86
Gap / (Surplus) for FY 2016-17	е		85.37
Gap / (Surplus) for FY 2017-18	f		-10.82
Holding Cost for in FY 2014-15	g		0.21
Holding Cost for in FY 2015-16	h		4.76
Holding Cost for in FY 2016-17	i		10.98
Holding Cost for in FY 2017-18	j		13.64
Total amount to be passed on in FY 2018-19	k=sum (c to j)		137.04

32. The net Annual Transmission Charges for FY 2018-19 and FY 2019-20 considering Gap of previous Years is as shown in the Table below:

Table 1-20: Net ARR for FY 2018-19 and FY 2019-20

Rs. Crores

Sr.No.	Particulars	FY 2018-19	FY 2019-20
1	Past Recovery upto FY 2017-18	137.04	0.00
2	Stand-alone ARR	702.62	770.37
3	Total ARR	839.66	770.37

1.19 Prayers to the Hon'ble Commission

- 33. The Petitioner respectfully prays that the Hon'ble Commission may:
 - Accept the Truing-up for FY 2015-16 in accordance with the guidelines & principles outlined in MYT Regulations, 2011;



- Accept the Truing-up of FY 2016-17 in accordance with the guidelines & principles outlined in MYT Regulations, 2015;
- Accept the Provisional Truing-up of FY 2017-18 in accordance with the guidelines & principles outlined in MYT Regulations, 2015;
- Allow transfer of assets pertaining to Transmission from Generation Business of Tata
 Power to Transmission Business of Tata Power
- Accept the revised projections for FY 2018-19 and FY 2019-20 in accordance with the guidelines & principles outlined in MYT Regulations, 2015;
- Condone any inadvertent omissions / errors / rounding off differences / shortcomings and permit Tata Power-T to add / change / modify / alter this filing and make further submissions as may be required at a future date;
- Pass such further and other orders, as the Hon'ble Commission may deem fit and proper, keeping in view the facts and circumstances of the case.