



**MEGHALAYA
STATE ELECTRICITY REGULATORY COMMISSION**

TRUING-UP PROCEEDING No. 1 of 2010

In the matter of Truing-up of the Annual Revenue Requirement (ARR) of the Meghalaya State Electricity Board (MeSEB), *which was unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010, for the year 2007-08.*

Meghalaya State Electricity Board (MeSEB) [*unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010.*]

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Petitioner

Bynihat Industries Association (BIA)

Respondent

Present : Shri. P.J. Bazeley, Chairman, MSERC.

Date of Order – 18 February, 2011



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Present : Shri. P.J. Bazeley, Chairman, MSERC.
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The instant proceedings relate to the truing up of the Annual Revenue Requirement of the Meghalaya State Electricity Board (MeSEB) *which was unbundled and constituted into a holding company known as the Meghalaya Energy Corporation Limited (MeECL), with effect from 01.04.2010, for the year 2007-08.*

O R D E R

1. It is incumbent on the Commission, to true up every Utility / Licensee's Annual Revenue Requirement (ARR) for the



previous year(s), on the basis of the Audited Statement of Accounts and the Comptroller & Auditor General (CAG)'s Report thereon, for the relevant year, and to make necessary adjustments, to the extent found necessary. In doing so, in the instant case, the Commission places on record that in compliance with the Order dated 09.02.2009 of the Hon'ble Appellate Tribunal for Electricity, in Appeal No. 132 of 2008 directing the Commission to true up the ARR for the year 2007-08 on the basis of financial data for the period ending March 2008, the Commission undertook the provisional truing-up exercise for the year 2007-08, on the basis of financial data made available by the then Meghalaya State Electricity Board (MeSEB), and recorded the outcome thereof in the Commission's Order dated 10.09.2009.

2. The Commission had recorded in para 21 of the aforesaid Order dated 10.09.2009, the result of truing-up the ARR for 2007-08 on the basis of the financial data for the period ending 31st March, 2008, as submitted to the Commission on 09.07.2009, by MeSEB. **The Audit Report of the CAG was not available at that point of time.** In provisionally truing-up the ARR for the year 2007-08, the Commission assessed the trued up ARR at Rs.319.65 crores, as against the ARR of Rs.277.60 crores, allowed by the Commission vide its Tariff (D) Order dated 17.12.2007. Having **placed on record, as above,**



the Commission undertook the final truing-up of the ARR for the fiscal year 2007-08 on the basis of the the printed Audited Statement of Account of the MeSEB for the year 2007-08, read with the Report of the Comptroller & Auditor General of India on the said Audited Statement of Accounts, since submitted to the Commission by MeSEB / MeECL.

3. For such purpose the Commission issued notice to MeECL on 13.08.2010, in which it was stated inter-alia as follows:-

1. *Seen, perused and considered letter No. MeECL/SE(RA)/4/Pt.IV/7 dated 06.08.2010 submitted by the Meghalaya Energy Corporation Limited (MeECL) to the Commission on 09.08.2010, along with printed copies of the Statement of Account of the MeSEB for the year 2007-08, inclusive of the Audit Report of the Comptroller & Auditor General of India (CAG) on the said Accounts for the year ending 31st March 2008. It is also seen and noted from record that the Tariff (D) Petition of MeSEB dt. 31.03.2008 for the year 2007-08 was examined, considered and determined in terms of the Commission Tariff (D) Order dated 17.12.2007 fixing the ARR for the year 2007-08 at Rs.277.60 crores.*
2. *On careful analysis and consideration of the Audited Statement of Account of MeSEB for the year 2007-08 and the Audit Report of the CAG thereon, as stated above, the Commission hereby proposes to determine the trued-up ARR of MeSEB for the year 2007-08 at a proposed level of Rs.317.83 crores. Details of the proposed ARR level of Rs.317.83 crores as against details of the ARR of Rs.277.60 crores, as determined by the Commission vide its Tariff (D) Order dt. 17.12.2007, are reflected in Statement I.*
3. *Let a public notice be issued immediately, through the Press/Electronic Media for the general information of all interested person(s)/party(ies), to enable such person(s)/party(ies), to file their comments and/or objection*



to the proposed truing-up as indicated above, if they so desire. Such comments and/or objections may be filed before the Commission during office hours, on any working days within 20th September, 2010. For the purpose of doing so, such person(s) / party (ies) may if they so desire, obtain a copy of the aforesaid Statement-I together with copy of the Tariff (D) Order dated 17.12.2007, as well as a copy of the Audited Statement of Account of MeSEB for the year 2007-08 and the Audit Report of the CAG thereon, from the office of the Commission, during office hours, on any working day within 10th September 2010, on payment of a processing fee of Rs.200.00 in cash or by bank draft drawn in favour of the Secretary, MSERC, Shillong.

Fix 21.09.2010 for further consideration and orders.

4. On 04.10.2010, the Petitioner (MeECL) submitted a petition to the Commission praying for time for filing their response affidavit as required in terms of Commission's afore-stated Order dated 13.08.2010. The Commission considered their request and allowed them (MeECL) to file their response within 21.10.2010.
5. On 13.10.2010, the Petitioner (MeECL) filed their response dated 12.10.2010, before the Commission, along with a duly executed supporting affidavit of the same date. In the said statement, MeECL stated as follows:-

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6. After due consideration of the contents of the aforesaid response affidavit dated 12.10.2010 filed by MeECL, the Commission issued notice fixing 19.11.2010 for hearing. Keeping in view the pleadings in related earlier proceeding which was disposed of vide Commission's Order dated 10.09.2009, the Commission decided to also issue notice to the Byrnihat Industries Association(BIA) and to provide them an



opportunity to file counter Affidavit, if they so desire, and to be heard, if they so desire, on 19.11.2010.

7. On 13.11.2010, Byrnihat Industries Association(BIA) responded to the Commission's Order dated 13.10.2010 and submitted a Statement dated 12.11.2010, supported by a duly executed Affidavit of the same date. In the said Statement, the BIA stated as follows:-

MOST RESPECTFULLY SHOWETH:

1. *The Respondent is filing the present objections to the petition and accounts filed by the MECL for true up of their financials for the year 2007-08.*
2. *The financials of the MECL for the year 2007-08 was trued up by the Hon'ble Commission based on the audited statements vide the order dated 10.9.2009. The above true up was carried out by the Hon'ble Commission pursuant to the remand order dated 9.2.2009 passed by the Hon'ble Tribunal in Appeal No.132 of 2008.*
3. *In the order dated 10.9.2009, the Hon'ble Commission had trued up the financials of the MECL after considering all the details of the audited statements available and had arrived at a trued up revenue requirement of Rs.319.65 crores for the year 2007-08.*
4. *Aggrieved by the above truing up, MECL had filed an appeal being Appeal No.37 of 2010 before the Hon'ble Tribunal. In the said appeal, MECL had challenged various the various disallowances made by the Hon'ble Commission for the year 2007-08, specifically in regard to prior period expenses disallowed, revenue gain taken into consideration on account of*



2% gain in loss levels etc. determined by the Hon'ble Commission in the order dated 10.9.2009.

5. *By order dated 10.8.2010, the Hon'ble Tribunal has been pleased to dismiss the appeal filed by MECL with regard to the challenge to the truing up for the year 2007-08. The Hon'ble Tribunal has confirmed the truing up for the year 2007-08 and also the various disallowances made by the Hon'ble Commission in the order dated 10.9.2009 for the year 2007-08.*

6. *The Hon'ble Commission has now initiated the present proceedings only on the basis of the audit report of MECL for the year 2007-08 so as to adjust amounts not previously declared. The second truing up process is only to adjust any difference between the audited accounts trued up on 10.9.2009 and the audit report submitted by the CAG. It is well settled that the second truing up is only to adjust the amounts previous not known during the first truing up exercise. It is not an exercise to reopen the accounts and true up the financials afresh. In the case of Karnataka Power Transmission Corporation Limited v. Karnataka Electricity Regulatory Commission, Appeal No.9 of 2008 dated 9.5.2008, the Hon'ble Tribunal relying on its previous judgments has held that in the second truing up exercise, there cannot be any revised basis for truing up. The decision of the Hon'ble Tribunal reads as under:*

“32. In case of NDPL vs DERC, in Appeal No.265 of 2006, the appellant (NDPL) had contended that second truing up is warranted only when there is difference between the provisional accounts on the basis of which the first truing up is done and audited accounts, which may have been furnished after such truing up.



33. We consider it necessary to set out below the relevant extract from this Tribunal's judgment of May 23, 2007 in Appeal No.265 of 2006:

'60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the tariff petition of the utility the Commission has to reasonably anticipate the revenue required by a particular utility and such assessment should be based on practical considerations. It cannot take arbitrary figures of increase over the previous period's expenditure by an arbitrarily chosen percentage of 4% or 20% and leave the actual adjustments to be done in the truing up exercise. The truing up exercise is mentioned (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons thereof or where the Commission is able to suggest some method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence. In any case, the method adopted by the Commission has not helped either the consumer or the utilities. It can only be expected that the Commission will properly understand its role in assessing the



revenue requirement of the utility and in determination of the tariff in accordance with the policy directions and the relevant law in force.'

34. In the present case admittedly there has not been any substantial change between the provisional accounts and the audited accounts on all the three scores the Commission has done the second truing up on the basis of revised policy which is not permissible as per above judgment."

- 7. In the circumstances, it is not open for MECL to reagitate the issue which has become final and binding on the parties in the second true up exercise. The scope of the exercise being limited to consider any amounts not previously disclosed in the audited accounts and which is now available for the first time, the issues raised by MECL have no merit and are liable to be dismissed.*
- 8. The Hon'ble Commission has proposed to true up the total revenue earned for the year at Rs. 321.82 crores after taking into account an amount of Rs.3.67 crores being under-stated receipts of MECL for the year 2007-08. The above income was unreported earlier and on coming to know of the fact of the unreported income for the year 2007-08, the same needs to be adjusted.*
- 9. Similarly, it is submitted that the Hon'ble Commission has rightly reduced the Interest and Finance Charges allowable to MECL for the year 2007-08 from Rs.76.24 crores earlier in the order dated 10.9.2009 to Rs. 58.57 crores. The above is based on the Audit Report that Rs.16.67 crores has not been paid by MECL to the State Government and that MECL has also stated that there is no proposal to pay such amount as interest to the State Government. Similarly, Rs.0.98 crores as interest on CSS*



Loan has not been paid and is to be reduced. To the above extent, the interest and finance charges of MECL needs to be adjusted and reduced to Rs.58.57 crores as proposed by the Hon'ble Commission.

10. The Hon'ble Commission has also proposed the true up of the power purchase cost of Rs.220.97 crores as disclosed in the audited accounts and audit report which includes all the prior period charges on the said count. The above amount is more than what was previously allowed including the prior period charges in the true up proceedings dated 10.9.2009. No additional power purchase cost merits consideration as claimed by MECL.

11. Thus, the present proceeding is restricted only for the above adjustments for the year 2007-08. It is not open for MECL to reopen all other costs and expenses on which the Hon'ble Commission had already decided and which was confirmed by the Hon'ble Tribunal. It is not open for MECL to re-agitate such issues. The Hon'ble Commission has taken the total power purchase cost as depicted in the audited accounts of MECL including the audit report. MECL is only seeking to include expenses not forming part of the audited accounts as verified by the audit report of the CAG. All uncontrollable costs have been included by the Hon'ble Commission and there is no scope for MECL to urge any other alleged uncontrollable expenses not forming part of the audit report of the CAG.

12. It is also submitted that in the order dated 10.9.2009, the Hon'ble Commission had determined an amount of Rs.17.26 crores on account of revenue gain for 2% reduction in AT&C losses. The Hon'ble Commission had determined such figure after taking into account the expected efficiency level to be



achieved by MECL during the year 2007-08, which has not been achieved on account of the inefficiencies of MECL.

13. The above aspect was specifically challenged by MECL in the appeal before the Hon'ble Tribunal. MECL had taken a specific ground of challenge on the above aspect and the inclusion of Rs.17.26 crores as revenue of MECL for the year 2007-08. The Appeal of MECL filed before the Hon'ble Tribunal, inter-alia, reads as under:

“9.7 On the perusal of Table V of the impugned Order (reproduced hereinabove) it is submitted that an amount of Rs.17.26 crore has been wrongfully included by the Ld. MSERC under the head ‘revenue gain for 2% reduction of AT&C losses’ on truing up the Appellant’s accounts for the Financial year 2007-08. In this context, it is noteworthy that:-

- (a) No such amounts were projected by the Appellant in its ARR Petition No.1 of 2007 filed in June 2007.*
- (b) Ld. MSERC by its tariff order dated 17.12.2008 had also not included an amount of Rs.17.26 crores as revenue gain for 2% reduction of AT&C losses.*
- (c) The audited accounts for the financial year 2007-08 duly audited by the CAG did not recognize the said amount of Rs.17.26 crores as included by the Ld. MSERC in the Impugned Order while truing up the Appellant’s accounts for the financial year 2007-08.*

14. However, the above issue was not pressed for adjudication by MECL and thus given upon the hearing. In view of the above, the Hon'ble Tribunal while dismissing the appeal of MECL for the year 2007-08, the order of the Hon'ble Commission has been



confirmed on the ground and thus attained finality. In the circumstances, it is not open for the MECL to urge for or otherwise to re-open the said issue for the year 2007-08.

15. Thus, it is submitted that the revenue gain of 2% taken in the order dated 10.9.2009 to the amount of Rs.17.26 crores requires to be maintained and the same cannot be reduced. The order of the Hon'ble Commission as confirmed by the Hon'ble Tribunal on the issue cannot be allowed to be re-opened by the MECL. Thus, it is submitted that the Hon'ble Commission include the above amount of Rs.17.26 crores as the income of MECL for the year 2008-09, which was included in the order dated 10.9.2009 and also confirmed by the Hon'ble Tribunal.

16. In the circumstances, it is submitted that the Hon'ble Commission dispose of the present proceedings by truing up the revenue requirements as proposed and to increase the revenue requirements by the amount of Rs.3.67 crores being the unreported income of MECL towards the income of MECL for the year 2007-08 and also include the sum of Rs.17.26 crores as revenue of MECL for the year 2007-08 as included in the order dated 10.9.2009 and confirmed by the Hon'ble Tribunal. The Hon'ble Commission may adjust the surplus available for the year 2007-08 towards the revenue requirements of MECL for the subsequent year.

17. The Respondent crave leave to add to the contentions mentioned above and make oral submissions in the hearing before the Hon'ble Commission.

8. During hearing on 19.11.2010, the MeECL was present and represented by learned Additional Chief Engineer(Commercial) Shri C.Kharkrang and 3 Other Officers, and the Byrnihat Industries Association were present and represented by



learned Counsel Ms.Swapna Shesadri and 3 Association Members. The Learned representative of the MeECL reiterated the issues reflected in their response affidavit dated 12.10.2010 and underscored the following -

1. Need to include prior period power purchase cost of Rs.19.58 crores;
 2. Need to include prior period wheeling cost of Rs.3.16 crores;
 3. Need to include prior period employee expenditure of Rs.0.58 crores;
 4. Need to include prior period income tax expenditure of Rs.7.68 crores.
 5. Need to adjust AT & C loss calculation based on revised projections as reflected in their Affidavit dated 12.10.2011.
9. Responding to the issue raised by MeECL the learned Counsel representing Byrnihat Industries Association reiterated the issues reflected in their Affidavit dated 12.11.2010 and underscored the following -
1. The total revenue requirement claimed by the MeSEB / MeECL in their Tariff Petition for 2007-08 was Rs.443.09 which is over 38 percent above actual, causing malafide and uncalled for burden on the consumers;
 2. The MeSEB / MeECL had been resorting to over projection of their ARR with a view to obtain higher tariff rates than admissible;
10. After careful consideration of audit documents on record of this proceeding, the response affidavit dated 12.10.2010 filed by MeECL, the counter affidavit dated 12.11.2010 filed by the Byrnihat Industries Association (BIA) and the oral submissions of MeECL as well as the Byrnihat Industries Association during hearing on 19.11.2010, the Commission finds as follows:-



1.1. Truing up of the ARR for 2007-08

1. Purchase of Power:

The cost of purchase of power as shown against Sl. 6 of Statement-1, at Page-10 of the Audited Statement of Accounts for the financial year 2007-08, is Rs.203.1980 crores. However, the Audit Report of the CAG reveals as follows:-

- | | | |
|----|--|-----------------|
| 1. | Cost of Purchase of power as shown against Sl.6 of Statement-1 at Page 10 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs.203.1980 Cr. |
| 2. | Understated liability against amount payable to NEEPCO for purchase of power, as indicated in Audit Note at Sl.1 of Page-2 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs. 8.5900 Cr. |
| 3. | Understated liability against amount payable as UI Charges to NERPC, as indicated in Audit Note at Sl.2 of Page-2 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs.4.7700 Cr. |
| 4. | Understated liability against amount payable to NTPC for purchase of power, as indicated in Audit Note at Sl.3 of Page-2 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs.1.9300 Cr. |
| 5. | Understated liability due to non provision of amount payable to NEEPCO as Income Tax on purchase of power, as indicated in Audit Note at Sl.4 of Page-2 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs.1.7000 Cr. |
| 6. | Understated liability due to non provision of amount payable as DPC On UI bills, as indicated in Audit Note at Sl.5 of Page-2 of the Audited Statement of Accounts for the fiscal year 2007-08 | Rs.0.7821 Cr. |

Total Cost of Purchase of Power during 2007-08 = Rs. 220.9701 Cr.

ADD UNCONTROLLABLE EXPENDITURE for purchase of power during prior period as per Schedule 18 : Sl.No,2(a) of Audited Statement of Accounts for the fiscal year 2007-08 = Rs. 19.5774 Cr

ADD UNCONTROLLABLE EXPENDITURE for Wheeling Charges relating to prior period as per Schedule 18 : Sl.No,2(f) of Audited Statement of Accounts for the fiscal year 2007-08 = Rs. 3.1658 Cr

Grand Total Cost of Purchase of Power during 2007-08 = Rs. 243.7133 Cr.
Say = Rs.243.71 Crores



Thus the total cost of purchase of power during 2007-08, is trued up on the aforesaid basis, at Rs.243.71 crores, as against an amount of Rs.146.87 crores approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

2. Repair and Maintenance:

The cost of repair and maintenance is trued up at Rs.17.23 crores, as indicated in the entry at Sl.8 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.14.63 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

3. Employees' Cost:

The employees' cost is trued up at Rs.95.93 crores as indicated in the entry at Sl.9 of Statement-1, at Page-10 of the Audited Statement of Account for the year 2007-08, as against an amount of Rs.89.17 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007.



The prayer of the MeECL to include the amount of Rs.0.5818 crores for Employee cost relating to prior period as per Schedule 18 : SI 2 © of the Audited Statement of Accounts for the fiscal year 2007-08 relates to `Prior Period Expenditure'. Such expenditure on employee's costs are entirely of a controllable nature. Commission had analyzed, examined and discussed the matter relating to prior period charges, in great depth in its provisional truing-up Order dated 10.09.2009. In doing so, the Commission had decided to allow prior period expenditure which were of an uncontrollable nature such as costs of purchase of power, wheeling charges etc., but had also decided not to allow prior period expenditure which were of a controllable nature such as Employee Costs, etc., The MeSEB / MeECL had appealed against this decision to the Hon'ble Appellate Tribunal in Appeal No37 of 2010. While disposing of the Appeal vide its' Order dated 10.08.2010, the Appellate Tribunal had upheld the Commission's decision relating to uncontrollable / controllable prior period expenditure. In view thereof, the matter is no longer open for further consideration. **Consequently, the MeECL's prayer to allow an amount of Rs.0.5818 crores as**



Employee cost relating to prior period as reflected in Schedule 18 : Sl 2 © of the Audited Statement of Accounts for the fiscal year 2007-08 is not considered by the Commission.

4. **Administration and General Expenses:**

Administration and General Expenses is trued up at Rs.7.32 crores, as indicated in the entry at Sl.10 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.5.76 crores, approved vide Commission's Tariff (D) Order dated 17.12.2007.

5. **Other Debits (including provision for Bad Debts)**

Other Debts (including provision for Bad Debts) is trued up at Rs.2.22 crores, as indicated in the entry at Sl.15 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08 as against an amount of Rs.12.13 crores, approved vide Commission's Tariff (D) Order dated 17.12.2007.

6. **Provision for Income-Tax:**

Expenses on Income Tax is trued up at Rs.0.50 crores, as indicated in the entry at Sl.17 of Statement-1, at Page-10 of the Audited Statement



of Accounts for the year 2007-08, read with para 6:1 of these Orders, as against `nil' amount approved by the Commission vide Tariff (D) Order dated 17.12.2007.

6:1. As regards, the prayer of the Petitioner (MeECL) to include the amount of Rs.7.68 crores as `Short Provision for Income Tax in prior period as per Schedule 18 : Sl 2(g) of the Audited Statement of Accounts for the fiscal year 2007-08, relates to `Prior Period Expenditure'. The Commission finds that such prior period expenditure is purely of a `controllable nature' and cannot be included at this stage of truing-up. It is also placed on record that the Commission had vide para 21.1.1 of its' provisional truing-up Order dated 10.09.2009, held as follows -

`It is verified from records that the Respondent has actually paid an amount of Rs.0.50 Crores as Income Tax on 29 February 2008 to the Income Tax Circle, Shillong. The approved provision for such purpose during 2007-08 is Rs.0.15 Crores. In view of the inescapable nature of this expenditure, the revenue requirement against this purpose, during the said year is increased from 0.15 Crore to 0.50 Crore,'



In view thereof, Commission trues up the 'Provision for Income Tax' at Rs.0.50 Crores, as against 'nil' amount, approved vide Commission's Tariff (D) Order dated 17.12.2007.

7. **Depreciation**

Depreciation expenses is trued up at Rs.12.90 crores, as indicated in the entry at Sl.11 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.14.71 crores, approved by the Commission vide Tariff (D) Order dated 17.12.2007.

8. **Interest & Finance Charges –**

Interest & Finance Charges indicated in the entry at Sl.12 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, includes an amount of Rs.16.67 crores, shown as interest payable on State Government loans as indicated at Sl.1 of Schedule-12, at Page 21 of the Audited Statement of Accounts for the year 2007-08 . On query by the Commission, MeSEB reported vide their letter No. MeSEB/SE(RA)/33/62 dated 29.10.2009 that they(MeSEB) have not paid any



amount as interest on State Government Loan during 2007-08 and there is no proposals to pay any amount of interest on State Government Loans during 2009-10, etc. The Commission, therefore, holds that this amount of Rs.16.67 crores, reflects an amount that was payable to State Government, but was not paid. It was retained by MeSEB. The Commission cannot allow the burden of this amount to be passed on to the consumers through the ARR. As such, the Commission excludes this amount, leaving an amount of (Rs.76.24 minus Rs.16.67) crores, equal to Rs.59.57 crores. Similarly, the amount of Rs.76.24 crores also includes an amount of Rs.0.98 crores payable as interest on loans from Central Sponsored Scheme (CSS), as indicated at Sl.5 of Schedule-12, at Page 21 of the Audited Statement of Accounts for the year 2007-08. On query by the Commission, the MeSEB reported vide their letter No. MeSEB/SE(RA)/42/37 dated 09.03.2010 that they(MeSEB) have not paid any amount as interest on CSS loans during 2007-08 or subsequently. The Commission, therefore, holds that this amount of Rs.0.98 crores, reflects an amount that was payable to Central Government, but was not paid. It



was retained by MeSEB. The Commission cannot allow the burden of this amount to be passed on to the consumers through the ARR. As such, the Commission excludes this amount, leaving an amount of (Rs.59.57 minus Rs.0.98) crores, equal to Rs.58.59 crores. The expenditure on the interest & finance charges during 2007-08 is therefore trued up at Rs.58.59 crores as against Rs.55.57 crores, approved vide Commission's Tariff (D) Order dated 17.12.2007.

Thus, the Commission trues-up the total revenue expenditure including depreciation and interest & finance charges, during the year 2007-08, at Rs.438.40 crores as against an amount of Rs.338.84 crores approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

9. **'Capitalised Interest & Finance Charges'**

Further, the Commission trues-up the 'Capitalised Interest & Finance Charges' at Rs.44.47 crores, as indicated in the entry at Sl.13 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against 'nil' amount approved



by the Commission vide its Tariff (D) Order dated 17.12.2007.

10. **`Capitalised Other Expenses`**

Further, the Commission trues-up the `Capitalised Other Expenses` at Rs.10.66 crores, as indicated in the entry at Sl.14 of Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against `nil` amount approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

11. **Capitalised Expenses to be deducted from trued up revenue expenditure**

From the position reflected in items 10 and 11 above, the Commission trues-up the capitalised costs to be debited from the trued up revenue expenditure at (Rs.44.47 + Rs.10.66) = amounting to Rs.55.13 crores, as against `nil` amount approved by the Commission vide its Tariff (D) Order dated 17.12.2007.



12. **Revenue Expenditure excluding capitalized Expenses**

From the position reflected in item 12 above, the Commission trues-up the revenue expenditure excluding capitalised costs on interest & finance charges, as well as on other expenses at (Rs.438.40 minus Rs.55.13) crores, amounting to Rs.383.27 crores, as against an amount of Rs.338.48 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

13. **Other Deductions:**

- (i) **Other Income** – The Commission trues-up the `Other Income` at Rs.32.39 crores, as indicated in the entry at Sl.10 of Schedule-5, at Page-16 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.13.72 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007
- (ii) **R.E. Subsidy** – The Commission trues-up the other income received by MeSEB as subsidy for rural electrification at Rs.10.80 crores, as indicated in the entry at Sl.1 of Schedule-4, at Page-15 of the Audited Statement of Accounts



for the year 2007-08, as against an amount of Rs.10.80 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007.

- (iii) **Subsidy against power purchased** – The Commission trues-up the other income received by MeSEB as subsidy for rural electrification at Rs.22.00 crores, as indicated in the entry at Sl.2 of Schedule-4, at Page-15 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.10.80 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007.
- (iv) **Recoveries against supply of power to Government Departments** -The Commission trues-up the other income thru' recoveries against supply of power to government departments at Rs.`nil`, as indicated in the Statement-1, at Page-10 of the Audited Statement of Accounts for the year 2007-08, as against an amount of Rs.65.00 crores, approved by the Commission vide its Tariff (D) Order dated 17.12.2007



(v) **Fiscal Loss for failure to cause 3 % reduction of AT&C losses –**

The Commission notes from records that the AT&C loss level of the Petitioner (MeSEB) during the year 2006-07 was 32.94 percent as reported by MeSEB vide their letter No.MESEB/SE(RA)33/33 dated 04.09.2009. The mandated minimum reduction of AT&C losses for Entities having an AT&C loss level in excess of 30 percent, is 3 percent from the previous years' level, as per standing guidelines in such regard. The maximum permissible AT&C loss level for the Petitioner(MeSEB) during 2007-08 after reduction of their previous years AT&C loss by 3 percent is, therefore, (32.94 minus 3.00) equals to 29.94 percent. The Commission notes that the AT&C losses of MeSEB during the year 2007-08 was 31.62 percent, as reported by them(MeSEB) vide enclosure to their letter No.MESEB/SE(RA)33/33 dated 04.09.2009. As such, the Commission finds that there was a short fall of (31.62 minus 29.94) equal to 1.68 percent in minimum reduction of AT&C losses during the year



2007-08. The total quantity of energy sold by MeSEB during 2007-08 was 1058.10 million units as per the Audited Statement of Accounts for that year.

The contention of the MeECL in their Affidavit dated 12.10.2010 that their AT&C losses for the fiscal year 2007-08 had been further revised to 28.91 percent from 31.62 percent is not acceptable to the Commission, at this stage. It is not open to MeECL to continue to revise their figures in such regard, from time to time. Data submitted to the Commission under duly sworn Affidavit, needs to be duly verified and firm. Such data cannot be taken lightly. The Commission does not accept this contention of MeSEB / MeECL.

Consequently, the Commission holds that the shortfall in mandated reduction of AT&C losses was equivalent to 1.68 percent of 1058.10 million units of electricity, which works out to 17.7760 million units. The average aggregate Unit Rate for sale of power during 2008-09 is Rs.(Revenue Expenditure excluding capitalized interest and finance charges amounting to Rs.383.27



Crores **minus** Other Income of Rs.32.39 Crores **minus** R.E.Subsidy of Rs.10.80 Crores **minus** subsidy for purchase of power of Rs.22.00 Crores **plus** Return on Equity of Rs.28.28 Crores) = Rs.346.36 Crores / Total Energy Sales of 1058.10 million units = 327 paise per unit , as per the Audited Statement of Accounts for that year. The Commission, therefore, concluded that the inefficiency of the Petitioner (MeSEB) to reduce AT&C losses by the mandated level during 2008-09 resulted in a fiscal loss of Rs(17.7760 million units X Rs.3.27 per unit) equaling Rs.5.81 crores. The Commission, accordingly fixes the penalty to be imposed on the Petitioner(MeSEB) for its inefficiency and failure to reduce AT&C losses by the mandated level during the year, to an amount of Rs.5.81 crores, by which amount the Petitioner(MeSEB)'s trued-up ARR for the said year 2008-09 shall stand reduced.

- (vi) On the basis of its' findings reflected in sub-items (i), (ii), (iii) and (iv) above, the Commission trues-up the amount of 'Other Deductions' from the trued-up ARR of the Petitioner at Rs(32.39 + 32.80 + 5.81) equaling an amount of Rs.71.00 crores.



14. **Revenue requirements after deductions**

On the basis of its' findings reflected at items 1 to 14 of para 14 above, the Commission trues up the Revenue Requirement of the Petitioner(MeSEB) for the year 2007-08, after all deductions at Rs (**383.27 crores**, as reflected in para 12 above, **minus Rs.71.00 crores**, as reflected at item (vi) of para 13 above), **totaling to Rs.312.37 crores**, as against an amount of Rs.249.32 crores, approved vide Commission's Tariff(D) Order dated 17.12.2007.

15. **Return on Equity**

In truing-up the ARR for the year 2007-08, the Commission retains the return on equity at the rate of 14 percent on the Petitioner's Equity Base of Rs.202.00 crores, amounting to Rs.28.28 crores, as approved vide Commission's Tariff(D) Order dated 17.12.2007.

16. **Net Trued-up Annual Revenue Requirement of MeSEB for the year 2007-08 –**

Based on the findings reflected in items 1 to 15 above, the Commission trues up the Annual



Revenue Requirement of the Petitioner (MeSEB) for the year 2007-08 at Rs.(312.37 + 28.28) = **Rs.340.55 crores**, as against an amount of Rs.277.60 crores, approved vide Commission's Tariff(D) Order dated 17.12.2007.

17. Revenue collected from Sale of Power

The Commission notes from the Audited Statement of Accounts for the year 2007-08 that the revenue collected from the sale of power during that year was Rs. 321.82 crores, as follows –

1. Income from Sale of Power during 2007-08 as reflected against Sl.1 of Statement 1 at Page 10 of Audited Statement of Accounts for 2007-08=	Rs.318.15 Cr.
2. Add – Understated Receipts during 2007-08 against receivables for sale of UI power as per CAG's Audit Note No.9 at Page 3 of the Audited Statement of Accounts for 2007-08	= Rs. 3.67 Cr
3. Total Income from Sale of Power by MeSEB during 2007-08	= Rs.321.82 Cr.
4. ADD UNCONTROLLABLE revenue income from revenue receipts from consumers during prior period	= Rs. 9.32 Cr.
Total	= Rs.331.14 Cr.

18. Revenue Surplus (+) or Deficit (-)

The Commission notes that as against a tried-up ARR of Rs.340.55 crores for the year 2007-08, the MeSEB / MeECL's revenue receipts from the sale of power, during the same year was Rs.331.14 crores, resulting in a revenue deficit/gap of Rs.9.41 crores.

The Commission, therefore, directs that the MeSEB / MeECL to hold this revenue deficit / gap



amounting to Rs.9.41 crores as Regulatory Liability, for further orders of the Commission.

The adjustment of this amount of Regulatory Liability shall be determined in the manner prescribed therefore, by suitable Regulation, to be notified by the Commission, in exercise of the powers enabling it to do so, in terms of the provisions of the Electricity Act of 2003.

The fiscal Statement of the Trued-up Annual Revenue Requirement (ARR) of the Petitioner (MeSEB) for the years 2007-08, in Tabular Form is given in Table-I below.



STATEMENT - I						
STATEMENT SHOWING TRUING-UP						
OF ANNUAL REVENUE REQUIREMENT OF MeSEB FOR THE YEAR 2007-08						
based on the audited statement of accounts for the year 2007-08, read with the CAG's report thereon						
Sl.No	Item	2007-08 (Rs. in Crores)				Remarks
		ARR for 2007-08 as allowed vide MSERC Order dt.17 Dec 2007	ARR for 2007-08 as provisionally trued up by Commission vide its Order dated 13.08.2010, based on the Audited Statement of Accounts for 2008-09, read with CAG's Audit Notes thereon	ARR for 2007-08 as proposed by MeECL vide their Affidavit dated 12.10.2010	ARR for 2007-08 as finally trued up by Commission vide its Order dated 18.02.2011 in Truing-Up Proceedings No.1 of 2010.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
I	REVENUE EXPENDITURE					
1.	Purchase of Power	146.87	220.97	203.20	203.20	
				Purchase of power including transmission charges	17.77	17.77
				Purchase of power as per Audit Report dated 22.04.2010 at para 2 in Audit Statement of Accounts 2008-09 at page 2		
				Power purchased relating to prior period as per Audit Accounts Schedule 18, Sl.No.2(a)	19.58	19.58
				Wheeling Charges relating to prior period as per Audit Accounts Schedule 18, Sl.No.2(f)	3.16	3.16
				Sub-Total	243.71	243.71
2.	Generation of Power	0.00	0.00	0.00	0.00	
3.	Repair & Maintenance	14.63	17.23	17.23	17.23	



(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	Employees Cost	89.17	95.93	Employee Expenses in current year	95.93	95.93
				Employee cost relating to prior period as per Audit Schedule 18, Sl.No.2(f)	0.58	0.00
5.	Administration and General expenses	5.76	7.32	7.32	7.32	
6.	Other Debits (including provision for Bad Debts)	12.13	2.22	2.22	2.22	
7	Provision for Inc. tax	0.00	0.15	Income Tax	0.15	0.50
				Short provision for income tax in prior period as per AAS 18, Sl.2(g)	7.68	0.00
8.	Revenue Expenditure excluding Depreciation and Interest & Finance Charges (1+2+3+4+5+6+7)	268.56	343.82	374.82	366.91	
9.	Depreciation	14.71	12.90	12.90	12.90	
10.	Interest & Finance Charges on –					
(i)	State Government Loan					
(ii)	Central Government Loans					
(iii)	Other Loans, Bonds, Advances etc., and Finance Charges					
(iv)	Total Interest & Finance Charges allowed by Commission for inclusion in ARR	55.57	58.59	58.59	58.59	



(1)	(2)	(3)	(4)	(5)	(6)	(7)
11.	Revenue Expenditure including Depreciation and Interest & Finance Charges [8+9+10(iv)]	338.84	415.31	446.31	438.40	
12.	Less Capitalised Expenses on					
(i).	Interest & Finance Charges	0.00	44.47	44.47	44.47	
(ii).	Other Expenses	0.00	10.66	10.66	10.66	
(iii).	Sub total of Capitalised Expenses	0.00	55.13	55.13	55.13	
13.	Revenue Expenditure excluding capitalized Interest & Finance Charges and Other Capitalised Expenses (11-12)	338.84	360.18	391.18	383.27	
(i).	Other income	13.72	32.39	32.39	32.39	
(ii).	R.E. Subsidy	10.80	32.80	10.80	10.80	
(iii).	Subsidy against power purchased	0.00	0.00	22.00	22.00	
(iv).	Recovery against supply of power to Government Departments	65.00	0.00	0.00	0.00	
(v).	Fiscal Loss for failure to cause 3% reduction of AT&C loss	0.00	5.44	4.20	5.81	
(vi).	Sub-total of Other Deductions	89.52	70.63	69.39	71.00	
15.	REVENUE REQUIREMENT AFTER DEDUCTIONS	249.32	289.55	321.79	312.27	
16.	Add: Return on equity	28.28	28.28	28.28	28.28	
17.	NET ANNUAL REVENUE REQUIREMENT	277.60	317.83	350.07	340.55	
18.	TOTAL ENERGY SALES in MU's	1058.10	1058.10	1058.10	1058.10	
19.	Avg Unit Cost of Power in Paise/ Unit	262	300	331	322	



(1)	(2)	(3)	(4)	(5)		(6)	(7)
20.	Actual Revenue collected from Sale of Power		321.82	Actual Revenue collected from Sale of Power	321.82	321.82	
				Prior period income on Receipts from Consumers	9.32	9.32	
				Total	331.14	331.14	
21.	Surplus (+) / Deficit (-) of Net Revenue from Sale of Power over Annual Revenue Requirement during 2007-08		(+) 3.99	(-) 18.93		(-) 9.41	
22	Net Regulatory Liability / Asset created vide Commission's Order dated 18.02.2011 in Truing-Up Proceedings No.1 of 2010					Regulatory Liability of Rs.9.41 Crores	

Given under the hand and seal of the Meghalaya State Electricity Regulatory Commission, this 18th.day of February, 2011, at Shillong.

P.J.Bazeley
Chairman
Meghalaya State Electricity Regulatory Commission
18th.February, 2011.

