

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**

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**Case No. 90 of 2014**

**In the matter of**

**Application for the grant of Distribution Licence in Mumbai City and Part of Mumbai Suburban Area, [areas of Mira Bhayandar Municipal Corporation including area covered under Chene and Varsave which are contiguous with TPC's existing area of Licence]**

**Smt. Chandra Iyengar, Chairperson**

**Shri. Vijay L. Sonavane, Member**

**Shri. Azeez M. Khan, Member**

**The Tata Power Company Limited**

Registered office:

Bombay House,

24, Homy Modi Street,

Mumbai – 400001

....Applicant

**ORDER**

**Dated: 14 August, 2014**

The Tata Power Company Limited filed a Petition before this Commission applying for grant of Distribution Licence under the provisions of Section 15 of the Electricity Act, 2003 and Maharashtra Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulations, 2006. The proposed area of supply is within the geographical boundaries of the State of Maharashtra.

The Maharashtra Electricity Regulatory Commission, under the powers conferred on it by Section 86(1) (d) read with the Section 14 of the Electricity Act, 2003, may grant licence(s) to persons seeking to act as Transmission Licensee(s), Distribution Licensee(s) and Electricity Trader(s) in the State of Maharashtra. Since Tata Power has applied for grant of Distribution Licence within the State of Maharashtra, this Commission is the Appropriate Commission for this case. Accordingly, this Commission has admitted the Petition and decides the same through this Order.

## Abbreviations used in this Order

Abbreviation	Meaning
<b>ATE/ APTEL</b>	Appellate Tribunal for Electricity
<b>BEST</b>	The Bruhanmumbai Electric Supply and Transportation Undertaking
<b>CAGR</b>	Compounded Average Growth Rate
<b>CEA</b>	Central Electricity Authority
<b>CSS</b>	Consumer Sub-Station
<b>DSS</b>	Distribution Sub-Station
<b>E1</b>	Minimum area of supply requirement
<b>E2</b>	Capital adequacy requirement
<b>E3</b>	Creditworthiness requirement
<b>E4</b>	Code of conduct requirement
<b>E5</b>	Requirement of own distribution system
<b>EA 2003</b>	Electricity Act 2003
<b>EHT</b>	Extra High Tension
<b>EOI</b>	Expression of Interest
<b>FY</b>	Financial Year
<b>GIS</b>	Geographic Information System
<b>GoM</b>	Government of Maharashtra
<b>HR</b>	Human Resources
<b>HT</b>	High Tension
<b>IRG</b>	Internal Resource Generation
<b>kVA</b>	Kilo Volt Ampere
<b>LT</b>	Low Tension
<b>MCGM</b>	Municipal Corporation of Greater Mumbai
<b>MERC</b>	Maharashtra Electricity Regulatory Commission
<b>MSEDCL</b>	Maharashtra State Electricity Distribution Company Limited
<b>MVA</b>	Mega Volt Ampere
<b>MW</b>	Mega Watt
<b>MU</b>	Million Units
<b>NDMC</b>	New Delhi Municipal Council

<b>Abbreviation</b>	<b>Meaning</b>
<b>PAN</b>	Permanent Account Number
<b>PPA</b>	Power Purchase Agreement
<b>PGCIL</b>	Power Grid Corporation of India Limited
<b>PPP</b>	Public Private Partnership
<b>PVVNL</b>	Paschimanchal Vidyut Vitaran Nigam Limited
<b>RInfra</b>	Reliance Infrastructure
<b>RMU</b>	Ring Main Unit
<b>RPO</b>	Renewable Purchase Obligation
<b>RSS</b>	Receiving Sub-Station
<b>S1</b>	Power procurement plan
<b>S2</b>	Management and technical expertise
<b>SOP</b>	Standards of Performance
<b>SPV</b>	Special Purpose Vehicle
<b>TAN</b>	Tax Deduction and Collection Account Number
<b>TPC</b>	The Tata Power Company Limited
<b>TPDDL</b>	Tata Power Delhi Distribution Limited
<b>TVS</b>	Technical Validation Session
<b>USO</b>	Universal Service Obligation

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# 1. Background

## 1.1. Historical Background

- 1.1.1. Four licences had been issued to the predecessor of The Tata Power Company Limited (TPC/ Tata Power) under the erstwhile enactments to supply electricity in and around Mumbai. These licences were:
- The Bombay (Hydro-Electric) Licence dated 5 March, 1907 originally granted to Dorabji J. Tata and Ruttonji J. Tata. The licence was further assigned in favour of The Tata Hydro Electric Power Supply Company Limited on 7 September, 1910,
  - The Andhra Valley (Hydro Electric) Licence dated 3 April, 1919 issued in favour of the Tata Hydro-Electric Power Supply Company Limited,
  - The Nila Mula Valley (Hydro-Electric) Licence, 1921 dated 15 November, 1921 issued in favour of Tata Power, and
  - The Trombay Thermal Power Electric Licence, 1953 dated 19 November, 1953 in favour of the Tata Hydro Electric Power Supply Company Limited, the Andhra Valley Power Supply Company Limited and Tata Power.
- 1.1.2. The 1907 licence, 1919 licence, 1921 licence and 1953 licence are hereinafter collectively referred to as “Tata Power Licences”. As per Clause 15 of these licences, the applicability of Clause VI of Schedule (which deals with Universal Supply Obligation) of the Indian Electricity Act 1910, was excluded for Tata Power (amalgamated entity) in respect of consumers having maximum demand less than 1000 kVA.
- 1.1.3. The Tata Power Licences were amended from time to time by various Notifications issued by Industries, Energy and Labour Department, Government of Maharashtra. In this regard, it is pertinent to note that the Government of Maharashtra vide its Notification No. LTT. 6789/C.R.-1459 (iv)/ NRG-2 dated 14 June, 1991, extended the validity period outlined under Clause 14 of the above licensees up to 15 August, 2014.
- 1.1.4. On 18 October, 2000, the Bombay High Court passed an Order in Company Petition No. 828 of 2000 connected with Company Application No. 336 of 2000, amalgamating The Tata Hydro-Electric Power Supply Co. Ltd. and the Andhra Valley Power Supply Co. Ltd. with the TPC. Pursuant to the said order of the Bombay High Court, the transferor companies (i.e. The Tata Hydro-Electric Power Supply Co. Ltd. and the Andhra Valley Power Supply Co. Ltd.) stood dissolved and all the approvals, consents, licences, registration etc. connected with or related to the undertaking of the transferor entities stood automatically transferred to TPC with effect from 1 April, 2000.
- 1.1.5. Upon sanction of amalgamation by the Bombay High Court by its Order dated 18 October 2000, the Government of Maharashtra, through its Resolution No. IEA-2001/CR-10509/NRG-1 dated 12 July, 2001 gave its consent for the transfer of the said 1907 licence, 1919 licence and the 1953 licence to TPC. Since then, TPC is holding the aforesaid four licences and supplying and distributing electricity in the licenced area as specified under the Tata Power Licences.



- 1.1.6. Consequent to enactment of EA 2003 and the Judgment of the Supreme Court dated 8 July, 2008 in Civil Appeal No. 2898 of 2006 with Civil Appeal No. 3466 and 3467 of 2006, wherein the Supreme Court held that TPC has a valid licence and is entitled to supply electricity in retail directly to consumers including those whose maximum demand is less than 1000 kVA, apart from its entitlement to supply electricity to other licensees, this Commission issued the MERC (Specific Conditions of Distribution Licence applicable to The Tata Power Company Limited) Regulations, 2008 stating the Distribution Licence of TPC shall remain in force till 15 August, 2014.
- 1.1.7. TPC has been carrying out the business of distribution of electricity in parts of Municipal Corporation of Greater Mumbai (MCGM), comprising the Mumbai District and a major part of the Mumbai Suburban District) and parts of Mira Bhayandar Municipal Corporation (MBMC) in Thane Division. TPC is currently serving a consumer base of about 5 lakh consumers in various categories of supply. The provisional sales of TPC as of February, 2014 are reported to be around 6,098 MUs.

## **1.2. Invitation of Expression of Interest by MERC**

- 1.2.1. As the term of licence of TPC was coming to an end, this Commission invited Expressions of Interest through a Public Notice dated 1 January, 2014 for Distribution of Electricity in existing area of supply of TPC (refer to Annexure 1.1:), inviting interested parties, including consortiums/joint ventures, with expertise in electricity distribution to indicate their interest in undertaking distribution of electricity in the existing area of supply of TPC in the Mumbai city, part of Mumbai suburban area and area under Mira Bhayandar Municipal Corporation.
- 1.2.2. Interested Applicants were asked to furnish the 'Expression of Interest' to MERC, with a statement of capability and experience and other credentials to demonstrate that they are qualified to perform the intended services, by 31 January, 2014.

## **1.3. Response to the invitation of Expression of Interest**

- 1.3.1. In response, the Commission received Expressions of Interest from the following three parties by 31 January, 2014.

**Table 1 : Applications received in response to EoI**

<b>S. No.</b>	<b>Name of the parties who expressed interest for licence</b>
<b>1</b>	The Tata Power Company Limited
<b>2</b>	Maharashtra State Electricity Distribution Company Limited
<b>3</b>	India Power Corporation Limited

## **1.4. Receipt of Petitions by the Commission**

- 1.4.1. Subsequently the Commission advised all these parties through separate letters to submit Applications for the Distribution Licence in accordance with provisions of the Electricity Act, 2003 and relevant Regulations of the Commission. Only two parties out

of the above three applied for the Distribution Licence through their respective licence Applications. The names of these Applicants, date of receipt of the Applications and the Case No. assigned to their Applications were as follows.

**Table 2: List of Applicants applied for Distribution Licence**

S. No.	Name of Applicant	Date of Receipt of Application	Case No. Assigned
1	The Tata Power Company Limited	7 April, 2014	Case No. 90 of 2014
2	Maharashtra State Electricity Distribution Company Limited	4 April, 2014	Case No. 87 of 2014

## 1.5. TPC's Petition for Distribution Licence

1.5.1. TPC submitted its Petition on 7 April, 2014 applying for grant of licence for electricity distribution in the area of Mumbai District (Mumbai Island City) and parts of Mumbai Suburban District (Mumbai suburban area), area of Mira Bhayandar Municipal Corporation (including area covered under Chene and Varsave villages, which are contiguous to TPC's existing area of licence), as per Section 14 read with Section 15 of the EA 2003 and in accordance with the requirement laid down under the MERC (General Conditions of Distribution Licence) Regulations, 2006. This Petition was numbered Case No. 90 of 2014.

1.5.2. The prayers set out by TPC in the Petition are as follows:

*"In the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Commission may be pleased to:*

*(a) Admit the present Application alongwith the attached documents, submitted by Tata Power for grant of licence under Section 14 and 15 read with Section 86(1)(d) of Electricity Act, 2003;*

*(b) Grant Distribution Licence to Tata Power for a period of 25 years with effect from 16th August, 2014, in accordance with the provision of Section 14 read and 15 of the Electricity Act, 2003, read with MERC (General Conditions of Distribution Licence) Regulation, 2006 for the entire distribution which includes South Mumbai and parts of Mumbai Suburban Areas, areas of Mira Bhayandar Municipal Corporation including area covered under Chene and Varsave;*

*(c) Condone any inadvertent omissions / errors / shortcomings and permit Tata Power to add / change / modify / alter this filing and make further submissions as may be required at a future date;*

*(d) Any other relief that Hon'ble commission may deem fit."*

1.5.3. TPC's existing licence for distribution covers a wider area comprising the island city of Mumbai, parts of Mumbai suburban area (major parts of Mumbai Suburban District) and part of area of Mira Bhayandar Municipal Corporation. Reliance Infrastructure Limited (RInfra) is a Distribution Licensee in the Mumbai suburban area and Mira Bhayandar Municipal Corporation area including Chene and Varsave villages. The Bruhanmumbai

Electric Supply and Transport Undertaking (BEST) is a Distribution Licensee in the Mumbai island city (primarily Mumbai District), whose area of supply is part of the existing licence area of TPC. TPC's existing licence for distribution overlaps the area served by BEST and partial area served by RInfra (excluding T ward and partially excluding S ward falling under MCGCM). The Commission observes that any party including TPC seeking grant of Distribution Licence in the area currently served by TPC after 15 August, 2014 will have the status of a second Distribution Licensee if such licence is granted to. Therefore, the Commission treats the present Licence Application to be grant of Second Distribution Licence.

## **1.6. Technical validation**

- 1.6.1. The Commission held two Technical Validation Sessions (TVS) on 17 April, 2014 and 23 April, 2014 respectively for the Application submitted by TPC.
- 1.6.2. The Application submitted by TPC was analysed for preliminary data gaps. The data gaps so identified were communicated to TPC. During the first TVS the Commission directed TPC to provide certain details as follows:
  - Greater clarity as to how it intends to address the specific issues of distribution of electricity which are prevailing in the proposed area of supply;
  - Projections of consumer demography over time and geographical spread within the proposed area of licence;
  - Details of increase in LT consumers over the years in its existing area of supply; and
  - Alternative plan where required land is not available as per the requirement mentioned in its Business Plan.
- 1.6.3. The second TVS was held on 23 April, 2014. Representatives of TPC made a detailed presentation elaborating the growth of consumers from FY 2008-09 to FY 2014-15, expected growth of consumers till FY 2018-19, current network status, network rollout plan to meet future consumer demand and other issues. TPC highlighted the historical consumer mix and projected consumer mix in the future. Further, TPC elaborated on the zone wise network rollout plan for the proposed licence area and highlighted the initiatives taken to expedite and overcome the barriers in the network rollout.
- 1.6.4. The details of the data gaps identified, TPC's response and the presentations made by TPC were uploaded on the [website of TPC](#) on 9 May, 2014.

## **2. Compliance with Section 15 of the Electricity Act, 2003**

### **2.1. Requirement of Notification of Application under sub-Section (2) of Section 15 of EA 2003 by the Applicant**

2.1.1. Regulation 5.3.2 of the MERC (General Conditions of Distribution Licence) Regulations, 2006 specifies the particulars that shall be furnished in the Notice of Application to be published by the Applicant in accordance with Regulation 5.3.1 of these Regulations. This was considered as the minimum necessary compliance for the admittance of the Application for grant of licence.

2.1.2. Section 15(2) of the EA 2003 states that:

*“(2) Any person who has made an application for grant of licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted*

-

*(i) until the objections, if any, received by the Appropriate Commission in response to publication of the application have been considered by it:*

*Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of the publication of the notice as aforesaid;*

*(ii) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Appropriate Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.”*

2.1.3. Further, Regulation 5 of the MERC (General Conditions of Distribution Licence) Regulations, 2006, states that:

*“An applicant shall publish a notice of his application for grant of licence within seven (7) days from the date of intimation as provided in Regulation 5.2.2 in not less than two (2) daily English language newspapers and two (2) daily Marathi language newspapers which are widely circulated in the proposed area of supply”*

### **2.2. Admission of Petition and Public Notice of TPC**

2.2.1. The Commission admitted TPC's Application for grant of Distribution Licence on 6 May, 2014 and directed TPC to issue a Public Notice on or before 9 May, 2014. Accordingly, TPC published the Public Notice on 9 May, 2014 in three daily English Newspapers (DNA, Indian Express and The Financial Express) and in two daily Marathi Newspapers (Loksatta and Prahar). A copy was also made available on the Commission's as well as TPC's websites (refer to Annexure 1.2:).

### **2.3. Compliance with Sub-Section 2(ii) of Section 15 of EA 2003**

- 2.3.1. As per the procedure prescribed for grant of licence in Section 15 (2) (ii) of Electricity Act, 2003, if an Application for a licence is received for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission has to ascertain that there is no objection to the grant of the licence on the part of the Central Government. Accordingly, the Commission issued a letter to the Central Government on 13 May, 2014 inviting objection(s), if any, with reference to the grant of Distribution Licence by the Commission. Since the Commission did not receive any communication in this respect within 30 days from the date of the issue of the letter, it is deemed that the Government does not have any objection in this regard.

### **2.4. Prima facie eligibility of TPC for grant of Distribution Licence**

- 2.4.1. Considering the material on record, the Commission noted that, apart from satisfying the requirements of capital adequacy, creditworthiness, code of conduct and minimum area requirement of the proposed area of supply, TPC's plan also proposes to rollout TPC's own distribution system in the proposed area of supply. TPC has also proposed to procure most of the required power through long-term contracts to meet the power requirement in the proposed area of supply. TPC also has sufficient experience in the value chain of electricity in the last 3 years and has gained substantial management and technical expertise for professionally running the distribution business, besides rolling out advanced technologies. The Commission observes that TPC has already established certain network and is proposing to create a network covering its entire area of supply as per the mandate of Section 43 of EA 2003. Therefore, the Commission considered TPC to be prima facie eligible and competent for the grant of Distribution Licence in the proposed area of supply.

### **2.5. Requirement of Notification by the Commission under sub-Section (5) of Section 15 of the EA 2003**

- 2.5.1. Sub-Section (5) of Section 15 of the EA 2003 requires that the Appropriate Commission shall issue a Public Notice before grant of Distribution Licence to an Applicant.

*“(5) Before granting a licence under section 14, the Appropriate Commission shall -  
(a) publish a notice in two such daily newspapers, as that Commission may consider necessary, stating the name and address of the person to whom it proposes to issue the licence;”*

### **2.6. Notice published by the Commission**

- 2.6.1. Having been prima facie satisfied that TPC was eligible for grant of Distribution Licence, the Commission published a notice on 18 and 19 June, 2014 proposing grant of Distribution Licence to TPC in two daily English newspapers (The Times of India and

Indian Express) and in two daily Marathi newspapers (Maharashtra Times and Loksatta) in the proposed area of distribution. The Public Notice stated inter alia as follows:

*“On consideration of the material available on record, the Commission is satisfied that prima facie the applicant qualifies for grant of Distribution licence for the proposed area of supply. The Commission proposes to grant the licence to the applicant, as a Distribution Licensee, in accordance with Maharashtra Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulations, 2006 subject to fulfilment of all the requirements laid down in the Act and Regulations”*

2.6.2. The Public Notice was hosted on the Commission’s website as well. It was intimated that a Public Hearing inviting suggestions/ objections in the matter would also be held on 10 July, 2014.

## **2.7. Public Hearing**

2.7.1. As per the above notice the Commission held a Public Hearing at Centrum Hall, World Trade Centre, Colaba, Mumbai on 10 July, 2014. Several written objections and suggestions have been received by the Commission in response to the Public Notice issued and also many verbal representations were also heard by the Commission during the proceedings of the Public Hearing.

### 3. Salient features of TPC's Petition

3.1.1. The following are the salient features of the Application submitted by TPC for distribution of electricity in the Mumbai city, parts of Mumbai suburban area and area of Mira Bhayandar Municipal Corporation including villages of Chene and Varsave in the State of Maharashtra (pursuant to Regulation 5.1 of MERC (General Conditions of Distribution licence) Regulations, 2006). A tabulated statement of documents submitted by TPC is given below:

**Table 3 : Salient features of TPC's Application Form**

Part/Section	Description	Details provided
<b>Part A: General Information</b>	General Information	TPC has provided all the basic details as specified in this Part of the Application. Primary contact details, registered office details, registration number, date of incorporation and registration are provided.
<b>Part A: 7 (c)</b>	Name and addresses of the Board of Directors	TPC has provided requisite details of the Board of Directors and promoters in Annexure – 1 of their Application.
<b>Part A: 7 (c)</b>	Ownership/ Shareholding pattern	TPC has provided the shareholding pattern in Annexure-2 of its Application. According to the Annexure, the promoter group holds 32.47% of the total shares; institutional investors hold 48.57% of the shares, 15.78% is held by non-institutional investors and public shareholding is 3.18%. The largest shareholder is Tata Sons Ltd, which hold 29.81% of the shares.
<b>Part B: 1</b>	Memorandum and Articles of Association (in case of a Company) as in force on the date of Application	TPC has provided a copy of the Memorandum of Association and Articles of Association in Annexure – 3 of their Application form, which indicates that distribution of electricity has been covered in these documents as part of its scope of business.
<b>Part B: 2a</b>	An organization chart detailing the management structure of the Applicant, which shall include information (in respect of operations, projects, commercial, finance, regulatory IT and HR functions) a) Senior Executive Management (along with curriculum vitae);	The Organizational chart has been attached in Annexure-4 of the Application form. TPC has submitted all the necessary information with respect to the management details in Annexure-5 of their Application. The same is elaborated in the Part on Management expertise. TPC has also submitted that some of the corporate functions like legal, finance and HR are shared corporate services.

Part/Section	Description	Details provided
<b>Part B: 2b</b>	b) Board of Directors (along with curriculum vitae);	TPC has submitted that it has 10 Directors on the Board. The details of the Board of Directors were provided in the Application form in Annexure-6.
<b>Part B: 2c</b>	Number of middle/lower management personnel	No. of middle management personnel – 36 No. of junior management personnel – 302
<b>Part B: 2d</b>	Relationship (including intending relationship, where applicable between the Applicant and key ..... to the Application for grant of licence.	TPC provided that this is not applicable. It mentioned that it is presently managing the Electricity Distribution business in South Mumbai and parts of Mumbai suburban area.
<b>Part B: 3, 4</b>	Details of Income tax PAN/TAN; Details of import licence, if any	The details of the Income tax PAN and TAN are given. TPC also mentioned that it does not have an import licence.
<b>Part B: 5</b>	Bank references asserting that the Applicant is financially solvent	HDFC bank has provided the solvency certificate and has mentioned in the certificate that TPC has tangible net worth of Rs.13,657 crore as on 31 March, 2013 and can be considered solvent to the extent of Rs. 13,657 crore.
<b>Part B: 6</b>	Annual Audited Reports for the past 3 years for the Applicant and for any Holding Company, Subsidiary or affiliated Company (if any).	TPC has provided its Annual Reports for the financial years FY2010-11 to FY2012-13. The same were attached in Annexure-8. There were no adverse remarks by the Statutory Auditors on the financial statements of the Company in last 3 years.
<b>Part B: 7</b>	Any other documentary evidence to substantiate the financial capabilities, technical competence and others.	TPC has attached credit rating report issued by CARE Ratings to substantiate its creditworthiness (Annexure-9 to the Application).  TPC also provided a document detailing its technical competence to continue to carry out its distribution business as Annexure-10 to the Application.



Part/Section	Description	Details provided
<b>Part B: 8</b>	Details of the actual or proposed location of the system of electric lines and electrical plant by means of which the Applicant intends to enable distribution of electricity, indicating which plant and lines are to be constructed and which are existing plant and lines, and the area to which the Application for licence relates.	<p>TPC has mentioned that based on its existing Distribution Licence, is carrying out distribution of electricity in the entire Mumbai city from Colaba to Mira Road on west side and Vikhroli on east side. TPC, through this Application, has also applied for Distribution Licence for the areas covered by Chene and Versave village which are a part of Mira-Bhayandar Municipal Corporation. In addition, it has proposed to continue to serve the consumers such as 110 kV ordinance Factory Ambernath, MCGM Pumping Station at Bhandup which are located outside the licence area but are consumers of TPC due to historical reasons.</p> <p>TPC has provided GIS maps of existing distribution network and proposed distribution network as Annexure-11 to the Application.</p>
<b>Part B: 9</b>	Detailed electrical distribution map or maps of the proposed geographical area of supply, on a scale of not less than 10 centimeters to a kilometer, ... The map shall clearly distinguish between the existing system and new facilities...	TPC has provided GIS maps of existing distribution network and proposed distribution network at Annexure-11 to the Application, list of defence establishments in Annexure-12 and the list of local authorities in Annexure -13 of their Application form.
<b>Part B: 10</b>	Business Plan details	TPC has provided a Business Plan along with the Application. The details of the Business Plan are discussed in the Analysis of the Business Plan Part. The Business Plan is provided as Annexure-14 to the Application.
<b>Part B: 12</b>	Supporting information on compliance with the additional requirements prescribed by the Central Government, as may be applicable.	TPC did not submit this information in its initial Application. The Commission highlighted this data gap to TPC. In response, TPC, submitted an undertaking by the Company Secretary dated 28 April, 2014.
<b>Part C</b>	Format for assessing competence of Applicant	TPC submitted all the information required under Part-C of the Application, except the details of lenders, details of loan package, etc. and revenue realisation per unit sale. After the Commission highlighted these data gaps and TPC gave details of loans tied up for FY 2014-15 for Mumbai licence area and revenue realisation for baseline year of FY 2013-14 as Rs. 5.82/ kWh.

## 4. Objections and suggestions received in response to TPC's Notice of its Petition

### 4.1. Objections and suggestions received in response to TPC's notice

4.1.1. In response to the Public Notice published by TPC of its Application for grant of Distribution Licence, the Commission received numerous objections and suggestions in relation to grant of Distribution Licence to TPC. The following Table summarises the number of objections/ suggestions received by the Commission on various issues in response to TPC's Public Notice.

**Table 4: Summary of number of objections/ suggestions received in response to TPC notice**

Sr. No.	Objection/ suggestion	Count of objections/ suggestions received
1	Selective development of network by TPC/ Inadequate network development by TPC.	21
2	TPC not interested to serve low end consumers	21
3	Potential adverse impact on BEST as a result of grant of Distribution Licence to TPC.	5
4	Annexure 11 not made public by TPC	3
5	Imposition of Cross Subsidy Surcharge, regulatory asset charge and wheeling charges on changeover consumers by TPC	2
6	Inability of TPC to meet Universal Service Obligation as per EA 2003.	5
7	No mention of Supreme Court Judgment	4
8	Grant of licence to TPC may lead to duplication of assets.	1
9	Miscellaneous suggestions	2
<b>10</b>	<b>Total</b>	<b>64</b>

4.1.2. The issues can be broadly classified under a few main categories. Each has been considered and analysed by the Commission separately and the views of the Commission are set out below.

### 4.2. Objections raised by BEST Undertaking

4.2.1. BEST has raised several objections on the Distribution Licence Application of TPC, as summarised below.

- BEST submitted that it has filed a Petition in Case No. 37 of 2014 on 30 January, 2014 objecting to grant of second Distribution Licence to anybody other than BEST in its area of supply, as it is a Local Authority. Therefore, the Commission needs to decide BEST's plea in that case before the Commission decides the Application filed by TPC for grant of Distribution Licence.

- The Commission needs to protect the interest of BEST as a Local Authority. BEST cannot be equated with TPC, which is a capitalist Company and BEST serves public interest without the motif of profiteering.
- Introducing competition in the area of supply of BEST will be detrimental and prejudicial to the interest of BEST as jobs of 47000 odd employees of BEST will be at stake. BEST does not own any sources of generation and procures almost all its electricity from TPC. Therefore, BEST will find it difficult to compete with TPC.
- TPC has proposed to create distribution network in next 5 years, which is insufficient. Therefore, TPC does not satisfy capital adequacy and creditworthiness requirements.
- All the new substations proposed by TPC in its Application for grant of Distribution Licence have been planned in and around mill land area in the central part of the Mumbai city. This is nothing but selective service of supply obligation. Therefore, TPC is likely to cherry pick consumers, which is also evident from its history as an existing licensee.
- TPC will face difficulty in the high load density and congested areas of the island city of Mumbai as availability of space for creating infrastructure is limited, and getting permissions for excavation is difficult. The same issues are being faced by BEST also.
- The Commission must set aside its EOI as well as TPC's Application for grant of Distribution Licence to protect the interest of BEST as a Local Authority.

***TPC's response and Commission's view***

- 4.2.2. TPC's response and the Commission's ruling in this respect have been dealt with in detail in Part 5 of this Order.

### **4.3. Objections raised by Reliance Infrastructure Limited**

- 4.3.1. RInfra has raised several objections on the Distribution Licence Application of TPC, as summarised below.
- RInfra objected that, the new licensee in the area of present supply of TPC should not be allowed to supply consumers in RInfra's area of supply using RInfra's distribution network. It stated that, as per the provisions of the EA 2003 and the Rules and Regulations made thereunder, a second or subsequent licensee shall supply using its own network. It stated that the ratio of the Supreme Court Judgment in Civil Appeal No. 2898 of 2006 and others, passed on 8 July, 2008, should not apply to the new licensee as the Judgment was with respect to the specific case before the Supreme Court involving the present licence of TPC. It has quoted from the Commission's Order in Case No. 8 of 2011 (M/s Lanco Infratech's Application for grant of Distribution Licence in RInfra area of supply) to demonstrate that the Commission is also in agreement with this view.

- RInfra submitted that the new licensee, be it TPC or anybody, shall supply through its own network in the new licence regime.
- Referring to the past performance of TPC and relying on the Orders of the Commission in Cases No. 151 of 2011 and No. 85 of 2013, RInfra submitted that TPC had not developed its network in the past and is not likely to do so in future if a licence is granted to it.

***TPC's response and Commission's view***

4.3.2. TPC's response in this respect and the Commission's ruling has been dealt with in detail in Part 5 of this Order.

**4.4. Selective development of network/ inadequate network rollout**

4.4.1. Many objections have been received in regard to TPC's past performance in network rollout and the proposed network rollout plan, which are summarized below.

- TPC has not developed its network in the past irrespective of specific directions issued by the Commission. The Commission had directed TPC to lay its network in a time bound manner in the 11 identified clusters through Order in Case No. 151 of 2011. TPC's track record does not provide confidence that it will sufficiently rollout network to supply to all consumers if licence is granted to it.
- TPC is interested to develop network only in those areas where high end consumers like shopping malls, industries, and others are present.
- TPC's licence Application does not provide its network rollout plan, which prevents people from taking a view on its Application.
- TPC has mentioned many constraints in network rollout, like space constraints, lack of permissions from MCGM, DCR rules etc., which is a pretext for not laying out network for supplying to all consumers.

***TPC's response***

4.4.2. In its response, TPC has stated that it is making all round efforts to create a backbone of network in its area of supply. However, it faces difficulties in obtaining permissions and approvals from local authorities like MCGM and others for its network rollout. It has also expressed difficulties in obtaining land or spaces for setting up Sub-Stations for creating the backbone infrastructure.

4.4.3. TPC has submitted that it made as many as 2309 Applications till 31 March, 2014 to MCGM and other agencies for permissions to lay the network. Out of these, 76% (1805) are still pending with the authorities for approvals. It also stated that in the last 1.5 years (from November 2012 till March 2014), it has installed 7 DSS, laid 218 km of HT line, 118 CSS, and laid 404 km of LT line. However, all these are largely dependent on space availability and availability of requisite permissions from local authorities.

- 4.4.4. Further details of TPC's response have been summarized at Part 5.7 of this Order relating to TPC's responses on similar objections raised against the Public Notice issued by the Commission.

*Commission's view*

- 4.4.5. The Commission received similar objections in response to the Public Notice notified by the Commission under Section 15(5) of the EA 2003. These are dealt with in detail in Part 5 of this Order.

**4.5. Time-frame for network rollout**

- 4.5.1. Several objections were received regarding the proposed time-frame for network rollout. The objectors submitted that TPC has proposed to create backbone of distribution network in the next five years. As per SOP Regulations, the time-frame for laying network shall be limited to one year. As per the ATE Judgment, the maximum time period for laying own network shall be as per the provisions of EA 2003 and Rules and Regulations made thereunder. Under these circumstances, TPC will not be able to meet its Universal Service Obligation (USO) in accordance with the EA 2003 and relevant Regulations. Further, the ratio of the Supreme Court Judgment in Civil Appeal 2898 of 2006 is limited to the specific case of the Judgment. It cannot be extended to the new licensee.

*TPC's response*

- 4.5.2. TPC submitted that its network rollout plan is for 5 years and it is directed towards meeting the MERC Supply Code Regulations, SOP Regulations and CEA (Technical Standards for Construction of Electrical Plant and Electrical lines) Regulations, 2010. The network plan is for creation of a distribution backbone of 33/ 11 kV backbone, which will eventually be able to extend supply for last mile connectivity.
- 4.5.3. TPC has further stated that creation of a distribution network cannot be done in a few years. Even, the existing Distribution Licensees in Mumbai city and parts of Mumbai suburban area, i.e. BEST and RInfra, have taken decades to create their respective distribution networks.
- 4.5.4. Further details of TPC's response have been summarized in Part 5 of this Order.

*Commission's view*

- 4.5.5. The Commission's views in this respect have been set out in detail in Part 5 of this Order.

**4.6. Duplication of network**

- 4.6.1. Some respondents have stated that, for the grant of licence to TPC, a new network need not be rolled out in the proposed distribution area. There is not enough space to recreate

a network in the Mumbai city. However, existing licensees, i.e. BEST and RInfra, already have the requisite network. Hence laying a new network in the proposed licence area would lead to duplication and wastage of economic resources.

***TPC's response***

- 4.6.2. TPC submitted that it is laying the network as per the directions of the Commission and in compliance with the EA 2003.

***Commission's view***

- 4.6.3. In accordance with the sixth proviso of Section 14 of the EA 2003, a second or subsequent licensee in the same area of supply is required to establish its own distribution system for supplying electricity to consumers. Therefore, the Commission views that every Distribution Licensee is required to establish and maintain its own distribution network for giving supply to the premises of consumers in the area of its supply.
- 4.6.4. This aspect has been dealt with in respect of other objections raised, particularly objections of RInfra and BEST on the issue of development of own network. The Commission's views in this respect have been set out in detail in Part 5 of this Order.

**4.7. Cherry picking of consumers**

- 4.7.1. Many objectors have contended that TPC selectively chooses consumers while offering supply. They are of the view that TPC is interested in supplying only to high end consumers like industries, shopping complexes, commercial malls, hotels and new housing complexes being developed in the mill areas of the main island city and refrains from supplying to low end consumers under various pretexts. In essence, the objectors believe that TPC cherry picks its consumers disregarding its Universal Service Obligations as a Distribution Licensee.

***TPC's response***

- 4.7.2. TPC has submitted that it is committed to serve all the consumers. However, in some occasions it may not have been able to provide the requisite connections due to lack of existing infrastructure. It is trying its best to develop the infrastructure which is, however, largely dependent on availability of space and permissions from local authorities.
- 4.7.3. TPC further submitted that at present there is a large scale reverse changeover of consumers from TPC to RInfra in the same category as those who made the first move to changeover from RInfra to TPC when the changeover process was commenced. Nearly 8000 consumers with an annual consumption of about 1350 MU (42% of changeover sales in FY 2012-13) have reverse changed over to RInfra till 31 May, 2014. TPC has presented the trend of reverse changeover of consumers. TPC stressed that it has never

resorted to cherry picking, but the past trend of grant of connections is solely decided by the flow of consumers.

*Commission's view*

4.7.4. The Commission observes that in the above cases the issue of 'cherry picking' has been brought to the attention of this Commission. Therefore, the Commission has taken cognizance of the above issue in deciding the present grant of License Application filed by TPC.

4.7.5. The Commission's views in this respect have been further set out in detail in Part 5 of this Order.

**4.8. Impact on BEST**

4.8.1. Some of the respondents have observed that, if many consumers in BEST's area of supply start to take supply from TPC, particularly high end consumers, BEST will incur losses in the distribution business, which in turn will raise the bus fares in Mumbai and also lead to an increase in the electricity tariff for small consumers like slum dwellers and residential consumers. It may also lead to increase in various municipal charges levied by MCGM. This will create difficulties for the public at large.

*TPC's response*

4.8.2. TPC submitted that EA 2003 provides for the grant of parallel Distribution Licence in the same area of supply, under proviso 6 of Section 14. Further, no special dispensation has been carved out for a Local Authority as is the case under Section 42 of EA 2003 which deals with open access. Parallel licence in the same area of supply encourages competition which is envisaged in the EA 2003.

*Commission's view*

4.8.3. The Commission's views in this respect have been set out in detail in Part 5 of this Order.

**4.9. Inadequate information in the Public Notice**

4.9.1. Some of the respondents have objected that TPC has not mentioned in its Public Notice the judgment of the Supreme Court dated 8 May, 2014 in Civil Appeal No. 4223 of 2012 (BEST vs. MERC and others)

*TPC's response*

4.9.2. TPC has stated that the judgment of the Supreme Court was delivered on 8 May, 2014, while its Public Notice was published in newspapers on 9 May, 2014. It was thus not possible for TPC to mention in its Public Notice.

*Commission's view*

- 4.9.3. TPC has published the notice in accordance with the Regulations of the Commission, and it had informed the Commission accordingly with documentary evidence. The Commission has noted the response of TPC and finds it to be reasonable.

**4.10. Annexure 11 not made public by TPC**

- 4.10.1. The Commission received objections from a few persons as well as RInfra and BEST that TPC has not made public Annexure 11 of its Petition, which contained the GIS map of its distribution network.

*TPC's response*

- 4.10.2. TPC made these documents public by making it available for inspection as well as hosting it on its website after the Commission issued specific directions to it.

*Commission's view*

- 4.10.3. The Commission noted that TPC had made these documents public after the Commission's direction to make them available.

**4.11. Cross Subsidy Surcharge**

- 4.11.1. Some objectors submitted that TPC levies cross subsidy charges on those consumers who have changed supply from RInfra to TPC while receiving supply through RInfra wires.

*TPC's response*

- 4.11.2. TPC stated that cross subsidy charges are levied on those consumers who have migrated from RInfra supply to TPC supply. However, these charges are collected as per relevant Orders of the Commission and the Cross Subsidy Surcharge so collected is eventually passed on to RInfra.

*Commission's view*

- 4.11.3. Cross Subsidy Surcharge is being determined in accordance with the mandate of EA 2003 and the various Regulations framed thereunder.



## 5. Objections and suggestions received against the Notice published by MERC

### 5.1. Objections and suggestions received in response to the Commission's Notice

5.1.1. The Commission has received several suggestions and objections from various stakeholders and members of the public in relation to the grant of Distribution Licence to TPC. The following Table summarises the number of objections/ suggestions received by the Commission on various issues in response to its Public Notice.

**Table 5: Summary of number of objections/ suggestions received in response MERC Notice**

Sr. No.	Objection/ suggestion	Count of objections/ suggestions received
1	Objections on network development plan submitted by TPC	10
2	TPC not interested in serving low end consumers	9
3	Potential adverse impact on BEST as a result of grant of Distribution Licence to TPC.	11
4	Objections related to capital adequacy and creditworthiness of TPC	1
5	Imposition of Cross Subsidy Surcharge, regulatory asset charge and wheeling charges on changeover consumers by TPC	36
6	Inability of TPC to meet Universal Service Obligation as per EA 2003.	7
7	Request to TPC for additional customer service centres	10
8	Grant of licence to TPC may lead to duplication of assets and difficulties in introducing parallel licence.	11
9	Miscellaneous suggestions	4
10	Consumers expressing desire to be heard during the Public Hearing	276
11	Consumers who expressed support to grant of Distribution Licence to TPC.	1372
10	<b>Total</b>	<b>1747</b>

5.1.2. The various issues on which the Commission received representations are similar to the suggestions and objections received in response to the Public Notice issued by TPC under Sub-Section 2(ii) of Section 15 of the EA 2003. The issues can be broadly classified under a few main categories. Each has been considered and analysed by the Commission separately and the views of the Commission on each of them is set out below.

## **5.2. Objections of BEST Undertaking to protect its interest as a Local Authority**

- 5.2.1. BEST submitted that it has filed a Petition in Case No. 37 of 2014 on 30 January, 2014 before the Commission objecting to the grant of a second Distribution Licence to anybody in the area of supply of BEST. As part of its objections, BEST reiterated that the Commission cannot allow a second licence in the area of supply of BEST without its consent, as it is a Local Authority. Therefore, the Commission needs to decide BEST's plea in Case No. 37 of 2014 before the Commission decides the Application filed by TPC for grant of Distribution Licence.
- 5.2.2. BEST submitted that it is an Undertaking of the Municipal Corporation of Greater Mumbai, a Local Authority. Therefore, it has a municipal character in its operations. The Commission needs to protect the interest of BEST as the operations of BEST cannot be equated with those of TPC, which is a capitalist Company and engages in profiteering. BEST serves public interest without the motif of profiteering. It is essential that the set up/ design of BEST, which has evolved over time under local self-government under the Constitutional framework is not interfered with. The provisions of reorganisation of local authorities engaged in the business of electricity distribution have not been provided for in the EA 2003 in a manner similar to the reorganisation of State Electricity Boards through Sections 131 to 134. Therefore, the legislative intent behind the enactment of the EA 2003 and introducing competition was to cure the sick State Electricity Boards and not to interfere with the operations of the well performing distribution companies. It is important to protect the financial viability of BEST. Introduction of competition should not lead to a situation like that arising from introduction of competition in the generation sector, where many new capacities are stranded facing financial uncertainty due to issues of fuel linkage, change in law, etc. Therefore, MERC needs to protect the interests of BEST by issuing Orders with comprehensive consideration and special care similar to that provided to it under Section 42(3) and 51 of the EA 2003 and MERC (Distribution Open Access) Regulations, 2005/2014. BEST submitted that, if a parallel licence is introduced in its area of supply, it will face the threat of cherry picking, and the very existence of BEST and its 47000 odd employees will be at stake. It will also lead to chaos and adversely affect the age old well performing operations of BEST. Therefore, the Commission needs to protect the interest of BEST and its employees, BEST being a public sector undertaking. BEST is a Municipal Undertaking and has to function under the framework of the MMC Act, 1888 simultaneously to the framework of the EA, 2003. Issuing a parallel licence in its area of supply would be gravely detrimental and prejudicial to the interests of BEST. The detriment or prejudice to BEST is particularly grave as it does not have any generation capacity and is completely dependent on TPC for sourcing electricity. The Commission, while pronouncing its verdict, needs to make it clear as to how BEST would be expected to meet its other responsibilities of social service, even though these may be considered out of the purview of the Commission. To protect the interest of BEST, the Commission must set aside its EOI as well as TPC's Application for grant of Distribution Licence.

- 5.2.3. BEST also submitted that it has represented to the Government of Maharashtra seeking its intervention under Section 108 of the EA 2003 on the same lines as the New Delhi Municipal Council (NDMC) case. It requested the Commission not to proceed in the present case without considering the opinion of the State Government in the matter.

***TPC's reply***

- 5.2.4. TPC submitted that the issues raised and the submissions made by BEST are misconceived and are against the objective and basic scheme of the EA 2003. The EA 2003, Tariff Policy and the National Electricity Policy clarifies that the EA 2003 was promulgated for 'promotion of competition and protecting the interest of the consumers. Proviso 6 to Section 14 of the EA 2003 empowers the Appropriate Commission to grant licence to two or more person/s to distribute electricity on their own distribution network within the same area of supply. No exception has been carved out in this regard for a Local Authority. This principle has also been upheld by the Supreme Court in its Judgment dated 8 May, 2014 in C.A. No.4223. TPC further submitted that the submission of BEST is contrary to the objective of the EA 2003 read with Proviso 6 to Section 14 and 43 of the EA 2003. Proviso 6 specifically provides for creation of a parallel infrastructure in an area of supply which has two or more Distribution Licensees. If the submissions of BEST are accepted, then Proviso 6 to Section 14 and Section 43 for a second / parallel licensee will become redundant. Moreover, such an interpretation is against the interest of the consumers and may lead to creation of a monopoly of a Distribution Licensee within its area of supply, which is contrary to the intent of the EA 2003 of promoting competition. TPC further submitted that the distribution business of TPC like that of any other Distribution Licensee is regulated by MERC. The profit earned by the Distribution Licensee is limited to Return on Equity on the assets, which is at present 15.5%. Hence, it cannot be said that TPC is engaged in capitalism/ profiteering.
- 5.2.5. TPC further submitted that the directions, if any, received from the State Government under Section 108 can only guide the Commission with regard to the grant of licence. The Commission is not bound by the directions of the State Government, if received. In this regard, TPC has also cited references from the judgements of the Supreme Court (Ester Industries v UP SEB reported as (1996) 11 SCC 199), ATE Judgment (Polyplex Corporation Limited v. UKERC and Anr. reported as 2011 ELR (APTEL) 195) and ATE Judgment (Kerala State Electricity Board v. KSERC reported as 2010 ELR (APTEL) 1138), and ATE Judgment (Starwire (India) Limited and Ors. v. HERC and Ors. reported as 2011 ELR) to emphasise that all policy directions issued by the State Government are not binding on the State Electricity Regulatory Commission.

***Commission's analysis and view***

- 5.2.6. The Commission observes that the issue raised by BEST has been settled by the Supreme Court in its Judgment in Civil Appeal No. 4223 of 2012 dated 8 May, 2014 in the appeal preferred by BEST. In that appeal, BEST urged identical contentions before the Supreme Court, particularly in relation to the introduction of competition through

grant of a second Distribution Licence. BEST objected that a second licence could not be allowed in BEST's area of supply without its permission as it is a local authority. The Supreme Court negated the argument of BEST that there cannot be any competition in its area of supply as it is a Local Authority, holding that;

*“25. It is, therefore, difficult to accept the extreme position taken by the appellant that if local authority is a distribution licensee in a particular area, there cannot be any other distribution licensee in that area without the permission of such a local authority. Not only such a contention would negate the effect of universal supply obligation under Section 43, it will also amount to providing an exception which is not there either in Section 43 or Section 14 of the Act namely to treat local authority in special category and by giving it the benefit even that benefit which is not specified under the Act.”*

- 5.2.7. As regard the issue of representation to the GoM by BEST seeking intervention under Section 108 of the EA 2003, the Commission has received a letter dated 23 July, 2014 from the GoM in this respect wherein the GoM has stated that the issue has been settled vide Supreme Court Judgment in Civil Appeal No. 4223 of 2012 dated 8 May, 2014 (BEST vs. MERC). Thus, the Government has no other view to express.

### **5.3. BEST's submission on the difficulties of introducing parallel licence**

- 5.3.1. BEST submitted that grant of parallel licence in the same area of supply will mean that network will be duplicated for the same purpose. This will increase redundancy and thereby wastage of national resources, the cost of which will ultimately be passed on to the consumers selectively or collectively. BEST has expressed concern as to whether, in such a scenario, the old licensee would have to pull out its infrastructure when a consumer switches to the new licensee, how the consumer will be supplied electricity if he intends to come back to the old licensee later, how to take care of the cost of commissioning and decommissioning of infrastructure in such scenarios, etc. BEST has also contented that in a regime of parallel licence, control of distribution network by multiple licensees will complicate the electricity set up and may compromise the safety of the electrical systems. It may also impact the reliability of the electricity supply to consumers. Since MERC has not introduced any guidelines for operation of parallel licensees, it would not be prudent to grant a second licence in the same area of supply. BEST also submitted that it needs to be ensured that the operationalization of a parallel licence by grant of Distribution Licence to TPC does not lead to violation of safety norms as notified in CEA (Measures relating to safety and electricity supply) Regulations, 2010.

#### ***TPC's reply***

- 5.3.2. TPC submitted that it already has a network and was also developing a network prior to the restrictions imposed by the Supreme Court. Hence, augmentation of network is not a new phenomenon in the South Mumbai area. TPC has always been very conscious of safety and will continue to ensure that highest safety standards are maintained and

followed. With the recent Order dated 8 May, 2014 passed by the Supreme Court, TPC is, as always, committed to safely lay network as would be approved by the Commission.

*Commission's analysis and view*

- 5.3.3. The Commission noted the objections and TPC's reply. The Commission observes that, as per the provisions of the EA 2003, the second or subsequent licensee is required to develop its own distribution system in the area of supply where other licensee(s) are present subject to certain caveats.
- 5.3.4. If a licence is granted to TPC, it will be automatically subject to safety and technical norms specified by the CEA and also by the Supply Code, Standards of Performance, and State Grid Codes specified by this Commission.

**5.4. BEST's submission on competition in the interest of the consumers**

- 5.4.1. BEST submitted that, though the EA 2003 provides for parallel licensing, it has not delineated the intended design and has left it open to legal interpretations. Developing the market for electricity through parallel licensing requires addressing the practical difficulties that come with it. It further submitted that the Government of India is considering amendment of the EA 2003 in which it has proposed to separate carriage and content. The competition in supply (content) will bring benefit to the consumers while the wires (carriage) business will still be regulated and will belong to the incumbent licensee. Thus, in the opinion of BEST, competition is practicable only after separation of the wires and supply business. Therefore, the grant of second Distribution Licence to TPC will create a situation that is not intended by the EA 2003, which will influence the financial sustainability of BEST adversely and the envisaged fair competition will not be achieved.

*TPC's reply*

- 5.4.2. TPC submitted that the view expressed by BEST is contradictory to the prevailing EA 2003 whose objective is to promote competition.

*Commission's analysis and view*

- 5.4.3. The Commission notes that promotion of competition in the electricity sector is one of the key objectives enshrined in the EA 2003. Also, as is evident from the extract of the Judgement of the Supreme Court, quoted above, it is amply clear that no special protection is provided to BEST except for relief from the requirement of providing mandatory open access on its distribution system. The proposed Electricity Bill, 2014 has not yet translated into law and cannot be considered by the Commission.

**5.5. Use of RInfra's distribution network**

- 5.5.1. RInfra has submitted that the Commission needs to consider the performance of TPC in the capacity of the existing licensee in so far as network development in its area of supply is concerned. It has drawn references from the Cases No. 50 of 2009, No. 151 of 2011 and No. 85 of 2013 to establish that TPC had been negligent in fulfilling its obligation as an existing Distribution Licensee to develop its own network and meet its Universal Service Obligation through its own network.
- 5.5.2. RInfra has also drawn references from the Judgements of the ATE in Appeals No. 7 of 2010, and No. 132 of 2011 to emphasise that the new licensee must develop its own network for supplying to consumers and meeting its Universal Service Obligation. RInfra also quoted extracts from the National Electricity Policy, Section 42 of the EA 2003, and the Commission's Order in Case No. 8 of 2011 to emphasis the requirement of laying its own network by the new licensee.
- 5.5.3. Relying on the Judgement of the ATE in Appeal 132 of 2011, dated 21 December, 2012, RInfra submitted that the Commission cannot allow the new licensee to use the network of RInfra for meeting its USO, i.e., the new licensee cannot be allowed open access on RInfra's network to do so.

*TPC's reply*

- 5.5.4. TPC submitted that it intends to serve all the consumers on its network who wish to take electricity supply from it. TPC has the ability to comply with its Universal Service Obligation. In this pursuit, TPC is spreading out its distribution network since November 2012 and proposes to roll it out further as described in the Application. Further, the number of consumers who would actually be connected to TPC's network would solely depend on the consumer choice and timely approvals for the essential infrastructure required.
- 5.5.5. TPC further submitted that the Commission based its decision for grant of licence to various Applicants in 2011, when RInfra's Distribution licence had expired, on the opinion given by the Solicitor General of India. That opinion only mentioned that the ratio of the Supreme Court Judgment in the case of TPC Vs RInfra on use of wires of the incumbent licensee to supply to consumers was specific to the case of TPC Vs RInfra and cannot be made applicable to other Applicants who wish to supply using the incumbent Distribution Licensee's wires. Neither does this opinion suggest nor is there any finding of the Commission or any higher Courts which stipulate or direct that the concept of supplying power to "changeover" consumers would be allowed only till the expiry of TPC's licence on 15 August, 2014. Section 42(3) of the EA 2003 makes it obligatory on the incumbent Distribution Licensee to provide its network for supply of electricity for the interim period till the time network when the network is fully developed by the parallel licensee. TPC also drew reference to the Commission's Order concerning the Application submitted by Lanco Infratech Limited for grant of licence in the Mumbai suburban area. TPC highlighted the fact that the Commission did not grant the Distribution Licence to Lanco, since it had not submitted any plan for laying down the network. However, that is not the case with TPC's Application, wherein a detailed

rollout plan has been submitted. Hence, the facts and conclusions of the case cannot be applied in the present case and Lanco's case cannot be used as a precedent.

5.5.6. As regards the supply to consumers on the wires of RInfra by TPC (Changeover consumers), TPC submitted that the same has been initiated through an Order dated 15 October, 2009. The issue of supply to consumers using RInfra's wires under the "changeover" arrangement cannot be linked to the matter of processing of the Application submitted by TPC.

5.5.7. TPC further submitted that it has entered into various contracts/ commercial agreements such as Power Purchase Agreement, Bulk Power Transmission Agreement, Vendor Agreement, etc. for various processes associated with supply of power to all its consumers. These contracts would continue upon the grant of licence.

*Commission's analysis and view*

5.5.8. Section 42 of the EA 2003 specifies that a Distribution Licensee must develop and maintain its own distribution system in its area of supply, and Section 43 specifies that it is the duty of a Distribution Licensee to provide supply to any person, by extending its network, who seeks such supply from the Distribution Licensee. Therefore, there cannot be any dispute that a Distribution Licensee has to meet its obligation to supply through its own network.

5.5.9. Further, the sixth proviso to Section 14 of the EA 2003 mandates that a second or subsequent licensee in an area of supply has to develop its own distribution system for providing supply to its consumers. Therefore, it is clear that a second or subsequent licensee cannot depend on the distribution system of the existing licensee(s) to supply to its consumers.

5.5.10. In its Judgement in batch Appeals No. 132, 133, 139, 144 and 164 of 2011 dated 21 December, 2012, the ATE has also stated as follows:

".....

*199. Summary of Our Findings*

.....

*(B) Various provisions of the 2003 Act as well as 1910 Act required a distribution licensee to lay down its own distribution network for meeting the universal service obligation to consumers. TPC, the distribution licensee who had been granted licence in the year 1907 and who failed to lay its own distribution network cannot now claim right over the distribution network of other licensee to meet its universal service obligations.*

....."

- 5.5.11. Therefore, it is clear that a Distribution Licensee cannot utilise other licensee's network for meeting its Universal Service Obligation of supplying electricity to any person seeking such supply from it on a long term basis.
- 5.5.12. Hence, if a licence is granted to TPC it will have the obligation to develop and maintain its own network, with certain caveats, for supplying electricity on demand within the area of licence and thus meet its USO. The Commission, in subsequent Parts of this Order, has analysed and deliberated on the need and manner in which TPC is required to fulfil its USO.
- 5.5.13. TPC has contended that as per Section 42(3) of the Act, it is obligatory for the existing Distribution Licensee(s) to provide its distribution system to the second or subsequent licensee for supply of electricity till such time, as the new licensee has not developed its own network. In our opinion, this is a convoluted interpretation of the provision of the Act. Let us quote the particular Section of the Act below.

*“(3) Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.”*

- 5.5.14. While it will be evident from the foregoing that a Distribution Licensee is enjoined to meet its USO through its own network, it cannot be conceived that, in parallel licensing scenario, a prospective second licensee will have its distribution network already in place at the time of applying for the grant of a Licence. Even though TPC has been a licensee from long prior to the EA, 2003, for several decades its mandate was primarily to supply power to certain bulk consumers such as the Railways, erstwhile textile mills, etc. largely through a HT network. It is in recent years that its scope of distribution has enlarged, the background to which is set out elsewhere in this order. In this context the Commission notes that the Supreme Court, in its Judgement dated 8 July, 2008, in the matter of TPC vs. RInra in Civil Appeal No. 2898 of 2006 with Civil Appeal No. 3466 and 3467 of 2006 had decided that a licensee who is yet to install its own distribution system to supply electricity directly to retail consumers may utilise the network of other licensees to supply the retail consumers under the provisions of open access. The Supreme Court in passing the Judgment observed as follows:

*“99. Regarding Mr Venugopal's other submission relating to Section 42 of the 2003 Act, we are unable to appreciate how the same is relevant for interpreting the provisions of the licences held by TPC. It is no doubt true that Section 42 empowers the State Commission to introduce a system of open access within one year of the appointed date fixed by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling*



*having due regard to the relevant factors, but the introduction of the very concept of wheeling is against Mr Venugopal's submission that not having a distribution line in place, disentitles TPC to supply electricity in retail directly to consumers even if their maximum demand was below 1000 kVA.*

*"100. The concept of wheeling has been introduced in the 2003 Act to enable distribution licensees who are yet to install their distribution line to supply electricity directly to retail consumers, subject to payment of surcharge in addition to the charges for wheeling as the State Commission may determine.*  
....."

## **5.6. Universal Service Obligation**

5.6.1. BEST has cast doubt on TPC's ability to rollout its own network and meet its USO. Referring to the provisions of Section 43, the sixth proviso to Section 14 of the EA 2003 and the opinion of the former Solicitor General of India dated 14 May, 2011, BEST has emphasised the point of meeting USO through own network. BEST also drawn reference to the Orders of this Commission in Cases No. 5, 6, 7, and 8 of 2011. It also submitted that, as per the MERC SOP Regulations, TPC should be in a situation to supply to any consumer within one year if a licence is granted to it.

5.6.2. BEST has further submitted that, in a congested city like Mumbai, it will not be possible for TPC to develop its network since getting clearances from MCGM and other Government authorities will be difficult. The existing licensees face the same difficulties, and TPC is also likely to confront them. According to BEST, "..... *TPC will not be able to meet the USO in Mumbai city as well. It is far from the question of capability, the practical difficulties will not enable second licensee to meet the USO in stipulated timeframe. Hon'ble Commission may take cognizance of this.*

.....

*BEST humbly submits that network development is a prolonged process and is extremely challenging in the city limits of Mumbai, it is virtually impossible for TPC to meet its Universal Supply Obligation through independent network. Therefore, looking at the past performance of TPC in meeting USO through independent network the application of TPC to be dismissed."*

5.6.3. Referring to the ATE Judgement in Appeal No. 7 of 2011, Section 43 of the Act, and MERC SOP Regulations, BEST has urged that, if a licence is granted to TPC, it must be in a position to extend supply to any person through its own network within one year as per the provisions of the MERC SOP Regulations. It has doubted TPC's ability to do so. To substantiate the observation BEST has relied upon the Orders of this Commission in Cases No. 151 of 2011 and No. 85 of 2013.

***TPC's reply***

- 5.6.4. TPC submitted that it intends to setup its own network and does not want to rely on the network of BEST and/ or RInfra to supply electricity to its consumers. Section 43 of the EA 2003 provides for the obligation of a Distribution Licensee to supply electricity within a period of one month from the date on which the Application for such supply is made by a consumer/ occupier of the premises. In case the supply of electricity requires the Distribution Licensee to extend the distribution mains or commission a new-substation, then the electricity is to be supplied in accordance with the Regulations specified by the Appropriate Commission. In this regard, the Commission has notified the MERC SOP Regulations, 2014 which provide for a maximum period of 1 year for supply of electricity in case the Distribution Licensee is required to extend the distribution mains or commission a new-substation for the purpose. The Distribution Licensee is not held responsible for delay in supply of electricity if such delay is due to certain conditions/ events which are beyond its reasonable control. The Commission has the power to remove difficulties/ extend the time frame for complying with its obligations under the MERC SOP Regulations, 2014 in case a Distribution Licensee is unable to comply with its USO due to reasons which are beyond its control. Thus, the MERC SOP Regulations, 2014 recognise the ground realities in complying with the rollout obligations, and give power and discretion to the Commission to relax the stipulated maximum period of 1 year. TPC deserves to be granted relaxation of Regulation 4.9 of the SOP Regulations. The regulatory framework clearly empowers and enables the Commission to exercise its discretionary powers in the interest of justice keeping in mind the ground realities. TPC further submitted that BEST and/or RInfra have also not stated that they are in a position or capable of complying with the rollout obligations within a period of 1 year as they have themselves admitted the practical difficulties in rolling out the network within such period. The network rollout has been proposed keeping in mind the practical difficulties and ground realities that TPC is likely to experience in laying such network in already congested and busy streets and areas of Mumbai.
- 5.6.5. TPC also referred to minutes of the Meeting of the Forum of Regulators held in January, 2014 wherein the Forum has appreciated that there is a need to provide certain additional time for a new licensee to meet its supply obligations. TPC submitted that, if such additional time has been given for the business of supply where the most difficult challenge is power procurement, additional time needs to be extended in a situation where a network is required to be laid which is even more difficult than procurement of power, particularly in a city like Mumbai. TPC would prudently expand its network in close supervision/ guidance of the Commission such that the consumer mix is a representative one and, at the same time, the city is not put to any inconvenience. TPC would also discuss with other utilities structured options to use their existing infrastructure, with due compensation to them, so that overall responsiveness and competitive spirit are maintained. The apprehension of non-compliance of USO cannot be a ground for rejection of Licence Application in terms of Section 14 and 15 of the EA 2003. Setting up a network is not a pre-condition for grant of a licence.

*Commission's analysis and view*

- 5.6.6. In the previous Section, the Commission has already observed that there is a Universal Supply Obligation on a Distribution Licensee to provide supply through its own independent distribution system. This obligation has been cast on a Distribution Licensee by the Act through Section 43. However, as per the Judgement of the Supreme Court dated 8 July, 2008 in the TPC case, a second licensee may supply through the distribution system of the other licensee in the same area of supply till such time as the second licensee has created its own network. This Commission has also issued Orders subsequent to this Judgment enabling TPC to supply through the network of other Licensee.
- 5.6.7. Thus, the Commission observes that the rollout of distribution network will have to be evaluated in accordance with the mandate of Section 43 of the EA 2003.

## **5.7. Network rollout plan submitted by TPC**

- 5.7.1. RInfra submitted that, as per the provisions of the MERC SOP Regulations, a Distribution Licensee has to provide supply within one year where the supply requires commissioning of a new substation forming part of the distribution system. The Commission needs, therefore, to check the legal validity of TPC's proposal to establish its distribution backbone over a period of five years with a view to cater to 50% of the load in the proposed area of licence, which in the opinion of RInfra is demonstrative of an inclination to cherry pick.
- 5.7.2. RInfra further submitted that TPC's proposal to lay its network in five years militates against the "measures conducive to development of electricity industry" and "promoting competition" cited in the Preamble to the EA 2003. It furnished a comparison of TPC's proposed network development plan with its own network and submitted that TPC's plan is grossly inadequate. It also pointed out that TPC has not been able to meet the capital expenditure targets approved by the Commission under its existing licence.
- 5.7.3. BEST submitted a comparison of the network infrastructure that TPC has proposed to develop in the former's area of supply with the existing infrastructure of BEST. It submitted that TPC's proposal to meet only about 50% of demand through piecemeal development of network in five years in BEST's area of supply is inadequate and contrary to the observations of the ATE in Appeal No. 7 of 2010. Therefore, TPC has failed to specify the time-frame for development of the network in the whole area of supply to cater to the entire demand. Therefore, in the opinion of BEST, TPC will be likely to cherry pick its consumers.
- 5.7.4. The representative of the Mumbai Grahak Panchayat submitted during the Public Hearing that duplication of network by a parallel licensee is not a prudent practice, and conjoint reading of various provisions of EA 2003 shows that the Commission is empowered to issue Orders enabling a second licensee to use the network of the incumbent licensee for supply of electricity to consumers.

### ***TPC's reply***

- 5.7.5. TPC submitted that the format of licence Application prescribed by the Commission mandates the Applicant to submit the network rollout plan for a period of 5 years or as prudent. For the purpose of planning, TPC assumed 50% of the load as to be catered by TPC. This was assumed on account of the presence of BEST and RInfra in its area of supply and to come out with a more realistic network rollout plan. The time frames stipulated under the MERC SOP Regulations are subject to case specific variation/relaxation by the Commission after considering the ground realities and in the interest of justice. Each area of supply has to be looked at differently. Discretion has been granted to the Commission to relax the time frame if it deems appropriate after keeping in mind the ground realities of specific geographical locations. In any case, in terms of Regulation 8.2.3 of the General Licence Conditions, TPC is required to adhere to the rollout plan approved by the Commission. Therefore, it is up to the Commission to approve the roll out plan as it may deem appropriate considering the practical difficulties which could be faced in setting up the distribution network in the entire city of Mumbai. TPC further submitted that BEST and RInfra have themselves admitted that it may not be possible to set up the entire distribution network within its area of supply due to reasons which are beyond the control of TPC. The Commission has also recognized the need to exempt the Distribution Licensee from its obligations of supplying electricity to new consumers within specified time-frames if delay occurs due to certain events which are beyond the control of the Distribution Licensee. The objections raised by RInfra and BEST on the phased network laying are not linked with the necessary requirements for grant of licence.
- 5.7.6. Regarding the contention of RInfra that TPC is contradicting its submissions in Case No. 151 of 2011 and the licence Application, TPC submitted that the Business Plan submitted is for the entire proposed licence area of Mumbai and not limited to only North Mumbai as was the case in the submissions in Case No. 151 of 2011. Further, the Business Plan also includes network augmentation required in certain areas, although the backbone structure may be existing.
- 5.7.7. With regard to the submissions of BEST that the capital expenditure proposed by TPC is not sufficient to meet its Universal Service Obligations and adequacy of network rollout in the area of supply common with BEST, TPC submitted that it has formulated its Business Plan for the area of supply common with BEST on the basis of the following:
- a) The question relating to ability of TPC to supply electricity in the area of supply common with BEST was pending adjudication before the Supreme Court in C.A. No.4223/2012. TPC had filed its Application on 7 April, 2014. The Supreme Court, by its Judgment dated 8 May, 2014, returned the finding that TPC can supply electricity in the area of supply common with BEST. Therefore, on the date of filing of the Application, there was no clarity as to whether TPC was eligible to supply electricity to retail consumers in the area of supply common with BEST;
  - b) As part of the licence Application, TPC was expected to submit, and submitted the indicative investment plan and network rollout plan. This plan does not include the value of existing elements of the network of TPC in South Mumbai. Hence

BEST's assumptions and comments on the existing network of TPC in South Mumbai are not supported with facts.

- c) In its Application, TPC has submitted its prudent Business Plan assuming that it would be required to be in a position to cater to a maximum of 50% of the total load of South Mumbai, i.e. around 900 MW. This assumption was premised on the following:

In a perfect competitive environment, it is expected that both competitors are able to acquire equal market share. As a result, all the consumers of BEST are not expected to switch over to TPC immediately. The switch, if any, would happen over a period of time.

- i. Presently, in MVA terms, the TPC load (except for railways load) is approximately 5% of the BEST load, in the area of common supply with BEST. Even if the load supplied by TPC grows at 9-10 % per annum (South Mumbai load growth rate has been observed as ~1% in the last 5 years), it will take a fair period of its licence tenure to reach 50% of load as assumed by BEST.
- ii. All South Mumbai roads would not be allowed to be excavated simultaneously for laying the distribution network, and it would be difficult to get space for installation of CSS and meter rooms.

5.7.8. TPC further submitted that it has additional spare capacity in the existing backbone network which can be utilized to cater to the load above 900 MW:

- a) TPC has 55 existing CSS which can cater to additional load of up to 51.71 MVA. Utilizing this spare capacity from the existing CSS would entail incurring of additional capital expenditure of Rs 18.97 Crore.
- b) Loading the existing 22 kV and 6.6 kV network would entail a capital expenditure of Rs 160.69 Crore.
- c) The Commission has approved addition of 33 kV outlets in the existing Receiving Stations (RSS) of TPC-T and also in the new RSS proposed across South Mumbai during the period FY 2014-15 to FY 2016-17. Considering that 50% of these transmission outlets would be available to TPC-Distribution, the additional capacity that would be available for development of the distribution network is around 935 MVA (50% of 1870 MVA).
- d) The capacity available considering redundancy in the network (n-1) would be 468 MVA.
- e) The BEST network is not fully loaded and, sufficient buffer capacity is available with it. As a result, it is possible to allot even 75% new outlets to TPC, instead of the 50% proposed above. If this is followed, then it will add to TPC's backbone capacity and further 4 lakh consumers with a reasonable and representative mix can be added.

5.7.9. Considering the above TPC's distribution capacity would be as follows:

**Table 6: TPC's projected distribution capacity over next 5 years**

Financial Year	Existing 22 kV CSS Capacity	Existing 22 kV Capacity	Additional Capacity as per Business Plan	Additional 33 kV Outlets capacity	Cumulative Total Capacity Available
2014-15	53	235	-	63.75	351
2015-16	-	-	40	127.5	518
2016-17	-	-	80	276.25	874
2017-18	-	-	40	-	914
2018-19	-	-	40	-	954
<b>Total MVA)</b>	52	235	440	467.5	1194

5.7.10. TPC further submitted that if the entire consumer base were to be fed, an additional capital expenditure of Rs. 546 crore would be required. The capacity planned would cover the entire geographical area of South Mumbai. Thus, the total capital investment requirement in South Mumbai to cater to 100% of the load is around Rs. 1100 crore. Out of this, TPC already has an approval for around Rs. 90 crore from the Commission. Even considering an additional capital investment of Rs. 550 crore in South Mumbai, TPC would still meet the capital adequacy criteria as prescribed under the EA 2003 and the Rules laid down by the Central Government.

*Commission's analysis and view*

5.7.11. The main contention of the objectors is that the network rollout plan submitted by TPC is insufficient to cater to the entire demand of the proposed area of supply. In this respect the incumbent licensees have drawn comparisons between their existing distribution infrastructure and that proposed by TPC.

5.7.12. This issue has been further discussed in the Commission's analysis in relation to the objection on phased development of network proposed by TPC. Further, the objection on duplication of network has also been considered by the Commission in subsequent parts of this Order.

**5.8. Cherry picking of consumers**

5.8.1. BEST has submitted that TPC has proposed to connect only 0.69 lakh consumers in the 0-300 units slab in the next five years, which is not only inadequate but marginal, since there are about 7 lakh consumers in the 0-300 units slab in the area of supply of BEST. BEST also submitted that, historically, TPC has a strong presence in the mill area. Due to redevelopment of the mill area in Mumbai, TPC is focused on setting up/ extending its distribution network only in those areas and not in others, thereby engaging in 'Cherry-Picking'.

5.8.2. RInfra has submitted that TPC has switched over only 797 consumers from August, 2012 onwards and added more than 13000 consumers as direct consumers. This clearly shows that TPC continues to cherry pick consumers and is not interested in supplying to all the (low end) consumers/ changeover consumers. TPC has given various reasons

such as MCGM permissions etc., for not being able to lay its network. TPC is able to get all the permissions and Municipal clearances for supplying electricity to high-end consumers, but not for supplying electricity to slums.

*TPC's reply*

- 5.8.3. TPC submitted that it specifically denies the submission of its competing licensees, viz. BEST and RInfra that it will engage in 'Cherry-Picking' if the licence is granted to it.
- 5.8.4. With regard to BEST's submission regarding cherry picking of consumers in the mill areas, TPC submitted that its network is right in the middle of the mill area, naturally making it a preferred service provider for the consumers there. There is no deliberate attempt or intent on the part of TPC to 'cherry pick' high end consumers by laying network in only one particular area. TPC is ready and has proposed to develop its network in its entire area of licence. If BEST is already serving the consumer with care, the consumer is discernible enough to make informed choices and cannot be picked at will, as assumed by BEST. In the Business Plan, TPC has proposed setting up of 11 DSS in South Mumbai out of which it has identified locations for 6 DSS. It is BEST's observation that the sites identified for setting up of DSS are in the mill area and, therefore, TPC is interested to serve consumers only in the mill area. Such sites were identified based on the availability of land, and it is a mere coincidence that most of them fall in the mill area. It cannot be concluded that, since the DSS would be located in the mill area, they would serve consumers only in the mill area. Such DSS, irrespective of their location, are installed to cater to the demands of all categories of consumers within 6–8 sq. km.
- 5.8.5. With regard to RInfra's submission regarding cherry picking TPC submitted that, since August 2012, TPC has added more than 2 lakh consumers in the 0-300 units residential category, which clearly indicates that TPC is serious about serving all the consumers including them. Further, the movement of consumers from one licensee to another is dependent largely on the tariff differential between the two licensees and the impact it has on the monthly bill of the consumer. As the impact was high on industrial and commercial consumers, these categories of consumers were the first to changeover from RInfra to TPC. Therefore, it cannot be deduced from the movement of these categories that TPC is cherry picking. At present, there is a large-scale reverse changeover of consumers from TPC to RInfra (in Mumbai suburbs) in the same category (high end consumption), who had made the first move to changeover from RInfra to TPC when the changeover process commenced. Nearly 6250 consumers with an annual consumption of about 1,250 MUs (38% of changeover sales in FY 2012-13) have reverse changed over to RInfra till 31 March, 2014. The Commission in Case No. 85 of 2013 passed an Order directing movement to TPC of about 7.92 lakh consumers in 0-300 units residential category from RInfra in the identified 11 clusters. TPC is committed to implement this changeover for the benefit of consumers, and has not approached the higher Courts to prevent the implementation of the pro-consumer order passed by the Commission.

- 5.8.6. With regard to RInfra's objection related to TPC not supplying electricity to slums, TPC submitted that it has acquired around 13,000 new consumers and 800 switchover consumers from September 2012 to May 2014. While all the 800 consumers in the switchover category are in the range of 0-300 units consumption category, among the new consumers acquired around 10,000 are in the Residential category, 2,500 are in the commercial category and 40 are industrial. Among the Residential consumers acquired, about 4,500 are in the consumption range of 0-300 units. One important step in switchover is to get RInfra's consent to switchover, wherein RInfra has not been supportive. There are artificial delays being created by RInfra, which in turn are severely restraining the movement of low-end consumers to TPC.
- 5.8.7. TPC further submitted that the objections raised by BEST and RInfra regarding cherry picking of consumer cannot be raised under the present proceedings which are under Sections 14 and 15 of the EA 2003 and mere apprehension of 'Cherry Picking' cannot be a ground for the denial of licence.

*Commission's analysis and view*

- 5.8.8. The Commission observes that in the above cases the issue of 'cherry picking' has been brought to the attention of this Commission. The Commission has taken cognizance of the above issue in deciding the present grant of license Application filed by TPC.

**5.9. Objections related to phased development of distribution network**

- 5.9.1. BEST submitted that, in the light of the ATE's Judgement in Appeal No. 7 of 2010, the Commission must specify the maximum time period for TPC to set up its own independent network in the entire area of supply if the licence is granted to it, and has also to be satisfied that TPC has the required capacity to do so.
- 5.9.2. RInfra and BEST have placed reliance on the Judgment of the ATE in the matter of Noida Power Company Limited vs. Pashchimanchal Vidyut Vitaran Nigam Limited & Anr. reported as 2011 ELR (APTEL) 686 in support of the following objections:
- (1) There cannot be a phased development of a distribution network in case of a second licensee, which TPC has proposed in the licence Application.
  - (2) The Applicant for the second licence should not be allowed to cherry pick a few areas in the beginning at the cost of the existing licensee and it shall have the obligation to supply to all consumers in accordance with the provisions of Section 43 of the EA 2003. TPC has in the past resorted to 'cherry picking'. Further, as per its Application, TPC will not be in a position to comply with its USO in terms of Section 43 of the EA 2003.
  - (3) Development of the distribution network in a phased manner over a period of 5 years for supply of electricity in its Licence area is contrary to the very intent of prescribing the timelines for meeting USO under the provisions of the EA 2003, the Regulations and the Supply Code.



*TPC's reply*

- 5.9.3. TPC submitted that, according to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio, and not every observation found therein nor what logically follows from the various observations made in the judgment. No judgment can be read as if it is a statute. A word or a clause or a sentence in the judgment cannot be regarded as a full exposition of law. In this regard TPC has drawn references from the Judgements of Supreme Court (*Krishna Kumar v. Union of India* reported as (1990) 4 SCC 207 *Regional Manager v. Pawan Kumar Dubey* reported as (1976) 3 SCC 334 *Union of India v. Dhanwanti Devi* reported as (1996) 6 SCC 44 and *Bharat Petroleum Corporation Ltd. & Anr. Vs. N. R. Vairamani and Anr.* reported as AIR 2004 SC 4778) to stress that the observations made in the judgments must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes.
- 5.9.4. TPC submitted that the observations of the ATE in paragraphs 26, 27 and 42 are to be read in the facts of the case in order to understand and establish the context in which they were made. These Paragraphs are to be read in the context of Paras 20 to 25, which provide the context in which these observations are made by the ATE. It is evident from the paragraphs that the observations of the ATE with regard to phased development, cherry picking and non-compliance of the USO are in the context of the capital investment, creditworthiness and capital adequacy required to be demonstrated by the Applicant for grant of a parallel licence. The ATE has clearly held that the capital investment required by the Applicant cannot be progressively determined for meeting the supply obligations. Therefore, the observations of the ATE have to be read in this context alone. In the said case, the parallel licence of Pashchimanchal Vidyut Vitaran Nigam Limited ("PVVNL") was rejected on the grounds that it had not met the requirements of capital adequacy, creditworthiness and code of conduct as provided in Proviso 6 to Section 14 of EA 2003 and not on the grounds that PVVNL was developing its network in a phased manner or were cherry picking or not complying with the obligations under Section 43. In its present Application, TPC has established the compliance of all the requirements for grant of licence in terms of the EA 2003. The facts of the present case are distinct and distinguishable from the facts of the case in which the aforesaid Judgment was passed by the ATE. Therefore, such findings set out therein and relied upon by BEST and RInfra do not hold any precedential value and are not binding on the Commission.
- 5.9.5. TPC has also highlighted the following differences in the aforesaid judgment of ATE and the present case:

- (1) PVVNL could not fulfil the mandatory requirements of Proviso 6 to Section 14. It is not so in the present case of TPC's Application.
  - (2) PVVNL was a new Applicant for the grant of a parallel licence in Noida Power Company Ltd. (NPCL)'s area of supply. On the other hand, TPC is an existing licensee as on the date of the Application;
  - (3) Greater Noida is a green area with open spaces, large parts of which are still un-electrified, and an overhead network can be laid there. On the other hand, Mumbai is a highly congested area, fully electrified, and only underground network is permissible.
- 5.9.6. The Regulations framed under Section 181 of the EA 2003 (MERC SOP Regulations) are statutory Regulations, which confer power on the Commission to take into consideration the various distinguishing factors relating to an area of supply, and abridge or extend the period contemplated under the Regulations accordingly. Thus, the period of one year provided in the MERC SOP Regulations is not sacrosanct. The aforesaid judgment does not consider the issue of laying of network.
- 5.9.7. TPC further submitted that the aforesaid Judgment of the ATE has been challenged by PVVNL in the Supreme Court, being CA No. 5473 of 2011, and is pending adjudication. However, no stay has been granted by the Supreme Court. Thus, the Judgment is not binding upon the Commission in the present facts of the case.

*Commission's analysis and view*

- 5.9.8. TPC's precise submission in this regard is that:

“ ....

*It needs to be borne in mind that Tata Power's network expansion is being proposed in a situation where there is already another distribution licensee that is existing. Hence for the purpose of planning the network, only 50% of the load in the proposed Licence Area has been considered.*

.....”

- 5.9.9. RInfra and BEST have, both suggested that this is not in consonance with the provisions of the EA 2003 and the Rules and Regulations made thereunder. Both have urged the support of ATE's Judgement in Appeal No. 7 of 2010 dated 6 April, 2011, the relevant portion of which reads as follows:

*“17. The above Rules have been notified by the Central Government specifying mandatory pre-conditions only for the grant of the second licence and not for the first licence. In other words, it is to be stated that the Act has not chosen to provide these conditions to be satisfied in the case of first licence.*

***18. As provided in Rule-3, the first step to be taken by the Appropriate Commission on receipt of an application for second licence is to determine the requirement of***

**‘Capital Investment’ for distribution network to be established. Such a distribution network has to be established by the Applicant for a second licence independent of the existing distribution network.**

19 The extent of the capital investment required is to be determined by Appropriate Commission **with reference to the obligation envisaged in Section 43 of the Electricity Act, 2003.** Section 43 of the Electricity Act provides as under:

“43. Duty to supply on request:

(1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply;

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in subsection (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within a period specified in subsection (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default”

**20. This section clearly provides that there is a universal service obligation provided for the licensee to serve every consumer seeking electricity in its area of supply within one month of the receipt of the application. This necessarily implies that the capital investment cannot amount to be progressively determined for meeting the supply obligations.**

21. Once this capital investment is determined, the Appropriate Commission is required to decide on the funding/financing of the capital investments in accordance with the relevant debt equity ratio. The Appropriate Commission has to decide on the total amount of the equity capital to be contributed by the applicant and its promoter which should be 30% normative. Accordingly, the Appropriate Commission has to make a detailed inquiry into the capital investments required and the means of financing by the applicant and satisfy itself before proceeding further.

22. **The Appropriate Commission has not only to verify whether there are available resources for the capital investment of the project, but also to satisfy that such availability of resources has been shown solely based on the track record of the preceding three years of the applicant and its promoter.** The networth and generation of internal resources of his business as determined based on the three preceding years, has to be adjusted further by reduction of all the committed investments outside the area of supply for which the second licence is made.

23. As indicated above, the Central Government has specifically chosen to provide Capital Adequacy, Creditworthiness, etc., the requirements to be fulfilled based on the three years past performance and not otherwise.

24. The Capital Adequacy is determined on the above basis; and on the basis of the Capital Adequacy so determined the ability of the Applicant to raise finances and funds has to be determined. The creditworthiness of the Applicant will have to be tested by considering whether external borrowings from Banks or Financial institutions will be available to the Applicant based on the fulfilment of the Capital Adequacy norms.

25. The applicant for a second licence is required to satisfy the State Commission the following pre conditions:

(a) The applicant with his promoter, based on their track record of the preceding three years has the requisite Capital Adequacy namely at least the provision of 30% of equity on the total project cost/capital investments required in the distribution network in the entire Greater Noida area.

(b) Based on the track record of the preceding three years, the applicant and its promoters are in a position to arrange debt borrowings to meet the balance project capital cost or capital investments mentioned above.

(c) The application for the licence is for the minimum area as specified in the Explanation to Rule 3 of the above Rules.

26. **In terms of provisions of the Act and the second licence Rules, there cannot be a phased development of the distribution network in the case of the second licence. The Applicant for the second licence should establish the capital adequacy and creditworthiness to meet service obligation for the entire area under Section 43 first in the manner mentioned above before this second licence is made effective. Otherwise, the purpose of granting second licence, to provide level playing field and competition to the existing licensee in the interest of the consumer will never be achieved.** In this context the relevant provisions of the National Electricity Policy 2005 is relevant:

“5.4.7.....With a view to provide benefits of competition to all section of consumers, the second and subsequent licensee for distribution in the same area shall have obligation to supply to all consumers in accordance with provisions of section 43 of the Electricity Act, 2003. The SERCs are required to regulate the tariff including connection charges to be recovered by a

*distribution licensee under the provisions of the Act. This will ensure that second distribution licensee does not resort to cherry picking by demanding unreasonable connection charges from consumers”.*

**27. The reading of the above clause would make it clear that the Applicant for the second licence should not be allowed to resort to cherry picking few areas in the beginning at the cost of existing licensee and it shall have the obligation of supply to all consumers in accordance with the provisions of Section 43 of the 2003 Act.”**

- 5.9.10. Relying on the first sentence of para 26 of the above Judgement, it has been suggested that phased rollout of network cannot be allowed to TPC so as to meet only 50% demand. However, the Commission is of the view that the interpretation of the above Judgement by the objectors has not been placed in the correct context. The Judgement needs to be interpreted in its entirety instead of carving out a meaning from the first sentence of para 26 in isolation. The ATE, in passing the above judgment had deliberated on the issues relating to the prerequisites of Capital Adequacy and Creditworthiness. Therefore, the usage of words ‘phased manner’ has to be given meaning in terms of the peculiar facts of the Judgment of the ATE.
- 5.9.11. The ATE has explained the steps an Appropriate Commission shall follow to evaluate the Application for second licence. It has emphasised that the Commission has to determine the capital investment requirement of the proposed area of supply considering the entire area of supply and the service obligation arising out of Section 43 of EA 2003, i.e. the capital investment required to rollout a complete distribution network in the area of supply so as to be able to serve all consumers in the area. Based on this assessment of capital investment requirement, the capital adequacy and creditworthiness of the Applicant has to be determined. It is in this context that the ATE has determined that phased development of distribution network cannot be allowed in such a manner as to enable the Applicant to pass the test of capital adequacy and creditworthiness with a lesser level of capital, which would enable it to cherry pick consumers.
- 5.9.12. In our considered opinion, it cannot be the intent of the EA 2003 that a second licensee shall develop its entire distribution network immediately upon the grant of licence. The Universal Supply Obligation cast on a Distribution Licensee through Section 43 has created the obligation of supplying on demand. The licensee is obligated to create its distribution infrastructure in the entire area of supply. The first proviso to Section 43 has provided relief from the requirement of effecting supply within one month in cases where the licensee has to extend its distribution mains or create new substations. The licensee has been provided time to provide supply till he creates these extensions of distribution mains or establishes the new substations wherever necessary. Alternatively, if the Appropriate Commission has specified a time limit through Regulations, then the licensee will have to abide by such time limits for extending supply. In this respect, no distinction has been made in the Act between the second licensee and the existing licensee in the same area of supply. This Commission is within its Regulatory authority to provide a scheme for development of its distribution network by a second licensee. These powers have been enumerated in the SOP Regulations. The Commission, in

subsequent paragraphs of the Order, has dealt with the manner in which TPC shall comply with its USO.

- 5.9.13. This Commission has specified the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 on 20 May, 2014, with the following provisions.

*“4.7 The Distribution Licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one (1) month after receipt of the completed application and payment of charges for requiring such supply, if the supply to an applicant is to be given from an existing network of the Distribution Licensee.*

*4.8 Where the supply of electricity to a premise requires extension or augmentation of distributing mains, the Distribution Licensee shall give supply to such premises within three (3) months from the date of receipt of the completed application and payment of charges. The extension or augmentation of distributing mains includes the extension of HT, LT lines and augmentation of distribution transformer substation.*

*4.9 Where the supply of electricity to a premise requires commissioning of a new sub-station forming a part of the distribution system, the Distribution Licensee shall give supply to such premises within one (1) year from the date of receipt of the complete application and payment of charges. The commissioning of new sub-station forming a part of the distribution system will include substation having transformation from HT to HT or HT to LT or switching station from where the HT distribution lines originate.*

*4.10 The Distribution Licensee shall not be held responsible for the delay, if any, in giving supply on account of problems relating to statutory clearances, right of way, acquisition of land or the delay in consumer's obligation which is beyond the reasonable control of the Distribution Licensee.”*

- 5.9.14. Further, the distinction between the requirement of establishing one's own distribution system as required under the sixth proviso to Section 14 of the EA 2003 and the requirement of capital adequacy as provided through Rules, 2005 by the Central Government has to be understood. The sixth proviso requires the second licensee to supply through its own independent distribution system. However, it does not specify that the second licensee shall create the distribution system immediately after grant of licence. Once a licence is granted, the second licensee becomes obligated to follow Section 43 of the Act, which requires the licensee to supply on demand within one month or within such time as it extends the distribution mains or commissions the sub-stations as may be required to provide that supply. Section 43 also specifies that, if the Appropriate Commission specifies a period for extending the distribution mains or commissioning the required sub-stations, then the licensee will be required to follow such time-line. However, the Rules, 2005 require that the capital adequacy for the second licensee has to be determined before the grant of licence, and be based on the obligation under Section 43 for the entire area of supply. Therefore, while it is required

to determine the capital adequacy of the second licensee for the entire area of supply before granting it a licence, the Act has given liberty to a licensee to develop its distribution system in a manner such as to provide supply on request within the time-frames stipulated by the Commission.

- 5.9.15. However, the main objective behind granting the second Distribution Licence is to create an environment of competition, and no licensee can be allowed to cherry pick at the cost of the others. Therefore, it is important that the network be developed in a fashion that creates a level playing field, and fosters competition amongst the licensees in the same area with the purpose of ensuring power is available to all categories of consumers including the lowest category. The Commission observes that electricity is the catalyst which can bring socio economic change and the said change can only be achieved by promotion of competition and providing choice to all categories of consumers especially the lowest category.
- 5.9.16. TPC has submitted that it has planned a network rollout in the next five years so as to create a backbone readiness to cater to about 50% of the demand in the proposed area of supply over the licence period in the given situation of other existing Distribution Licensees. In its Business Plan, TPC has provided as follows:

***“7.3 Approach for Network Augmentation and Development***

*The network rollout (backbone development) approach is based on the network readiness to supply on demand as per the SOP Regulations. The plan addresses the two aspects for ensuring readiness, viz. (i) Load Density and (ii) Geographical spread. The backbone readiness has been considered on the basis of 50% load capability and entire geographical spread.*

*The approach has been prepared upon consultation with technical experts from renowned bodies like Central Electricity Authority (CEA) and Rural Electrification Corporation (REC). For the purpose of network rollout and the resulting capital expenditure, we have estimated the number of DSS that would be required to be set up in the five year period of FY 2014-15 to FY 2018-19. Based on the same the Capital Expenditure has been worked out with the philosophy described above. As a starting point, the existing distribution network of Tata Power alongwith already identified DSS locations have been listed below and marked on the map.*

.....

*As regards future capacity addition of DSS and augmentation of distribution network backbone infrastructure is concerned, load of the two areas viz. South Mumbai and North Mumbai have been considered. Based on the same, the following emerges*

.....

*Tata Power- D is currently serving around 30% of the Mumbai demand. The Backbone readiness has been considered on the basis of expected growth rate of around 6-7% per annum to be able to serve around 50 % Mumbai load over the*

*licence period. Further, it may be noted that growth in South Mumbai would be based on the outcome of the Civil Appeal No. 4223 of 2012 in Hon'ble Supreme Court.*

*In addition the following important factors have been taken into account:*

- It needs to be borne in mind that Tata Power's network expansion is being proposed in a situation where there is already another distribution licensee that is existing. Hence for the purpose of planning the network, only 50% of the load in the proposed Licence Area has been considered.*
- Availability of outlets and capacities at receiving substations (RSS) of transmission licensees*
- Expected growth of load and load centres*
- Competitive advantage and tariff differentiation to enable choice for consumers*
- Other Ecosystem factors - space constraints, barriers due to incumbent network availability"*

5.9.17. The plan for catering to 50% demand cannot be interpreted to be an expression of intent of capping the capital expenditure to that extent. This is a plan based on an estimate that, during the tenure of the licence, TPC will have to serve 50% of the load. TPC has assumed that, over the tenure of licence, it will have to share the load equally with the existing licensee in the same area of supply. The Commission has noted the assumptions, plan and intention expressed by TPC. However, the present License Application shall be decided on the applicable provisions of EA 2003 and the various Regulations framed thereunder and the interest of public at large.

## **5.10. Capital adequacy and creditworthiness**

5.10.1. RInfra submitted that TPC has considered the entire sales of RInfra and BEST as revenue potential, but calculated capital adequacy considering only the capex proposed by it.

5.10.2. BEST submitted that TPC does not meet the requirements of capital adequacy and creditworthiness as it has provided for much lower capital investment than would be required to rollout the entire distribution system in the proposed area of supply. This is in violation of the requirements of the EA 2003 and the relevant Rules and Regulations.

### ***TPC's reply***

5.10.3. With reference to the point raised by RInfra, that TPC submitted that it has an existing network in the city of Mumbai and will build upon this network in the next five years, the capex for which has been included in the Business Plan. The capital expenditure proposed has been made considering development of a backbone network and also the consumer network with a view to being readiness to serve and meet its obligations along timelines under the Electricity Act.

5.10.4. TPC submitted that it is incorrect to suggest that it does not satisfy the eligibility criteria for grant of licence. TPC has submitted necessary details to demonstrate its capital



adequacy, creditworthiness and a fulfilment of the code of conduct requirements, stipulated under the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 and all other requirements under Sections 14 and 15 of the EA 2003. TPC further submitted that it has the ability to perform, and has been duly performing all the obligations of a Distribution Licensee as stipulated under the EA 2003 and the Rules and Regulations made thereunder.

***Commission's analysis and view***

- 5.10.5. If a licence is granted to TPC, then it must have the requisite resources, i.e. requisite capital adequacy and creditworthiness, to establish the distribution network.
- 5.10.6. Under the Rules, 2005 the Appropriate Commission has to determine the capital investment requirement of the proposed area of supply considering the entire area of supply and the envisaged service obligation arising out of Section 43 of the Act, i.e. the capital investment required to rollout a complete distribution network in the area of supply so as to be able to serve all consumers in the area. Based on this assessment of capital investment requirement, the capital adequacy and creditworthiness of the Applicant has to be determined. The Rules also require that the capital adequacy for the second licensee has to be determined before the grant of licence.
- 5.10.7. In the subsequent Part of this Order, the Commission has evaluated TPC's capital adequacy and creditworthiness as per the requirement of the Rules, 2005 and found these to be satisfactory.

**5.11. Other miscellaneous objections**

- 5.11.1. During the Public hearing held on 10 July, 2014 the following objections were raised by the participants:
- 5.11.2. Some objectors submitted that TPC does not fulfil the criteria for grant of a Distribution Licence.

***TPC's reply***

While disagreeing with the objection, TPC provided references to the requisite details provided by TPC in its Application regarding fulfilment of the criteria.

***Commission's analysis and view***

The Commission has evaluated the Application submitted by TPC for grant of licence in subsequent Parts of this Order.

- 5.11.3. Some objectors submitted that TPC should lay its network and carry out switchover in slums. TPC should also provide specific timelines for laying its network in the 11 identified clusters.

***TPC's reply***

TPC submitted the chronology of events and its effort to obtain permissions to lay its network so as to supply to Adivasi Pada – Babhalicha Bhat. It also provided status of network laying and switchover in the slum areas of Shanti Nagar, Indira Nagar and Ambojwadi (which were specifically mentioned at the hearing) as follows:

**Table 7: Status of network laying and switchover in slum areas as submitted by TPC**

Particulars	Shanti Nagar	Indira Nagar	Ambojwadi
<b>Network Presence</b>	Network present in the vicinity	Network present in the area - In discussion for land acquisition for setting up additional CSS.	Network present in the area - Network is being further expanded to ensure reliability
<b>Switchover/ New Applications received (Nos.)</b>	102	277	6947
<b>Cost estimates forwarded (Nos.)</b>	102	274	6947
<b>Payments received (Nos.)</b>	-	132	4427
<b>Meter charged (Nos.)</b>	-	-	449
<b>Challenge faced</b>	Delay in excavation permission from MCGM	CSS space is yet to be finalised	

***Commission’s analysis and view***

The Commission has noted the objection raised and the reply submitted by the Applicant. The Commission has addressed this issue in subsequent Parts of this Order.

- 5.11.4. Some objectors submitted that the resort to changeover is not as per the provisions of EA 2003.

***TPC’s reply***

TPC submitted that, without prejudice to appeals pending before the Supreme Court, ATE in its judgment dated 21 December, 2012 in Appeal No. 132 of 2011, has held that changeover is Open access. Open Access is provided under Section 42 of the EA 2003. Therefore, TPC does not agree with the Objectors that changeover is not as per EA 2003.

***Commission’s analysis and view***

The specific Orders related to changeover which are applicable to TPC have already been issued by the Commission and are not subject matter of the present proceedings.

- 5.11.5. Some objectors submitted that TPC’s proposal does not comply with MCGM Development Control Rules.

***TPC’s reply***

TPC submitted that it would install CSS over public amenities only on getting required permissions and clearances from the MCGM. TPC assured that it carries out its network development activity only after meeting the prescribed statutory requirements.

***Commission's analysis and view***

The Commission observes that if the Licence is granted to TPC then TPC shall be bound to comply with all applicable Laws, Rules and Regulations.

## 6. Evaluation of TPC's Application for grant of Distribution Licence

### 6.1. Evaluation of mandatory requirements - Eligibility Criteria

6.1.1. On the date of expiry of the existing licence of TPC, other Licensees, viz., Reliance Infrastructure Limited (RInfra) would exist in the Mumbai suburban area and Mira Bhayandar Municipal Corporation area; and Bruhanmumbai Electricity and State Transport Undertaking (BEST) would exist in the Mumbai city. Hence, the issue of grant of licence to more than one person in the same area will arise. In such a situation, the sixth proviso to Section 14 of the EA 2003 contemplates that an Applicant for a licence where “*there already exists a licensee in the same area for the same purpose*” must “*comply with the additional requirements relating to the capital adequacy, creditworthiness, or code of conduct as may be prescribed by the Central Government.*” This would be without prejudice to the other conditions or requirements, if any, under the EA 2003. The sixth proviso to Section 14 reads as follows:

*“Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirement under this Act, comply with the additional requirements relating to the capital adequacy, creditworthiness, and code of conduct as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:”*

6.1.2. Accordingly, the provisions of the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 notified by the Central Government as per the provisions of Section 14, have been applied in the present case. These extracts includes the following:

*“... 3. Requirements of capital adequacy and creditworthiness.-*

*(1) The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under sub-section (1) of section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of section 43.*

*(2) The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of networth and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments.*

*Explanation: - For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.*

*4. Requirement of Code of Conduct.-*

*The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of the application for the grant of licence:*

*(a) section 203, section 274, section 388B or section 397 of the Companies Act, 1956;*

*(b) section 276, section 276B, section 276BB, section 276C, section 277 or section 278 of the Income tax Act, 1961;*

*(c) section 15C, section 15G, section 15H or section 15HA of the Securities and Exchange Board of India Act 1992;*

*(d) clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act 1944;*

*(e) section 132 or section 135 of the Customs Act 1962,*

*and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:*

*Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443 (e) of the Companies Act, 1956 on the ground of its being unable to pay its debts."*

6.1.3. The Commission has assessed TPC's eligibility for the grant of a Distribution Licence on the basis of the above framework described, and the information provided by TPC in its Application and other submissions. Accordingly, the Commission applied the following criteria to determine TPC's eligibility for grant of Distribution Licence:

- Minimum area of supply requirement (E1)
- Capital adequacy requirement (E2)
- Creditworthiness requirement (E3)
- Code of conduct requirement (E4)
- Requirement of own distribution system (E5)

## **6.2. Minimum area requirement (E1)**

- 6.2.1. TPC has sought a licence to distribute electricity in the entire Mumbai city, part of Mumbai suburban area and part of the area of Mira Bhayandar Municipal Corporation (MBMC), which is its present area of supply. TPC has also proposed to include the areas covered by Chene and Versave villages, which are now a part of Mira-Bhayandar Municipal Corporation and are contiguous with its existing licence area. TPC has also proposed to continue to serve consumers such as 110 kV Ordinance Factory, Ambernath, and the BMC Pumping Station at Bhandup which are located outside the licence area proposed but are consumers of TPC for historical reasons.
- 6.2.2. The Commission observes that the area of supply as proposed by TPC in its Application covers most of the area administered by the Municipal Corporation of Greater Mumbai (MCGM) (including the whole of the Revenue District of Mumbai and a major part of the Mumbai Suburban District). Additionally, inclusion of Chene and Versave villages in the proposed area of supply by TPC covers the entire area under Mira-Bhayandar Municipal Corporation in Thane District.
- 6.2.3. Therefore, TPC's Application for grant of Distribution Licence conforms to the minimum area of supply in terms of the Explanation to Rule 3 of the Distribution of Electricity Licence (Additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. The prescription that "*the area falling within a ....Municipal Corporation .... or a revenue district shall be the minimum area of supply,*" is fulfilled.

### **6.3. Capital adequacy requirement (E2)**

- 6.3.1. To comply with the capital adequacy requirement laid down in the said Rules, 2005; TPC is required to satisfy the Commission that it has the ability to make available equity to the extent of 30% of the capital investment required for distribution in the proposed area of supply. It is also specified in those Rules that such ability is to be assessed based on the net worth and internal resource generation of business and promoters in the preceding three years, after excluding other committed investments.
- 6.3.2. In its Application, TPC has submitted computation details of the financial parameters, namely Internal Resource Generation and Net Worth. For the purpose of computation of these parameters, only audited annual accounts were to be considered. Such accounts include all the assets and liabilities owned by the Applicant entity. In other words, if the Applicant owns distribution assets existing in the proposed area of supply, the value of those assets would be captured in such computation. In such case, even if the capital investment requirement may be incremental, capital adequacy cannot be assessed in an incremental manner as it is not possible to obtain audited annual accounts which exclude the value of distribution assets existing in the proposed area of supply. Therefore, the Commission considered the Applicant's audited annual accounts which include all assets and liabilities. Accordingly, the Commission proceeded to determine the capital investment required for rolling out a new distribution system in the proposed area of supply.

- 6.3.3. It is specified in the Rules that the Commission needs to determine the requisite capital investment based on the size of area and the Universal Service Obligation. The Commission is of the view that precise estimation of capital investment requirement is not a necessary exercise for the purpose of grant of licence. The central idea is to obtain a fair estimate of such capital investment requirement. After hearing TPC and considering the area for which licence is sought, the Commission arrived at an estimate of initial capital investment requirement based on publicly available information and other material with it. According to such estimate, the capital investment requirement would be to the tune of Rs. 8,005 crore.
- 6.3.4. Therefore, on a norm of 30% equity, the total equity investment required is about Rs. 2401.5 crore. Under the dynamics of capital markets, a Company may choose not to invest all the equity/ share capital from its own resources. It is reasonable to expect that the Company would invest at least 26% of the total equity requirement from its own resources so as to have sufficient control and voting rights in the licensed business. Therefore, TPC would need to invest a minimum equity capital of Rs. 624.39 crore. The minimum equity requirement from the Applicant at any point in time shall not be less than 26% of total equity to ensure that it has effective control to block special resolutions, which are not in the interest of the Company.
- 6.3.5. According to the Distribution of Electricity Licence (Additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005, the capital adequacy has to be assessed based on Net Worth and Internal Resource Generation of the preceding three years. As the EA 2003 and the Rules do not specify any method of computing Net Worth and Internal Resource Generation, the Commission adopted the method specified by the Central Government in the Standard Bidding Documents for procurement of power through tariff based Competitive Bidding under Case 2.
- 6.3.6. The formula for net worth computation adopted accordingly by the Commission is as below:
- $$\text{Net Worth} = \text{Equity Share Capital} + \text{Reserves and Surplus} - \text{Revaluation Reserves} - \text{Intangible assets} - \text{Miscellaneous Expenditure to extent not written off and carry forward losses}$$
- 6.3.7. The formula for Internal Resource Generation computation adopted by the Commission is as below:
- $$\text{Internal Resource Generation} = \text{Profit after Tax} + \text{Depreciation and Amortization} + \text{Decrease in Net current Assets (Excluding cash)} + \text{Any other non-cash expenditure (including deferred tax)} - \text{Scheduled loan repayments and increase in net current assets (excluding cash)}$$
- 6.3.8. The following two tests were considered while assessing the capital adequacy of the Applicant. It is important to note that both these tests need to be separately passed by the Applicant.

**Test 1: Is the maximum of (NW1, NW2, NW3) – CE ≥ CIC**  
**AND**

**Test 2: Is five (5) times the maximum of (IRG1, IRG2, IRG3) – CE ≥ CIC**

Where,

IRG1: Internal Resource Generation for the last audited financial year

IRG2: Internal Resource Generation for the year before the last audited financial year

IRG3: Internal Resource Generation for two years before the last audited financial year

CE: 26% of the Committed Equity investments elsewhere

CIC: 26% of (30% of Capital Investment Criteria) as estimated from capital expenditure requirement

NW1: Net worth for the last audited financial year

NW2: Net worth for the year before the last audited financial year

NW3: Net worth for two years before the last audited financial year

- 6.3.9. The multiplying factor for Internal Resource Generation (IRG) is taken as 'five (5)', which reflects the number of years assumed to be required to setup the distribution system in the applied licence area.
- 6.3.10. TPC submitted the computation of Net Worth and Internal Resource Generation (IRG) as per audited financial statements in its Application below:

**Table 8: TPC - Net worth and IRG on stand-alone basis (Rs. crore)**

	FY 2010-11	FY 2011-12	FY 2012-13
<b>Net worth</b>	10,630	10,583	10,937
<b>IRG</b>	1,343	828	(133)

- 6.3.11. The net worth as on March 31, 2013 is Rs. 10,937 crore i.e. the maximum in the preceding 3 years. The maximum IRG over the last 3 years was Rs. 1,343 crore in FY 2010-11. TPC had a negative IRG in FY 2012-13.
- 6.3.12. As per the Distribution of Electricity Licence (Additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005, the Applicant's committed investments tied up in other projects need to be excluded while deriving capital adequacy. For adjustment of such commitments while deriving capital adequacy, only the equity component of the other committed investments would be relevant. However, with increasing avenues to raise equity, the Applicant may choose not to bring the entire equity for other committed investments from its own resources. It can be fairly assumed that the minimum equity contribution from an Applicant may be 26% of the total equity, which is sufficient for barring any special resolution and maintaining control of the committed investments. Therefore, for the adjustment related to other commitments, 26% of committed equity in other committed investments has been considered. TPC has submitted in its Application that it has equity commitment of investments in projects other than in the proposed area of supply worth around Rs 1,012 crore (26% equivalent).
- 6.3.13. Therefore, according to the test applied by the Commission, the net worth, adjusted for the committed equity investments elsewhere, is computed to be Rs. 9,925.34 crore.



However, TPC is required to satisfy the Commission that the minimum of Rs. 624.39 crore for this licensed business is potentially available. Its adjusted net worth of Rs. 9,925.34 crore is far greater than the equity requirement of Rs. 624.39 crore. The Commission also noted that, without considering the minimum equity contribution of 26% from the promoters and considering instead, the entire equity contribution of 30% from the promoter, the total equity investment required is about Rs. 2401.5 crore. The adjusted net worth of Rs. 9,925.34 crore is also far greater than the entire equity investment from the promoter. Therefore, the Commission is of the opinion that TPC satisfies the net worth criterion.

- 6.3.14. According to the test determined by the Commission, the IRG, adjusted for the equity investments committed elsewhere, was computed to be Rs.5,703 crore. TPC needs to satisfy the Commission that a minimum of Rs. 624.39 crore for this licensed business is potentially available. The adjusted IRG of Rs. 5,703 crore is far greater than the equity requirement of Rs. 624.39 crore. However, the Commission notes that, even without considering the minimum equity contribution of 26% from the promoter and, instead, considering the entire equity contribution of 30% from the promoter, the total equity investment required is about Rs. 2401.5 crore. The adjusted IRG of Rs. 5,703 crore is far greater than the entire equity investment from promoter. Hence, TPC satisfies the IRG criterion also.
- 6.3.15. Therefore, in the opinion of the Commission, TPC has met the eligibility requirement for capital adequacy as it passes the tests for both net worth and Internal Resource Generation.

#### **6.4. Creditworthiness requirement (E3)**

- 6.4.1. The Distribution of Electricity Licence (Additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 do not elaborate on the method of creditworthiness assessment. However, a discussion in the Judgment of the Appellate Tribunal for Electricity in Appeal No. 7 of 2010 is referred to for the purpose of evaluation of the creditworthiness requirement. In this judgment, the Tribunal has observed that :

*“..... The Capital Adequacy is determined on the above basis; and on the basis of the Capital Adequacy so determined the ability of the Applicant to raise finances and funds has to be determined. The creditworthiness of the Applicant will have to be tested by considering whether external borrowings from Banks or Financial institutions will be available to the Applicant based on the fulfilment of the Capital Adequacy norms”*

- 6.4.2. The MERC (General Conditions of Distribution Licence) Regulations, 2006 (in Point 5 of Part B of Annexure 1 of the Application format) require the Applicant to submit bank references asserting that it is financially solvent. The solvency assesses the ability of an organisation to meet its long-term fixed expenses and to undertake long-term expansion and growth. As a part of the Application, TPC submitted a solvency certificate and

Credit Rating report. The Credit Rating report provides a credit rating which represents the rating agency's opinion on the likelihood of a rated debt obligation being met in full and on time. A simple alphanumeric symbol is normally used to convey a credit rating. In contrast to a credit bureau, which provides information on past debt repayments by borrowers, a credit rating agency provides an opinion relating to the ability of the borrower to repay a debt in future. Since a Credit Rating report takes into consideration the past repayments record and future likelihood of repayment of a debt, the Commission, in the absence of any other tool, considered the latest available Credit Rating report for assessing the creditworthiness of TPC. Thus, the creditworthiness of TPC was assessed on the basis of the solvency certificate and Credit Rating report.

- 6.4.3. Along with its Application, TPC submitted a solvency certificate from HDFC Bank. In the solvency certificate, HDFC Bank has stated that, based on the audited financial statement of The Tata Power Company Limited for the year ended 31 March, 2013, the tangible net worth of the Company is Rs.13,657 crore. Further, the Company may be considered solvent to the extent of Rs. 13,657 crore.
- 6.4.4. TPC also submitted a credit Rating report as part of its Application. Three of its debt instruments were rated by CARE Ratings in January, 2014. According to the report, the long-term debt instruments of Rs.1500 crore Perpetual Bond, Rs. 1500 crore Hybrid Bond, and Rs. 210 crore Non-Convertible Debenture were rated CARE AA [Double A]. The report indicates that the rating on the instruments of TPC continues to reflect TPC's strong position as an integrated power Company.
- 6.4.5. The debt requirement of TPC in the proposed business is 70% of the total capital investment requirement, which is about Rs. 5,603.5 crore. The Applicant should be able to raise this debt. Based on the solvency certificate provided by HDFC Bank, TPC can be treated as solvent up to a sum of Rs. 13,657 crore. In addition, the rating received by TPC from CARE Ratings indicates that TPC has comfortable liquidity and has strong financial flexibility. Based on the Credit Rating report and solvency certificate, the Commission is satisfied that TPC meets the requirement of creditworthiness.

## **6.5. Code of conduct requirement (E4)**

- 6.5.1. As provided in Rule 4 of the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005, TPC was required to meet the code of conduct requirements as per the provisions of the following Acts:

- Companies Act, 1956
- Income Tax Act, 1961
- Securities and Exchange Board of India Act, 1992
- Excise Act, 1944
- Customs Act, 1962

- 6.5.2. The relevant provisions of the Rules are set out below:

*“4. Requirement of code of conduct.- The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of the application for the grant of licence:*

*(a) section 203, section 274, section 388B or section 397 of the Companies Act, 1956;*

*(b) section 276, section 276B, section 276BB, section 276C, section 277 or section 278 of the Income tax Act, 1961;*

*(c) section 15C, section 15G, section 15H or section 15HA of the Securities and Exchange Board of India Act 1992;*

*(d) clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act 1944;*

*(e) section 132 or section 135 of the Customs Act 1962,*

*and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:*

*Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443 (e) of the Companies Act, 1956 on the ground of its being unable to pay its debts.”*

- 6.5.3. Vide email dated 15 April, 2014, the Commission directed TPC to submit a declaration, under affidavit, as required under the requirement of code of conduct (Rule 4) of the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. In reply, TPC submitted an affidavit to the Commission on 7 May, 2014. Based on the information submitted under affidavit, the Commission is satisfied that TPC is not in violation of the code of conduct and meets the requirements of the Rule 4.

## **6.6. Requirement of own distribution system (E5)**

- 6.6.1. One of the requirements of the sixth proviso of the Section 14 of the EA 2003 is that a second or subsequent licensee in the same area shall supply electricity through its own network:

*“Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, ....”*

- 6.6.2. Accordingly, the Applicant for a Distribution Licence will have to supply electricity through its own distribution system, if the licence is granted to it. Therefore, a network rollout plan for the proposed area of supply is a mandatory requirement for grant of a Distribution Licence. The plan should give an overview of timelines to set up the

network and the manner in which the Applicant proposes to meet the Universal Service Obligation of a Distribution Licensee.

### Network rollout plan submitted by TPC

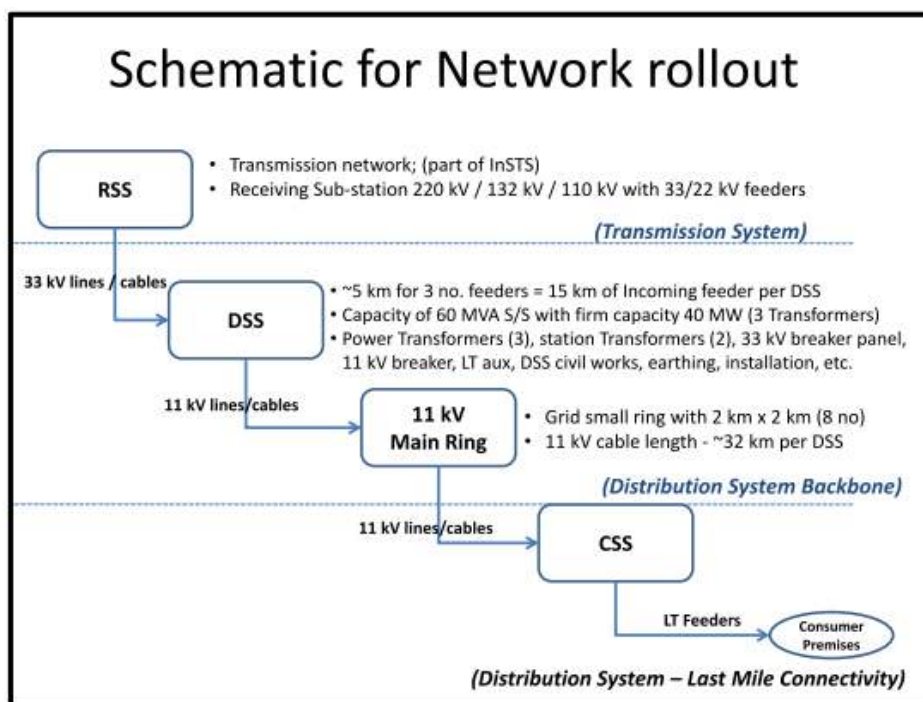
6.6.3. TPC submitted that its network rollout plan is based on the MERC Supply Code Regulations, SOP Regulations and CEA (Technical Standards for Construction of Electrical Plant and Electrical Lines) Regulations, 2010. Based on these, TPC has identified the following needs of the proposed network:

- Create a backbone of distribution network - (33 kV/ 11 kV) Distribution Sub-stations (DSS);
- Identify source or outlet at Receiving Substations to feed supply to DSS;
- Establish connectivity to feed the DSS from identified RSS; and
- Create 11 kV main ring network.

6.6.4. TPC has stated that developing its network with this philosophy will help it comply with the timelines laid down under the SOP and Supply Code Regulations. It will also be in line with the views of the Rural Electrification Corporation.

6.6.5. TPC has submitted that its network rollout plan has focused on creating the requisite backbone of distribution system within the proposed area of supply, including the villages of Chene and Versave. TPC submitted the following schematic for its network rollout plan:

Figure 1: Schematic for network rollout submitted by TPC



6.6.6. TPC has assessed the specific load density considering the geographic area coverage and correspondingly assessed the infrastructure required for creation of the distribution

backbone. The following network rollout plan has been submitted by TPC for the proposed Distribution Licence area.

**Table 9: Phasing of Distribution Sub-Stations (DSS) in the backbone layout as proposed by TPC**

Particulars (DSS)	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Total	Beyond FY 2018-19	Grand Total
South Mumbai	-	1	2	1	1	5	6	11
North Mumbai	4	2	2	1	2	11	7	18
Chene Versave	-	-	-	1	-	1	-	1
<b>Total</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>17</b>	<b>13</b>	<b>30</b>

6.6.7. TPC also submitted that the MVA capacity of the system will be developed to 2445 MVA from the current 1525 MVA by FY 2018-19, and to 2725 MVA beyond FY 2018-19. It also submitted that the capacity so developed will be able to meet 50% of the load of the proposed area of supply. It submitted that its plan has envisaged meeting 50% of load as other Distribution Licensees already exist in the proposed area of supply. For some DSS, land was yet to be identified. TPC has further submitted that establishment of Consumer Substations (CSS) and last mile connectivity would be critically dependent on consumer demand. An approximate plan for CSS and last mile network has been worked out by TPC as below:

**Table 10: Phasing of Consumer Sub-Stations (CSS) as submitted by TPC**

Particulars (CSS)	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Total
South Mumbai	-	24	48	24	24	120
North Mumbai	96	48	48	24	48	264
Chene Versave	-	-	-	24	-	24
<b>Total</b>	<b>96</b>	<b>72</b>	<b>96</b>	<b>72</b>	<b>72</b>	<b>408</b>

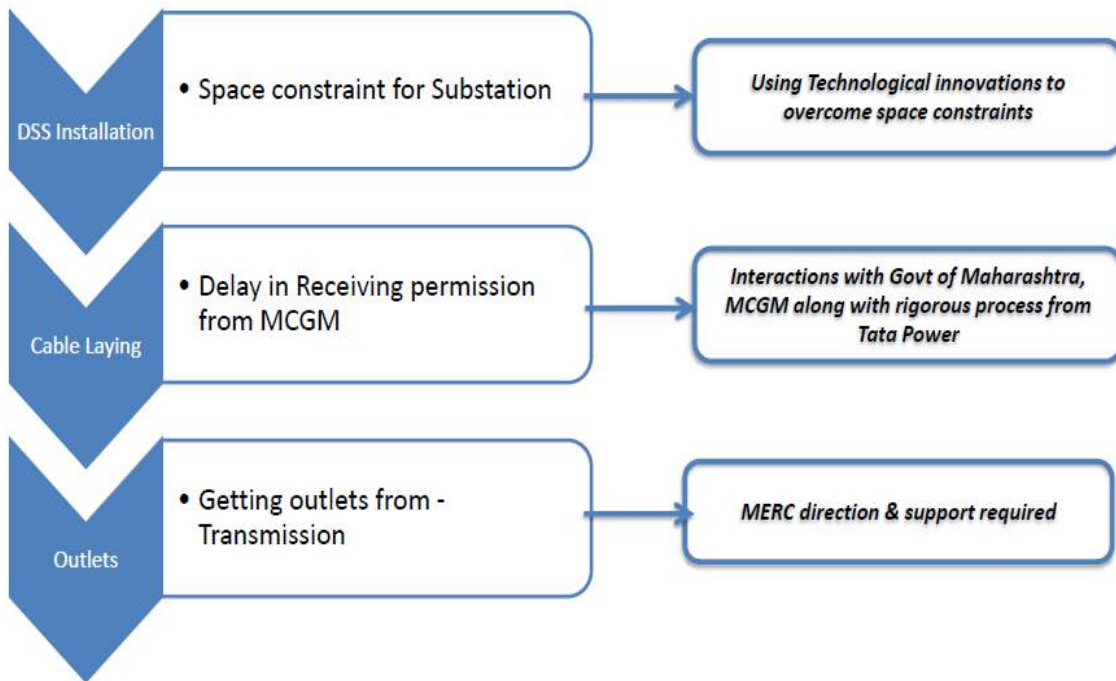
6.6.8. Based on the demand projection of TPC's wires in the proposed area of supply, TPC has submitted the following revised infrastructure requirement.

**Table 11: Summary of Network Augmentation and Development as submitted by TPC**

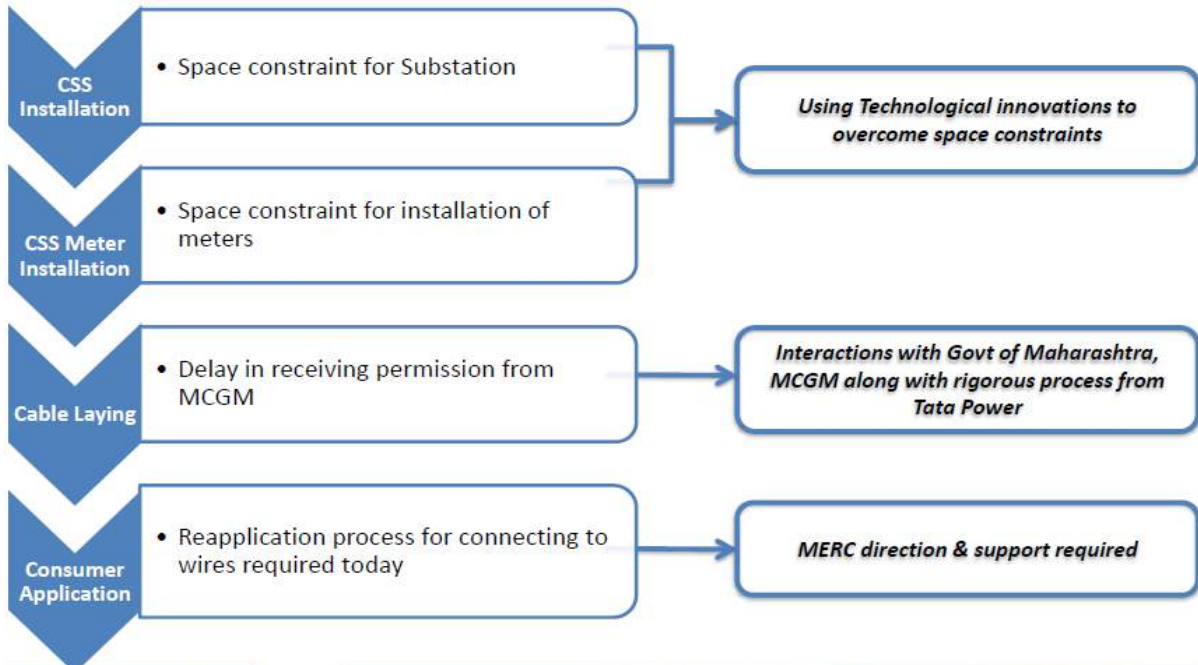
Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Total
DSS (nos.)	4	3	4	3	3	17
CSS (nos.)	96	72	96	72	72	408
33 kV cable (km)	60	45	60	45	45	255
11 kV cable (km)	320	240	320	240	240	1360
LT Feeder (km)	480	360	480	360	360	2040
Capital Investment (Rs. crore)	442	332	442	332	332	1879

6.6.9. One of the key difficulties cited by TPC is the availability of space and requisite permissions from authorities like MCGM for laying out its network. It has stated that it made as many as 2309 Applications till 31 March, 2014 to MCGM and other agencies for permissions for digging and laying of network, out of which 76% (1805) are still pending approval. It also stated that, in the last 1.5 years (from No. 2012 till March 2014), it has installed 7 DSS, 218 km of HT line, 118 CSS, and 404 km of LT line. However, all these are largely dependent on space availability and requisite permissions from local authorities. It has presented its strategy for overcoming such problems in the following manner:

**Figure 2: Strategy for overcoming difficulties in laying backbone network submitted by TPC**



**Figure 3: Strategy for overcoming difficulties in connecting new consumers submitted by TPC**



**Figure 4: Adoption of new technology for space problems submitted by TPC**

Plan A (Space available)	Plan B (Limited Space available)	Plan C (Space not available)
<b>DSS</b>		
<ul style="list-style-type: none"> <li>Conventional DSS</li> </ul>	<ul style="list-style-type: none"> <li>3 tier DSS</li> <li>E House</li> </ul>	<ul style="list-style-type: none"> <li>Inclusion of DSS in 25 year MCGM Development Plan and Procuring DSS space at market price</li> </ul>
<b>CSS</b>		
<ul style="list-style-type: none"> <li>Conventional CSS</li> </ul>	<ul style="list-style-type: none"> <li>HVDS &amp; Pole Mounted CSS</li> </ul>	<ul style="list-style-type: none"> <li>CSS over Public Spaces – Toilets, Parking, etc.</li> <li>Underground CSS</li> </ul>
<b>Meter Installation</b>		
<ul style="list-style-type: none"> <li>Meter Room</li> </ul>	<ul style="list-style-type: none"> <li>Weather Proof Meter Panel</li> </ul>	<ul style="list-style-type: none"> <li>Split Metering</li> </ul>

6.6.10. TPC has also proposed adoption of new technologies such as pole mounted CSS, 3-tier DSS, etc. to address the problems of space constraint wherever possible. It has stated that its top management is actively pursuing MCGM for clearances and approvals for laying out its network. It has also submitted that it is of identifying lands for setting up the DSS. In some cases, land is already identified, but in others it is yet to be identified.

6.6.11. The Commission observes that the Network Rollout Plan submitted by TPC has to be evaluated from the following perspectives:

- (a) Evaluation of the historical background of TPC's existing supply; and
- (b) Adequacy of the network development plan submitted by TPC.

**A. Evaluation of the Historical Background of TPC's existing supply**

6.6.12. TPC has been in the business of distributing electricity since 1907 in the area within the jurisdiction of this Commission. TPC is a parallel licensee, under Section 14 of the EA 2003 in the existing distribution areas of BEST and RInfra. The Supreme Court, vide its Judgment dated 8 July, 2008 in Tata Power Company Ltd. v. Reliance Energy Ltd. reported at (2008) 10 SCC 321, has upheld the right of TPC as a Distribution Licensee to supply electricity to retail consumers in its licensed area of Mumbai, including those requiring a load below 1000 kVA. Thus, TPC was formally allowed to supply electricity in retail pursuant to that Judgment. Therefore, in order to decide on the present licence Application of TPC it is imperative to analyse the historical facts relating to the distribution of electricity in the city of Mumbai and parts of Mumbai suburban area, which is germane to the present Case.

6.6.13. Prior to the enactment of EA 2003, TPC was holding four Licenses in Mumbai City and Suburban area. Subsequently, upon amalgamation of the Tata Hydro – Electric Power Supply Company Limited and Andhra Valley Power Supply Company Limited with The



- Tata Power Company Limited, the Government of Maharashtra, on 12 July, 2001 transferred the said licenses to TPC. The Commission notes that, on the basis of these Licences TPC was entitled to sell, supply and distribute electricity to bulk consumers and other Licensees, i.e. RInfra and BEST.
- 6.6.14. RInfra is also a Distribution Licensee in the suburban area of Mumbai. The licence was first issued to BSES Ltd on 13 May, 1930, and that entity was subsequently renamed as RInfra. Therefore, a part of the TPC's licensed area of supply was common to both TPC and RInfra.
- 6.6.15. A dispute arose between RInfra and TPC in the year 2002 when RInfra filed a Petition in Case No.14 of 2002 before the Commission under Section 22 of the Electricity Regulatory Commissions Act, 1998. In that Petition, RInfra complained about the alleged encroachment by TPC within its area of supply. It was specifically contended that direct supply and sale of electricity by TPC to retail consumers with a maximum demand below 1000 kVA within RInfra's area of supply was in contravention of the licence terms as well as the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. RInfra sought a direction from the Commission restraining TPC from supplying and distributing electricity to consumers situated within its area of supply with maximum demand below 1000 kVA.
- 6.6.16. In its Order dated 3 July, 2003 in Case No.14 of 2002 the Commission observed that, keeping the peculiarity of the Mumbai area in terms of overlapping Licences in view, a detailed study is required to be undertaken before permitting TPC to supply in the retail sector. The Commission also held that TPC only has a right to supply in its area to consumers with a maximum demand above 1000 kVA.
- 6.6.17. Both parties filed separate Appeals before the ATE against the Commission's Order, RInfra in Appeal No. 31 of 2005 and TPC in Appeal No. 43 of 2005. The ATE disposed of these Appeals in Order dated 22 May, 2006, holding that TPC under its licence was entitled to supply electricity only in bulk and not in retail to the consumers, irrespective of their demand.
- 6.6.18. Against the Judgment of the ATE, Appeals were filed by TPC and others before the Supreme Court. The Supreme Court, in its Judgment in Civil Appeal No. 2898 of 2006 with Civil Appeal No. 3466 and 3467 of 2006 dated 8 July, 2008, upheld the right of TPC as a Distribution Licensee to supply electricity to all retail consumers in its licence area, including those requiring a load below 1000 kVA, apart from its entitlement to supply electricity to other Distribution Licensees for their own purposes, in bulk within its area of supply. The Supreme Court also observed as follows:

*“99. Regarding Mr Venugopal's other submission relating to Section 42 of the 2003 Act, we are unable to appreciate how the same is relevant for interpreting the provisions of the licences held by TPC. It is no doubt true that Section 42 empowers the State Commission to introduce a system of open access within one year of the appointed date fixed by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling*

*having due regard to the relevant factors, but the introduction of the very concept of wheeling is against Mr Venugopal's submission that not having a distribution line in place, disentitles TPC to supply electricity in retail directly to consumers even if their maximum demand was below 1000 kVA.*

**100.** *The concept of wheeling has been introduced in the 2003 Act to enable distribution licensees who are yet to install their distribution line to supply electricity directly to retail consumers, subject to payment of surcharge in addition to the charges for wheeling as the State Commission may determine. We, therefore, see no substance in the said submissions advanced by Mr Venugopal."*

6.6.19. The above observation of the Supreme Court later became the foundation of retail supply of electricity by TPC. On 20 August, 2008, this Commission notified the MERC (Specific Conditions of Distribution Licence applicable to The Tata Power Company Limited) Regulations, 2008. As per these Regulations, the licence of TPC was valid till 15 August, 2014.

6.6.20. The Commission notes that a Petition (Case No. 90 of 2009) was filed by a consumer in BEST's area of supply praying for directions to TPC to provide electricity supply to consumers either through BEST's network or its own network. Order held that TPC has to operate in terms of its latest Licence conditions, which enjoin TPC to lay its distribution system within its entire area of supply, and that TPC is bound to supply electricity to any and all consumers in its licensed area of supply, including consumers who wish to change from BEST to TPC. BEST preferred an Appeal before the ATE. In its Judgment dated 4 April, 2012, the ATE did not find any infirmity in the Commission's Order. BEST filed a Civil Appeal (No. 4223 of 2012) before the Supreme Court. The Supreme Court vide Order dated 10 May, 2012, directed inter-alia that, pending disposal of the Civil Appeal, status quo, as of the day shall be maintained by the parties. The Commission observes that, due to the "status quo" directed by the Supreme Court, TPC could not expand its network in the BEST area of supply till the matter was finally decided.

6.6.21. In Case No.113 of 2008 for Truing Up for FY 2007-08, Annual Performance Review for FY 2008-09 and Tariff Determination for FY 2009-10, TPC proposed a rollout plan for its network in two phases. The first phase of the rollout plan contemplated laying down a network during the period from FY 2008-09 to FY 2011-12, comprising complete distribution system in nine wards of MCGM, with a presence in other MCGM wards and the Mira Bhayandar Municipal Corporation (MBMC) area based on consumer requirements, with anticipated capital expenditure of Rs. 1127 crore. The Commission, vide Order dated 15 June, 2009, held that TPC cannot pick and choose the wards where it would supply electricity. The Commission also observed that TPC needed to explore the option of using the distribution network of the other Distribution Licensees in accordance with the mandate expressed by the Supreme Court.

6.6.22. The Commission passed an Order dated 15 June 2009 pertaining to Truing Up for FY 2007-08, Annual Performance Review for FY 2008-09 and Tariff Determination for FY

- 2009-10 in respect of RInfracore. Subsequently, the Commission issued a Clarificatory Order on 22 July, 2009, whereby it determined the wheeling charges on a per unit basis. The Commission referred to its Order dated 15 June, 2009 in Case No.113 of 2008, and opined that the consumers in Mumbai licence area could be benefited from the parallel licence situation, and shifting of consumers from one Licensee to another needs to be facilitated. In order to implement the Supreme Court's Judgment in letter and spirit, the Commission directed TPC and RInfracore to not only enable consumers to exercise their choice easily, but also facilitate it proactively by allowing the use of their distribution networks to the other Distribution Licensee.
- 6.6.23. Subsequently, RInfracore and TPC agreed on certain terms/ aspects of draft of the Protocol (which emerged after discussion between the two parties) relating to migration of consumers to TPC on the RInfracore network. However, for resolving certain areas of disagreement, TPC filed a Petition (Case No. 50 of 2009) on 31 August, 2009, praying that the Protocol set out in that Petition be permitted with such modification as the Commission may deem necessary. RInfracore, vide its letter dated 6 October, 2009, filed its suggestions. RInfracore also commented on the issue of duplication of network and avoidance of wastage of infrastructure. Vide its Interim Order dated 15 October, 2009, the Commission approved an Interim Protocol under Section 94(2) of the EA, 2003. The Commission also clarified that certain issues, such as recovery of Regulatory Assets as well as Cross Subsidy Surcharge, have wider implications and would be dealt with separately.
- 6.6.24. Subsequently, the Commission issued its Order in Case No. 72 of 2010 on 29 July, 2011 in the matter of RInfracore's Petition for Truing up for FY 2008-09, Annual Performance Review for FY 2009-10 and Tariff Determination for FY 2010-11, wherein it permitted in-principle recovery of Cross Subsidy Surcharge and Regulatory Asset Charge from the existing consumers of RInfracore (Group I), as well as consumers who are using RInfracore's wires but receiving supply from TPC (Group II). The Commission held that consumers who were originally receiving supply from RInfracore but were no longer doing so and were also not connected to the RInfracore network would not be liable to pay Cross Subsidy Surcharge (Group III consumers).
- 6.6.25. In the Petition dated 21 October, 2011 in Case No. 151 of 2011, RInfracore sought relief on account of certain issues affecting it and its financial viability. RInfracore prayed for withdrawal and/ or cancellation of the Commission's Order dated 15 October, 2009, in which it had prescribed the Changeover Protocol which, in RInfracore's opinion, had caused prejudice to RInfracore as well as its consumers. The main contention of RInfracore was that TPC was indulging in 'Cherry Picking' of consumers; hence the Interim protocol needed to be revoked.
- 6.6.26. In its Order dated 22 August, 2012 in Case No. 151 of 2011, the Commission observed that TPC was allowed to use the distribution network of RInfracore to meet its USO and give supply to consumers in order to enable consumer choice only till such time as TPC set up its own network, and that this was never intended to be a permanent arrangement.

The Commission also modified its interim Order in Case No. 50 of 2009 and gave certain directions to TPC.

6.6.27. In order to review compliance of its Order in Case No. 151 of 2011, the Commission initiated suo-motu proceedings in Case No. 85 of 2013. The proceedings were intended to review the progress of TPC with respect to changeover, switchover and network development in accordance with the directions given earlier. In the Order dated 30 October, 2013 in Case No. 85 of 2013, the Commission while continuing its direction issued in Case No. 151 of 2011, also observed as follows:

*“33. The Commission comes to the conclusion that TPC-D, if not wilfully, certainly through inertia, has failed to comply with the Commission’s directions in Case No. 151 of 2011, and more importantly, has alerted the Commission that it was not in a position to comply with the Commission’s directions in this regard.”*

6.6.28. The Commission also passed certain directions relating to the transfer of low end consumers to TPC on the network of RInfra as direct consumers of TPC for the purposes of tariff.

6.6.29. Since TPC’s existing licence was expiring on 15 August, 2014, the Commission issued an ‘Invitation for Expression of Interest’ on 1 January, 2014 inviting prospective Applicants to indicate their interest in undertaking distribution of electricity in Mumbai City and part of Mumbai Suburban area. On 31 January, 2014 TPC submitted its Expression of Interest to the Commission.

6.6.30. Under letter dated, 3 March, 2014 the Commission directed TPC to file its Application for grant of licence in accordance with Section 15 of the EA, 2003 and the Rules and Regulations thereunder.

6.6.31. On 7 April, 2014, TPC submitted its licence Application to the Commission. On 17 April, 2014 and 23 April, 2014, Technical Validation Sessions were conducted by the Commission, at which TPC elaborated on various issues raised.

6.6.32. The Commission admitted TPC’s Application on 6 May, 2014 and intimated TPC accordingly. The Commission also directed TPC to publish a Public Notice in English and Marathi newspapers on or before 9 May, 2014. However, on 8 May, 2014 the Supreme Court upheld the findings of the Commission and the ATE holding that no special status has been carved out for BEST as a Local Authority and disposed of the Civil Appeal filed by BEST. From the above background it is concluded that from May, 2012 to May, 2014 no network development was carried out by TPC in the supply area of BEST.

6.6.33. TPC published the Public Notice on 9 May, 2014 in 3 English and 2 Marathi newspapers. The Commission also issued a Public Notice under Section 15(5) (a) of the EA, 2003 on 18 June, 2014. A Public Hearing was conducted on 10 July, 2014 wherein the objections and suggestions of respondents present were recorded, and the matter was reserved for Judgment.

Through the above sequence of events,

- (a) TPC was permitted to use the network of RInfra by the Commission in its Order in Case No. 50 of 2009.
- (b) That permission was in accordance with the mandate of the Supreme Court expressed in Para 99 and 100 of the Judgment dated 8 July, 2008.
- (c) TPC has been a Licensee for 107 years, and still has a limited network in its area of supply.
- (d) Vide Orders in Case No. 151 of 2011 and 85 of 2013, the Commission has stipulated certain conditions according to which TPC is required to rollout its network within a stipulated time period. The Commission also observed in that Order that TPC had been selectively laying network to benefit a particular class of consumers and not for all categories of consumers. The Commission therefore in the said Order laid down the blue print to correct the imbalance caused by selective laying of network.
- (e) As observed in Case No. 85 of 2013, even though TPC has made some progress in laying its network, it has not been able to fully comply with the directions of the Commission in Case No. 151 of 2011. Further, in the Order in Case No. 85 of 2013, the Commission also passed certain directions relating to the transfer of low end consumers to TPC on the network of RInfra as direct consumers of TPC for the purposes of tariff.
- (f) The Commission on its own initiative through suo-motu proceedings in Case No. 85 of 2013 reviewed TPC's performance and subjected it to strict monitoring. The Commission observes that it is only after Commission's intervention through Case No. 85 of 2013 TPC has increased the speed of its network rollout.
- (g) The existing licence of TPC expires on August 15, 2014.
- (h) Due to the Supreme Court's Interim Order dated 10 May, 2012 in Civil Appeal No. 4223 of 2012, 'Status Quo' was maintained in the BEST area. Only when that Appeal was finally decided on 8 May, 2014 was liberty given to TPC to lay its network in the BEST area of supply.

#### **B. Adequacy of the network development plan submitted by TPC.**

- 6.6.34. The Commission observes that TPC's network rollout approach is based on the network readiness to supply on demand as per SOP Regulations. The plan addresses two aspects for ensuring readiness viz. (i) Load Density and (ii) Geographical spread. The backbone readiness has been considered on the basis of 50% load capability and entire geographical spread.

6.6.35. Based on the Commission's MYT Tariff Orders for RInfra, TPC and BEST, it can be concluded that the total consumer base in the proposed licence area is 41.52 lakh. The break-up is as follows:

**Table 12: Break up of consumers served by Licensees in proposed Licence area in FY 2012-13**

Consumers served by RInfra	Consumers served by BEST	Consumers served by TPC	Total Consumers served in proposed licence area
28 lakh	10.02 lakh	3.5 lakh	41.52 lakh

6.6.36. Thus, it is reasonable to expect the distribution network for serving 50% of the load in proposed licence area should also be capable of serving around 50% of the consumers in the proposed licence area, i.e. around 20.71 lakh consumers.

6.6.37. During the TVS held on 23 April, 2014 TPC provided the break-up of the expected consumer mix in the next 5 years. TPC expected 4.81 lakh existing consumers, 7.11 lakh new consumers in Mumbai suburban area, 1.09 lakh new consumers in the South Mumbai area, and a total estimated numbers of 13.01 lakh consumers by the end of 5 years. This represents about 31% of the total consumers in the proposed licence area. Thus, as per TPC's projections, 50% of the demand in the proposed licence area would come from about 31% of the total consumers in that area.

6.6.38. TPC has not been fully successful in rolling out its own network as directed by the Commission. Considering these facts, it appears that TPC has proposed a network development plan to address the issues hindering such development in the identified areas. Therefore, though TPC has prima facie met the requirement of submitting a network rollout plan in fulfilment of the requirements for licence Application, in the past it has not been able to rollout its network as planned. TPC has also drawn the Commission's attention to the difficulties faced by it in rolling out its network during the TVS as well as through its Application. The Commission is of the view, however, that the network development plan submitted by TPC considering 50% load in the proposed licence area to serve only 31% of the consumers is not conducive to a level playing field and the spirit of competition.

6.6.39. Considering the above, the Commission is of the view that the network rollout plan submitted by TPC does not fully address its earlier concerns. In particular,

- In its rollout plan TPC has not addressed concerns, past directions and time lines prescribed by the Commission in its previous Orders, i.e. Case No. 151 of 2011 and Case No. 85 of 2013.

6.6.40. The network development plan considering 50% load in the proposed licence area to serve only 31% of the consumers does not satisfy the consideration of level playing field and spirit of competition.

- The network development plan does not specifically prescribe the manner in which supply will be given to the lowest consumption consumers in the Licence area.
- The Commission observes that the network development plan submitted by TPC does not specifically cater to the past concerns of the Commission i.e. 'Cherry Picking' and supply to the lowest category of consumers. The plan submitted by TPC also specifically does not deal with the manner in which supply of power will be ensured to the lowest sections of the society.
- The Commission observes that the network development plan submitted by TPC also does not prescribe phased manner in which completion of laying of lines in specific areas will be completed so that the laying of line in the entire area is done in a systematic manner.
- The Commission observes that the network development plan is based on the wrong premise that last mile connectivity is not in the control of TPC. The Commission is of the firm view that if adequate infrastructure is created within an area then demand from all sections of society including the lowest sections will generate on its own due to availability of choice.

## **6.7. Additional Criteria – Evaluating the merits of TPC's Application**

- 6.7.1. Considering that TPC prima facie meets the mandatory eligibility criteria as per the requirements of Section 14 of the EA 2003, read with the Distribution of Electricity Licence (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005, the Commission proceeded to evaluate TPC's Application for grant of Distribution Licence on its merit.
- 6.7.2. While TPC meets the mandatory requirements, it is imperative the Commission takes into account other aspects of the business to ensure that the Applicant is able to fulfil the Licence obligations.
- 6.7.3. The Commission decided to assess TPC's Application in terms of the benefits it may bring to the consumers in the proposed licence area. TPC had submitted a Business Plan as part of its Application in fulfilment of the requirements of the MERC (General Conditions of Distribution Licence) Regulations, 2006. Based on this Business Plan, information provided in the Application and other submissions by TPC from time to time, the Commission assessed TPC's Application for its
  - Power procurement plan (S1); and
  - Management and Technical expertise (S2).

## **6.8. Power procurement plan (S1)**

- 6.8.1. With the objective of providing reasonably-priced power to the consumers in the proposed Licence area, the Commission assessed TPC's intent and ability to procure power at economic rates.
- 6.8.2. TPC submitted its power procurement plan in the Business Plan through Annexure-14 of its Application. TPC has projected the demand in its proposed Licence area as follows:

**Table 13: TPC - Estimated demand for the proposed licence area**

Particulars	Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Total Sales	MUs	5625.06	5874.39	6317.83	6813.74	7368.79
HT	MUs	2,968	3,109	3,307	3,523	3,758
LT	MUs	2,657	2,765	3,011	3,291	3,611
Demand at delivery point (at G<math>\leftrightarrow</math>T interface)	MUs	6205.32	6479.60	6971.74	7522.61	8139.70
Average Demand	MW	708.37	739.68	795.86	858.75	929.19
<b>Peak demand</b>	MW	983.85	1027.33	1105.36	1192.70	1290.5

- 6.8.3. To meet the above energy requirement, TPC has proposed power procurement from following sources:

### **Power purchase from TPC (Generation)**

- 6.8.4. **Long-term capacity of 985 MW:** The Commission has approved a long-term capacity tie-up with various units of the Generation business of TPC (TPC-G). The PPAs with TPC-G are valid till FY 2017-18.
- 6.8.5. TPC is finalizing a PPA with TPC-G for extension of the existing arrangements beyond FY 2017-18 with generating Units at Trombay (Unit 5, Unit 7 and Unit 8) and Hydro (Khopoli, Bhivpuri and Bhira). TPC is also making efforts to convert Unit 6 to a low cost fuel Unit, which is expected to be available for long-term power from FY 2018-19.

### **Power purchase through long-term competitive bidding**

- 6.8.6. TPC has submitted that, since Trombay Unit 6 (~230 MW) is kept under economy shut down for Tariff control, there is an estimated peak shortage of about 250 to 300 MW. As per TPC, additional sources of cheap domestic coal based generation have been identified to meet this gap, which will assist in reducing the power purchase cost of TPC. TPC is planning to tie-up 300 MW in the Western region on a long-term basis during the current year (FY 2014-15). It is in the process of finalizing terms with a generator (TPC has not disclosed the details of the generator due to a Non-Disclosure Agreement) for a tariff in the range of Rs. 3.50 to 4.00.

### **Renewable purchase obligations**

- 6.8.7. In its Business Plan, TPC has also considered Renewable Purchase Obligations (RPO's) and purchase of Renewable Energy. The RPOs were divided into Solar and non-Solar. TPC has already procured 3 MW of Solar Power and contracted 25 MW Solar power



from Palaswandi. The non-solar RPO target is expected to be met from existing wind contracted capacity of 177 MW and future tie-ups of 81 MW.

6.8.8. In summary, the power requirement and availability for the 5 years from FY 2012-16 as submitted by TPC is as follows:

**Table 14 : TPC - Power requirement and availability**

Supply from	Contracted capacity (Net) in MW	FY 2014-15 to FY 2017-18		FY 2018-19	
		Base Contracted capacity (MW)	Peak Contracted capacity (MW)	Base Contracted capacity (MW)	Peak Contracted capacity (MW)
<b>From TPC</b>					
Unit 4	37	-	-	-	-
Unit 5	230	230	230	230	230
Unit 6	236	0	236	236	236
Unit 7	85	85	85	85	85
Unit 8	137	137	137	137	137
<b>Hydro</b>	215	0	215	0	215
<b>Renewable</b>	286	67	67	67	67
<b>Long-term tie-up</b>	276	276	276	276	276
<b>Bilateral</b>	-	-	-	-	-
<b>Total Capacity</b>	1502	795	1246	1031	1246
<b>Average Demand</b>		806		806	
<b>Peak Demand</b>			1120		1120
<b>Supply Availability</b>		99%	111%	128%	111%

6.8.9. From the above, the Commission noted that TPC's plan for power procurement is reasonably balanced so to satisfy the need of the proposed area of supply. Therefore, the Commission found the proposed power procurement plan to be satisfactory.

## 6.9. Management and Technical Expertise (S2)

6.9.1. The Commission thought it relevant to evaluate the Managerial and Technical Expertise of Senior Management of TPC. It aims to assess experience/expertise and record of accomplishment relevant to electricity business as another selection criterion. Management expertise is evaluated as the ability of the team to undertake the business activities involved in distribution of electricity in a professional manner.

6.9.2. This can be assessed in terms of,

- Expertise of key personnel;
- Experience of management in handling businesses with large number of consumers and employees;
- Experience and track record in the value chain of electricity - generation, transmission or distribution businesses in the last 3 years; and
- Ability to rollout advanced technologies in businesses like distribution of electricity.

These are analysed below.

### **Expertise of key personnel**

- 6.9.3. From the submission of TPC, the Commission noted that TPC's management team has a good mix of varied and relevant management expertise. Many managers have more than 20 years of experience across the distribution business ranging from Operations, Distribution Consumers services, Distribution Support Services, Information and Communications Technology, Regulatory and Advocacy, Human Resources, Corporate Regulations, Commercial, Customer Acquisition, Network Planning, GIS, Distribution Capex, Meter Management, Billing and Revenue Assurance, Purchase and ABT.

### **Experience of Management in handling businesses with large number of consumers and employees**

- 6.9.4. The Commission notes that, though TPC has had a presence in the area as a Distribution Licensee for over a century, it served only around 3.73 lakh consumers on an average over the last 3 years through its distribution business in the area in and around Mumbai.
- 6.9.5. The Commission also notes that TPC operates in parts of Delhi city as a Distribution Licensee on a larger scale as compared to its Mumbai operations, through the Tata Power Delhi Distribution Ltd. (TPDDL). TPDDL operates a network of 28,890 transformers, 4417 km of HT and Extra High Tension (EHT) network through overhead lines and underground cables, 6,050 km of LT lines/ cables (overhead and underground) meeting the demand of 6,968 MUs, peak load of 1,573 MW, and serves 13.26 lakh consumers.
- 6.9.6. TPC has submitted that it has a strength of 338 middle and junior management employees in its distribution business serving the city of Mumbai and part of Mumbai suburban area. The Commission notes that TPC has experience of management in handling a business with a large number of consumers and employees in Delhi, and also, but to a more limited extent, in and around Mumbai city.

### **Experience and record of accomplishment in the value chain of electricity - generation, transmission or distribution businesses in the last 3 years**

- 6.9.7. In its Application, TPC has highlighted that, in its journey of close to a century, TPC has emerged as a prominent player in the Indian power sector with a strong presence across the entire value chain, i.e. Fuel Mining, Logistics, Generation (Thermal, Hydro, Solar and Wind), Transmission, Distribution and Trading.
- 6.9.8. TPC pioneered the generation of electricity in India with the commissioning of one of the first hydro-electric projects in India in 1915. TPC is also the first Company to successfully develop and commission India's first Ultra Mega Power Project. TPC has an installed generating capacity of about 8,560 MW as on 31 March, 2014 with further

new capacities of about 10,000 MW under execution or at various stages of development. TPC is also the largest player in the Renewables sector in the country, with 912 MW of existing capacity and around 1500 MW of new capacity under construction.

- 6.9.9. TPC is one of the Transmission Licensees in the State of Maharashtra, with 1,119 ckt km of 220 kV/ 110 kV transmission lines and 20 receiving stations spread across Mumbai and beyond. TPC is currently executing projects worth Rs. 10,000 crore which will augment the transmission capacity of Mumbai by 7800 MVA. TPC has taken up installation of the first 400 kV Receiving Station of Mumbai at Vikhroli. It also has to its credit the first Public Private Partnership (PPP) based Inter-State Transmission Company called 'Powerlinks Transmission Limited', a Joint Venture (JV) with Power Grid Corporation of India Ltd (PGCIL), which transmits power from the Tala Hydro Project in Bhutan and North Eastern and Eastern States to New Delhi and adjoining areas.
- 6.9.10. Apart from being one of the Distribution Licensees in Mumbai, TPC is also one of the three Distribution Licences in Delhi through its subsidiary, Tata Power Delhi Distribution Limited (TPDDL), in a JV with Government of Delhi. TPDDL distributes power to approximately 13 lakh consumers of North and North-West Delhi. Recently, TPC has also acquired a Distribution Franchise in Jamshedpur from the erstwhile Jharkhand State Electricity Board, now Jharkhand Bijli Vitran Nigam Limited. TPC has highlighted that it has benchmark (best) customer hour interruption/ circuit km performance and second best performance in CAIDI (Customer Average Interruption Duration Index) among the 46 other utilities who participated in service continuity benchmarking exercise conducted by a Canadian utility, Kinetrics. TPC has also highlighted that it enjoys high consumer satisfaction level in the city of Mumbai and part of the suburban area as per the Consumer Satisfaction Survey carried out in March, 2014 by AC Nielsen to understand the effect of TPC's Multi Year Tariff and also to understand the Consumer Satisfaction with other Licensees.

### **Experience of rolling-out advanced technologies**

- 6.9.11. In its Application, TPC has highlighted the initiatives it has taken in the last few years in its distribution business. These initiatives may be summarized as follows:

#### **Network Augmentation and Expansion (Technical and Execution Capabilities)**

- (1) TPC has been using CYMEDIST, which is an analysis package for distribution electric network planning and studies such as Load Flow, Short Circuit, Load Allocation, Load Growth, Fault calculations etc.
- (2) TPC has the capability to commission 3- tier DSS which occupy 50% less space than the conventional DSS.
- (3) TPC has the capability to commission packaged substations which result in savings of almost 75% of foot print area as compared to typical LT sub-stations.

- (4) TPC has introduced mobile sub-stations into the system in order to reduce the gestation period for establishing a conventional CSS.
- (5) TPC has introduced 33 kV and 11 kV Ring Main Unit (RMU), both isolator type and breaker type, into its distribution system, and uses them to form a ring network.
- (6) TPC has introduced ester filled transformers that can be loaded above 100% continuously as compared to the conventional mineral oil filled transformers.
- (7) TPC has implemented Design Manager Application in GIS.

**Reliable Power Supply (Operation and Maintenance Capabilities)**

- (1) TPC has mentioned that it continuously keeps scouting for new technologies and has modernised the electrical equipment which is more efficient at optimum costs.
- (2) TPC has mentioned that it has introduced various new 'condition monitoring equipment' that help in reliability centric maintenance.
- (3) TPC has also highlighted some of the initiatives it has undertaken towards technological developments as well as in consumer service.

6.9.12. The Commission notes that TPC possesses sufficient management and technical experience to handle the business of electricity distribution in the proposed area of supply.

## **7. Commission's Analysis and Ruling**

- 7.1.1. The Commission has dealt with all the submissions of TPC and also with the objections and suggestions received from various stakeholders. During the hearing, the public at large, including authorised Consumer Representatives, presented their views before the Commission. A list of participants is annexed to this Order [Annexure 3]. The Commission observes that it has dealt with most of the objections raised by various individuals and institutions in the previous parts of the Order and the same are not being repeated herein for the sake of brevity.
- 7.1.2. The Commission has evaluated the Application submitted by TPC for grant of Distribution Licence in the earlier Parts of this Order. The Commission has evaluated the Application with respect to the criteria of minimum area, capital adequacy, creditworthiness and code of conduct as prescribed by the Central Government and the provisions of EA 2003. The Commission has concluded that TPC satisfies these requirements and criteria and, hence, is prima facie eligible for the grant of a licence. The Commission has also assessed TPC with respect to the requirement of setting up its own distribution system to supply to the consumers in the proposed licence area.
- 7.1.3. The Commission has considered the submissions of TPC and all the respondents and, after examining the various issues involved in this licence Application, observations and decisions are as follows:
- 7.1.4. In order to decide the present licence Application filed by TPC, the issues considered in detail by the Commission include:
- A. An analysis of the proposed network development by TPC in Mumbai City and parts of Mumbai Suburban area;
  - B. Geographic, social, and demographic reality and the limitations of TPC's proposed area of supply;
  - C. The proposal of TPC to serve some of its consumers located outside the proposed licence area; and
  - D. The Commission's powers to grant a licence to TPC and exercise Regulatory control over TPC as a Licensee under the scheme of EA 2003.

### **A. An analysis of the proposed network development by TPC in Mumbai City and parts of Mumbai Suburban area**

The Commission analysed TPC's network development from the following perspectives:

- a) Comparative analysis of existing network of TPC with the networks of RInfra and BEST;

- b) Network development undertaken by TPC in the recent past; and
- c) Comparative analysis of the proposed development of network by TPC in its Business Plan with the network development undertaken by it in the recent past.

**a) Comparative analysis of existing network of TPC with the networks of RInfra and BEST**

Based on the data submitted by RInfra and BEST in their objections, the Commission carried out a comparative analysis of TPC's existing network with those of RInfra and BEST.

**Table 15: Comparison of TPC's existing network with those of RInfra and BEST**

Sr. No.	Major component of Distribution system	RInfra	BEST	Total network in Mumbai City and parts of Mumbai Suburban area (RInfra + BEST)	TPC's existing status	TPC network as % of RInfra & BEST network
1	HT cable laying-status (km)	3735	2500	6235	1,897	30.43%
2	No. of 33/11kV DSS- Status	73	56	129	26	20.16%
3	LT cable laying status (km)	17515	8200	25715	1,189	4.62%
4	No of Consumer Substation(CSS) Status	6421	2226	8647	668	7.73%

The Commission notes that the existing LT network of TPC is a small fraction of the LT networks of RInfra and BEST. Therefore, if TPC is granted a licence in the proposed area of supply, it will have to expand its LT network substantially for last mile connectivity even to achieve servicing of 50% of the demand as envisaged in its Business Plan.

**b) Network development by TPC in recent past**

TPC has submitted the details of its network rollout in the present licence area from July, 2008 to April, 2014, which is summarised below:

**Table 16: Network development by TPC since July 2008 to 31 March, 2014**

Sr. No.	Component of Distribution System	As on 31 July, 2008	Status as on 31 March 2009	Status as on 31 March 2013	Status as on 31 March 2014	Average Annual Addition	CAGR in last 5 years
<b>HT Network Status</b>							
1	No. of 110/33 kV RSS	13	13	13	15	1	2.90%
2	HT Cable laying (km)	989	1,034	1,497	1,897	173	12.90%
<b>LT Network Status</b>							
3	No. of 33/ 11 kV DSS	11	11	18	26	3	18.77%
4	LT Cable laying (km)	399	428	721	1,189	152	22.67%
5	No. of Consumer Sub-Stations (CSS)	308	339	516	668	66	14.53%
<b>Consumer Addition Status</b>							

Sr. No.	Component of Distribution System	As on 31 July, 2008	Status as on 31 March 2009	Status as on 31 March 2013	Status as on 31 March 2014	Average Annual Addition	CAGR in last 5 years
6	Total Changeover consumers	-	-	101,754	198,808	66,269	NA
7	0-300 units Changeover consumers	-	-	142,149	207,021	51,755	NA
8	Other changeover consumers	-	-	92,602	119,783	23,957	NA
9	Switchover consumers	-	-	1	798	266	NA
10	Direct consumers	23,651	25,378	41,114	54,367	5,798	16.46%
11	Total consumers	23,651	25,378	133,997	231,233	68,618	55.57%

From the above, it may be observed that:

- (i.) In the last 5 years, TPC has added on an average 173 ckt km of HT cable per annum.
- (ii.) In the last 5 years, TPC has added on an average 152 ckt km of LT cable per annum. However, in FY 2013-14 alone TPC has added 336 ckt km of LT cable, which is the maximum LT cable addition by TPC in the last 5 years.
- (iii.) In the last 5 years, TPC has added on an average three 33/ 11 kV DSS per annum. However, in FY 2013-14 alone TPC has added six DSS, which is the maximum DSS addition by TPC in the last 5 years.
- (iv.) In the last 5 years, TPC has added on an average sixty six CSS per annum. However, in FY 2013-14 alone TPC has added total eighty five CSS, which is the maximum CSS addition by TPC in the last 5 years.
- (v.) As regards change over consumers, TPC added an average of 66,269 consumers every year in the last 5 years. As regards 0-300 unit changeover consumers, TPC added an average of 51,755 consumers every year in the last 5 years. There is a sharp increase in the number of such consumers added in FY 2013-14, i.e. 111,152 consumers.
- (vi.) There is a sudden rise in the number of switchover consumers added in FY 2013-14. TPC added 795 switchover consumers in FY 2013-14, whereas it was adding just one or two switchover consumers every year previously.

Much of this acceleration and development may be attributed to the Commission' Order in Case No. 151 of 2011 and Case No. 85 of 2013 directing TPC to expand its network in the 11 identified clusters as well as to increase the number of residential consumers and restrict the addition of changeover consumers only to residential consumers with 0-300 units average monthly consumption.

**c) Comparative analysis of the proposed development of network by TPC in the Business Plan with the network development undertaken by TPC in recent past.**

The Commission analysed the historical rate of addition of network assets vis á vis the projected rate of addition of network assets by TPC in the next 5 years as per its Business Plan.

**Table 17: Comparison of historic and projected network addition rates**

Particulars	Addition in past			Proposed addition		
	Addition in last 1 year	Average addition per year in last 2 years	Average addition per year in last 5 years	Addition proposed in next 1 year	Average addition per year proposed in next 2 years	Average addition per year proposed in next 5 years
<b>HT cable laying-status (km)</b>	266	202	173	380	333	323
<b>No. of 33/11kV DSS- Status</b>	6	4	3	4	4	3
<b>LT cable laying status (km)</b>	336	234	152	480	420	408
<b>No of Consumer Substation(CSS) Status</b>	85	76	66	96	84	82

The following observations can be made:

- (i) For HT cable laying, TPC's projected average rates of addition per annum are higher than the corresponding historical average rates of addition. The projected HT cable laying rates per annum are higher by more than 100 ckt km per annum than the corresponding historical rates.
- (ii) For 33/ 11 kV DSS addition, TPC's projected average rates of addition per annum are in line with the corresponding historical rates.
- (iii) For LT cable laying, TPC's projected average rates of addition per annum are higher than the corresponding historical average rate of addition. The projected LT cable laying rates per annum are higher by more than 140 ckt km per annum than the corresponding historical rates.
- (iv) For CSS addition, TPC's projected average rates of addition per annum are slightly higher than the corresponding historical average rate.

Thus, it can be concluded that, in respect of HT and LT cable laying addition, TPC has considered higher average rates of addition per annum than the historical rates. For DSS and CSS addition, the average rate of addition considered by TPC is in line with the historical average rate.

TPC has indicated the following constraints for network rollout in the proposed licence area:

- (i) Space constraints for commissioning of sub-stations and installation of meters,
- (ii) Delay in receiving permissions from MCGM and other authorities for laying cables, and
- (iii) Obtaining outlets from Transmission network.

Considering its existing network, TPC will have to expand its LT network substantially for last mile connectivity. TPC has shown considerable improvement in laying its distribution network in the last one or two years. However, the Commission



observes that it is important that the network development shall happen in a fashion that creates a level playing field, and fosters competition amongst the licensees in the same area with the purpose of ensuring power is available to all categories of consumers including the lowest category. The Commission observes that electricity is the catalyst which can bring socio economic change and the said change can only be achieved by promotion of competition and providing choice to all categories of consumers especially the lowest category. The Commission is of the firm view that the real evaluation of the performance of a Distribution Licensee lies in areas where it is difficult for the Licensee to lay its lines. The licensee is able to meet its Universal Service Obligation despite the difficulties in laying its own network so that each and every consumer has a choice to exercise.

## **B. Geographic, social, and demographic reality and the limitations of TPC's proposed area of supply**

TPC has filed the present Application for grant of Distribution Licence in the Mumbai City and part of Mumbai suburban area. The Commission deems it appropriate to also consider the peculiar nature of the geography, demography, contours and limitations of Mumbai city in deciding the present licence Application. The Commission under Section 23 of the EA, 2003 has been empowered with plenary powers coupled with obligation to ensure coordinated and efficient supply of electricity through its Licensees. Therefore, the Application of TPC is mandatorily required to be considered in light of the background of the key features of the area of supply which is detailed as follows:

- (a) Mumbai city consists of several islands. It faces a peculiar geographical constraint as it is surrounded by sea, river, creeks, reserve forests, mangroves, covered landscapes and other ecologically sensitive pockets. As a result the city grows vertically, making it difficult to create power transmission and distribution infrastructure.
- (b) Mumbai City is the 2<sup>nd</sup> most populated city in India and 5<sup>th</sup> most populated city in the World. As per 2011 census data Mumbai city district has a population of 3,085,411 whereas Mumbai suburban district has a population of 9,356,962. The population density in Mumbai city district is estimated at 19,652 persons per sq. km, population density in Mumbai suburban district is estimated at 20,980 persons per sq. km. The literacy rate in Mumbai city district is 89.21% whereas for Mumbai suburban district it is 89.91% which are higher than the national average of 73%.
- (c) Mumbai has a tropical climate, specifically a tropical wet and dry climate, with seven months of dryness and peak of rains in July. The maximum annual rainfall ever recorded was 3,452 mm in 1954. The highest rainfall recorded in a single day was 944 mm on 26 July, 2005. The average total annual rainfall is 2,146.6 mm for the Island City, and 2,457 mm for the

suburbs. Mumbai city along with its sub-urban area see approximately 5 months of monsoon which essentially means that very limited amount of developmental activity can be undertaken during these months.

The Commission finds that the above facts are imperative to be considered in deciding the present case as the Commission has been bestowed with the Regulatory Responsibility to ensure that any capital expenditure to be incurred by a Second Licensee is in the best interest of the consumers at large.

The Commission observes that if licence is granted to TPC then it will become a second Distribution Licensee in the proposed licence area, therefore, in accordance with Section 43 of the EA 2003 the Licensee will be required to build the network so that it is in the position to supply to all consumers in its licensed area. The Commission also recognizes that the objective behind granting second Distribution Licence is to promote competition in distribution of electricity in accordance with the mandate of the EA 2003, therefore, the Commission while specifying 'Specific Conditions of licence' for TPC is inclined to consider the geography, demography, contours and limitations of the proposed licence area.

### **C. Proposal of TPC to serve some existing consumers located outside the proposed licence area**

TPC has proposed to continue to serve those of its existing consumers who are located outside the proposed licence area but have been its consumers due to historical reasons. TPC has stated that these consumers were left with TPC during handing over of some parts of its licence area to the erstwhile MSEB in 1978.

In reply to a query by the Commission, TPC submitted following details of such consumers:

**Table 18: Details of consumers being served by TPC but located outside geographical licence area, as submitted by TPC**

Sr. No.	Name of the Consumer	Location/ Address	Contract Demand (kVA)	Sanctioned Load (kVA)	Tariff applicable as per consumer category	Year since when this arrangement is existing	Power supplied on TPC wires (Yes/ No)
1	Central Railway (Chola)	Thakurli Power House, Chole village, Near Thakurli Railway Station (West), Kalyan. Dist : Thane	65000	65000	4 – Railways	1932	Yes
2	Ordnance Factory	Ambernath Central Railway, Ambernath, Dist: Thane	15000	15000	6 – HT I – Industry	1925	Yes
3	Experimental Watershed Study Unit	C/o Range Forest Office Khalapur, Dasturi Forest Information Centre, at Post Khalapur, Dist - Raigad	1	7	11 – LT II (a) – Commercial 0-20 kW	1964	Yes
4	Khopoli Resort	C/o Range Forest Office Khalapur, Dasturi Forest Information Centre, at Post Khalapur, Dist - Raigad	2	10	11 – LT II (a) – Commercial 0-20 kW	1970	Yes
5	Central Railway – 100 kV Thane	110/25 kV, Traction Substation Thane (East), Dist – Thane	10000	60000	4 – Railways	2014*	Yes
6	BMC Bhandup Complex	Office of the Deputy Hydraulic Engineer, off Khindipada, Mumbai	7000	13000	7 – HT II – Commercial	1982	Yes

\*Extension of existing supply

These six consumers located outside the proposed licence area of TPC are historically being served by TPC since many years on its own wires, and are charged as per the TPC Tariff applicable to the respective consumer category.

Distribution Licensee is defined in EA, 2003 as a Licensee authorized to operate and maintain distribution system for supplying electricity to the consumers in his area of supply. Thus the consumer of a Licensee has to be geographically present within its area of licence. However, keeping the important public functions being served by some of these consumers (such as the Central Railways and others) the Commission is not inclined to jeopardize the continuity of supply to these consumers by TPC immediately, especially since no objection has been raised to this historical arrangement in these proceedings by TPC, the incumbent licensee in their areas (i.e., MSEDCL), the consumer themselves or any other party. However, TPC shall approach the Commission after consulting the consumers concerned and MSEDCL seeking an appropriate mandate to continue supplying power to these consumers. The Commission notes that, even otherwise the consumers are at liberty to opt for supply from MSEDCL in accordance with the law.

#### **D. Analysis of the Commission's powers to Grant the licence to TPC and exercise Regulatory control over TPC as a licensee under the scheme of EA, 2003**

In order to decide on the present licence Application of TPC, it is imperative to understand and appreciate the powers vested with the Commission by EA, 2003 to grant or reject the licence Application, and the extent to which the Commission can exercise such powers in laying down specific conditions for the second or subsequent Licensee.

The Commission finds that in order to answer issue (c) as framed above it is imperative to further bifurcate the main issue into following two legal sub-issues and they are as follows:

ISSUE I. Is the Commission, required by law, to decide on the Application in Case No. 90 of 2014 on a stand-alone basis or can the Commission take cognizance of the previous performance of TPC?

ISSUE II. What conditions can the Commission impose while granting the second Distribution Licence to TPC in the proposed area to ensure that TPC is in compliance with applicable laws?

**ISSUE I - Is the Commission, required by law, to decide on Case No. 90 of 2014 on a stand-alone basis or the can Commission take cognizance of the previous performance of TPC?**

- (i.) The Commission notes that Section 14 of the EA, 2003 deals with the power of the Commission for grant of Distribution Licence and parallel Distribution Licence as follows:

*“14. The Appropriate Commission may, on application made to it under section 15, grant licence to any person -*

*(a) to transmit electricity as a transmission licensee; or*

*(b) to **distribute electricity as a distribution licensee**; or*

*(c) to undertake trading in electricity as an electricity trader...*

***Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (including the capital adequacy, credit-worthiness, or code of conduct) as may be prescribed by the Central Government, and no such applicant who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose.”***

- (ii.) The Commission observes that Section 14 of the EA, 2003 has to be given meaning in terms of the language used in the Section, and the following aspects are to be considered while interpreting it:

(a) Firstly, the Section states that the Commission **may** grant a licence to an Applicant (Opening provision);

(b) Secondly, it allows the Commission to consider grant of licence to two or more persons (6<sup>th</sup> Proviso); and

(c) Thirdly, it categorically states that **no Application can be rejected on the ground of existence of a Licensee in the same area** if the Applicant is compliant with all other aspects (6<sup>th</sup> Proviso).

- (iii.) Accordingly, the Commission notes that, once it is established that the power to grant a licence itself is discretionary, what needs to be seen is the extent of such discretion under Section 14 of the Act while granting a Distribution Licence to an Applicant.

- (iv.) As stated earlier, the 6th Proviso of Section 14 has also been debated upon by the ATE in the case of *M/s Noida Power Company Limited vs. Pashchimanchal Vidyut Vitran Nigam, Appeal No. 07 of 2010*. The relevant portions of the Judgment read as follows:

*“....12. These three parts would indicate, that the applicant for second licence has to duly satisfy the additional conditions namely Capital Adequacy, Creditworthiness and Code of Conduct as may be prescribed by the Central Government and only on **being satisfied about the additional requirements, the Appropriate Commission can proceed to consider the merits of the matter on the basis of the other aspects before granting the second licence.***

*13. It is relevant to note in this context that the Electricity Act, 2003 has provided only for the Central Government to prescribe such specific requirements and not for the State Commission. Thus, it is clear that once a precondition relating to the Capital Adequacy, Creditworthiness, Code of Conduct prescribed by the Central Government are satisfied, **the State Commission or the Appropriate Commission can consider the other relevant aspects to decide also whether to grant parallel licence or not.***

*14. **Whether to grant a parallel licence or not, purely lies with the discretion of the Appropriate Commission which has to be exercised judicially and judiciously for the reasons to be recorded.** This does not mean that the Appropriate Commission is bound to grant a parallel licence, the moment the pre-conditions like Capital Adequacy, Creditworthiness, etc., are duly satisfied. **In other words, even if these pre-conditions are satisfied, the Appropriate Commission is bound to consider all other relevant factors before granting the parallel/second licence. While exercising the Discretion for granting the parallel/second licence, the Appropriate Commission, cannot go beyond or act in contravention to its Rules and Regulations framed in accordance with the provisions of the Electricity Act, 2003. ....***

*38. It is contended on behalf of the 1st Respondent that once the capital adequacy and credit worthiness are satisfied, then State Commission has no jurisdiction to go into other aspects and refuse the second licence on that basis. This contention is not tenable for two reasons. (i) The discretion vested in the Appropriate Commission as per the opening part of the sixth proviso and opening part of section 14 itself with the use of the expression ‘may’: (ii) The expression used in the last part of the Proviso to the effect ‘shall not be refused on the ground that there already exists a Licensee in the same area’ would clearly indicate that Appropriate Commission cannot refuse the second licence merely on the ground of the existence of the licence but it can refuse the grant of second licence on other grounds. **In other words, the very fact that the Sixth Proviso contains the words “shall not be refused” on the ground of the existence of the another licence instead of using the words “shall be granted licence” would reveal that Appropriate Commission in its discretion is empowered to refuse the grant of second licence on any other ground other than the ground of the existence of another licensee.”***

(v.) In view of the above, the Commission concludes as follows:

- (a) By the import of the word ‘may’, the Commission enjoys a discretionary power to grant a licence to the Applicant under Section 14 read with its 6<sup>th</sup> Proviso.

- (b) Since the 6<sup>th</sup> proviso provides that an Applicant 'shall not be denied' licence on the ground that another licensee in the area exists if it meets all the other financial parameters, and not that it 'shall be granted' enables further scope of scrutiny by the Commission.
  - (c) Moreover, as per the Judgment of the ATE, the criteria mentioned in the sixth proviso are not exhaustive.
  - (d) In terms of Para 38 of the Judgment in Appeal No. 07 of 2010, since the Commission has the power to refuse a licence for reasons other than mentioned in 6<sup>th</sup> proviso, consequentially it also has the power to look into any other aspects which have not been provided in the 6<sup>th</sup> Proviso.
- (vi.) Hence, the Commission holds that it is well within its jurisdiction to take into account the past performance of TPC while considering the present licence Application as it would clearly fall under the category of 'other grounds'. The Commission will accordingly consider the present licence Application in the light of the various peculiar issues/ facts arising out of TPC's past performance in subsequent paragraphs.

**ISSUE II - What conditions can the Commission impose in granting the Second Distribution licence of TPC to ensure that TPC is in compliance with applicable laws?**

- (i.) The Commission observes that the answer to the above two important aspects involves understanding the following:
  - (a) Whether the Commission is empowered to prescribe specific conditions, which a Licensee is obligated to follow in letter and in spirit?
  - (b) If the answer to query (i) is affirmative, then can USO be a specific condition to be adhered to by TPC as a new Second Licensee?
- (ii.) With regards to issue (a) above, the Commission observes that Section 16 of the EA, 2003 clearly provides that the Commission 'may specify *any* general or specific condition' which may apply to a Licensee in particular or any class of Licensees. The Supreme Court, in the case of *Shri Balaganesan Metals v. M.N. Shanmugham Chetty, (1987) 2 SCC 707*, has held as follows:

*"18. In construing Section 10(3)(c) it is pertinent to note that the words used are "any tenant" and not "a tenant" who can be called upon to vacate the portion in his occupation. The word "any" has the following meaning:*

*"some; one of many; an indefinite number. One indiscriminately or whatever kind or quantity.*

*Word 'any' has a diversity of meaning and may be employed to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and the subject-matter of the statute.*

***It is often synonymous with 'either', 'every' or 'all'. Its generality may be restricted by the context;***” (*Black's Law Dictionary, 5th Edn.*)”

(iii.) The Commission observes that, in a regulatory regime, it is imperative that wide interpretation is given to Section 16 to include within it all such conditions which are necessary to effectively regulate the operations of TPC including development of network in a phased manner. Further, given that Section 16 also empowers the Commission to lay down specific conditions, in the present facts of the case, the specific condition of adhering to USO can be specifically made applicable to TPC. The Commission observes, that by import of the word 'specific' in Section 16, the Commission is empowered to prescribe any condition to a Licensee or a class of Licensees. Therefore, the Commission finds that it is well within its jurisdiction to prescribe any conditions or a set of conditions which are specific to TPC after considering the historical background in the matter and the limitations inherent in the License area. The Commission deems it appropriate to prescribe a rollout plan which is achievable, competitive, cost effective and in the overall interest of consumers.

(iv.) Since TPC is seeking to be a second Distribution Licensee and considering the peculiar facts of the proposed Licence area, it is the endeavour of this Commission to ensure that the manner, in which the USO is met by TPC, is competitive, cost effective and in the best interest of the consumers. The USO itself is a statutory obligation for any Distribution Licensee under the EA, 2003. It flows from Section 43 of the EA, 2003:

***“ 43.(1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply***

*Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.”*

(v.) The Commission observes that Section 43 specifically uses the word 'shall' in making it obligatory upon the Distribution Licensee to supply power to any Applicant within its area of licence. Therefore, there is no denying that if granted the licence, TPC would have to expand its network such that it is in a position to fulfil its USO in a phased manner in its entire area of supply. However, that being said, TPC will not be the only Licensee in the proposed area of supply, which already has incumbent licensees with robust distribution systems. Therefore, the main consideration in granting a licence to TPC is also competition and choice to consumers. Thus, the



Commission, through its specific conditions, will endeavour to ensure that the development of TPC network will be in a manner that is cost effective and enables all consumers to have an option to seek supply from any of the licensees operating in the area of supply. Thus, achieving the ultimate aim of competition and choice to consumers.

7.1.5. The Commission summarizes its observations as follows:

- (a) TPC has been a Licensee for 107 years, but has a limited network in its area of licence. Hence, specific conditions with timelines are required to be imposed to ensure that TPC complies with the requirements of Section 43 of EA, 2003;
- (b) The Commission has evaluated the Application with respect to the prescribed requirements and criteria of minimum area, capital adequacy, creditworthiness and code of conduct as prescribed. The Commission has concluded that TPC satisfies these requirements;
- (c) Due to the Supreme Court's Interim Order dated 10 May, 2012 in Civil Appeal No. 4223 of 2012, TPC was required to maintain 'Status Quo'. Only when that Appeal was decided on 8 May, 2014 TPC was given liberty to lay its network in the BEST area of supply;
- (d) The aim of the Commission is to promote competition between the three licensees operating in the proposed licence area in the interest of the consumers. Therefore, TPC will be required to rollout its network in the most competitive and cost effective manner, while keeping accessible to categories of consumers with lowest consumption;
- (e) By its own admission, TPC has faced several operational difficulties which have delayed its network expansion. Therefore, the Commission deems it appropriate to specify a Phase Wise Rollout to ensure that TPC lays its network in its entire area of licence in a time bound manner;
- (f) Vide Orders in Case No. 151 of 2011 and 85 of 2013, the Commission has stipulated certain conditions in accordance with which TPC is required to rollout its network within a stipulated time period. The Commission also observed in that Order that TPC had been selectively laying its network to benefit a particular class of consumers and not for all categories of consumers.
- (g) As observed in Case No. 85 of 2013, even though TPC has made progress in laying its network, it has not been able to fully comply with the directions issued by the Commission in Case No. 151 of 2011.
- (h) Historically, till the time, the Commission passed Orders in Case No. 151 of 2011, the expansion of the distribution network by TPC was limited.

- (i) The rollout plan submitted by TPC is inadequate as it seeks to cater to 50% of the total expected load by catering to only 31% of consumers, which is not conducive to a level playing field and genuine competition. In its rollout plan, TPC has not addressed the past directions issued and time lines prescribed by the Commission in its Orders, i.e. in Case No. 151 of 2011 and Case No. 85 of 2013. Further, in its proposed rollout plan TPC has not proposed a detailed methodology to ensure that laying of network will be done to ensure supply to all categories of consumers including the category of consumers with lowest consumption.

7.1.6. In view of the above background, and based on all the materials placed on records, and in consideration of various objections/ suggestion received the Commission is of the view that it is in the public interest to grant licence to TPC to distribute electricity in the proposed area of supply.

7.1.7. The Commission, therefore, in exercise of the power vested in the Commission under Section 14 of the 2003 Act, grants Distribution Licence to TPC to supply electricity in the proposed area of supply for a period of 25 years from August 16, 2014. The Commission further issues the following directions:

- (a) The Commission observes that the rollout plan submitted by TPC is inadequate and for detailed reasons mentioned above TPC is directed to approach the Commission within 6 weeks with a fresh rollout plan in accordance with the concerns expressed by the Commission in the present Order.
- (b) TPC shall be bound by the network rollout approved by this Commission, which would form part of the Specific Conditions specified by this Commission under Section 16 of the EA 2003.
- (c) TPC is directed to approach the Commission in a separate Petition to seek a mandate pertaining to the six identified consumers outside the geographical area of TPC's Licence within six months. Till such time a decision in the Petition is arrived TPC shall continue to supply such consumers under the existing terms and conditions.
- (d) Any direction issued by the Commission restricting TPC's network expansion and supply to identified categories, consumers or areas in the earlier licence are hereby revoked;
- (e) All other directions/ Orders pertaining to TPC's existing distribution business within its area of licence, including but not limited to the Tariff Orders passed by this Commission, shall continue to be in force in the same manner as prior to the expiry of TPC's existing licence and grant of new licence by the Commission.

7.1.8. The Commission directs the Secretary, MERC to issue the Distribution Licence to The Tata Power Company Limited.

- 7.1.9. The Commission directs TPC to upload a copy of the licence on its website as soon as it is issued to it.
- 7.1.10. The Commission directs its Registry that a copy of the Distribution Licence, once issued, be forwarded to the Government of Maharashtra, all Electricity Generation Companies, Transmission Licensees, and Distribution Licensees in the State of Maharashtra, the concerned Western and Central Railways, Airport authorities, Defence authorities, Local authorities/ self-governments (Municipal bodies) of the cities/ towns which are partly or fully covered under the area of the said electricity Distribution Licence, and a copy be uploaded on the website of the Commission.

Case No. 90 of 2014 stands disposed of accordingly.

Sd/-

**Azeez M. Khan**  
(Member)

Sd/-

**Vijay L. Sonavane**  
(Member)

Sd/-

**Chandra Iyengar**  
(Chairperson)

## Annexures 1: Public Notices

### Annexure 1.1: EOI Notice Published by MERC


	<b>MAHARASHTRA ELECTRICITY REGULATORY COMMISSION</b> 13 <sup>th</sup> Floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai - 400 005 Tel. (022) 2216 39 64 / 65 / 69, Fax No. (022) 2216 39 76 E-mail : mercindia@merc.gov.in Website : www.mercindia.com / www.merc.gov.in
	ADVT. No. : 12/2013-14
<b>INVITATION FOR EXPRESSION OF INTEREST FOR          DISTRIBUTION OF ELECTRICITY IN MUMBAI CITY AND          PART OF MUMBAI SUBURBAN AREA</b>	
<p>The Maharashtra Electricity Regulatory Commission ("MERC") exercises functions and powers as a Regulator in the State of Maharashtra in regard to Electricity Sector. Section 86(1) (d) read with Section 14 of the Electricity Act, 2003 ("EA 2003") requires the MERC to issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State.</p> <p>The Tata Power Company Limited (hereafter referred as "TPC") is a vertically integrated utility carrying out the functions of Generation, Transmission, Wheeling and Retail Supply of electricity in the Mumbai.</p> <p>In accordance with the Maharashtra Electricity Regulatory Commission (Specific Conditions of Distribution Licence applicable to Tata Power Company Ltd.) Regulations 2008, the area of supply for TPC-D is as under:</p> <p><b>Area of Supply</b></p> <p>"4.1 The Area of Supply within which the Distribution Licensee is authorised to supply electricity shall be the whole of the area as described in (1) The Bombay (Hydro-Electric) License, 1907; (2) The Andhra Valley (Hydro-Electric) License, 1919; (3) The Nila Mula Valley (Hydro-Electric) License, 1921; (4) The Trombay Thermal Power Electric License, 1953 (collectively referred to as, "TPC Licenses") subject to such conditions and exclusions as specified in the said TPC Licenses.</p> <p>4.2 The Distribution Licensee is authorised to supply electricity to the public for all purposes in accordance with the provisions of the Act.</p> <p><b>5. Term of Licence</b></p> <p>Subject to the provisions of the Act, the Licence shall remain in force till 15<sup>th</sup> August 2014, i.e., the remaining period for which TPC shall be deemed to be a Distribution Licensee under the Act."</p> <p>The said licence of TPC-D is valid till 15<sup>th</sup> August, 2014.</p> <p>As on July, 2013, the Tata Power Company -Distribution Business (hereafter referred as "TPC-D") has 414937 consumers in its area of operation of about 475 Sq.Km. TPC-D serves a cross section of the consumers- residential, commercial and industrial. Approximately, 87% of the total consumer base is residential, another 10.67% is commercial and 1.82% is industrial consumers in its area of supply. The infrastructure network of TPC-D to supply electricity to the consumers in Mumbai distribution area includes 19 receiving stations and 628 distribution transformer substations and 2719 Ckt. KM of distribution network of 33kV, 22 kV, 11kV and LT network. Most of the receiving substations and distribution substations are housed indoors. The entire network (excluding some part overhead lines) is through an underground cable system. The energy input to the distribution system during FY 2012-13 had been over 6650 MUs. The distribution loss was reported as 1.1% during FY 2012-13.</p> <p>The MERC, pursuant to Section 86(1) (d) read with Section 14 of the EA 2003 invites 'Expression of Interest' from prospective applicants including consortiums/joint ventures with expertise in electricity distribution to indicate their interest in undertaking distribution of electricity in the above mentioned area of supply of TPC-D in Mumbai City and part of its suburbs and to seek grant of distribution licence in connection therewith. Interested applicants should furnish the 'Expression of Interest' with a statement of capability and experience indicating that they are qualified to perform the services (brochures, description of similar assignments, experience in similar conditions, availability of appropriate skills among staff etc.) and other details to demonstrate their credentials including the organization structure, number of offices, manpower, financial status etc. The intending applicants may submit their company profile and the brief summary of their performance for the last 10 years as given below:</p> <ol style="list-style-type: none"> <li>1) Name of the intending applicant       <ol style="list-style-type: none"> <li>a) Type of organization and year of establishment</li> <li>b) Legal Status</li> <li>c) Registration/ Affiliation</li> <li>d) Collaboration/Joint Venture (if any)</li> </ol> </li> <li>2) Experience in similar projects and level of involvement.</li> <li>3) Illustrative training experience/ delivery with regard to electricity distribution.</li> <li>4) Copy of the balance sheet of the last 3 years.</li> <li>5) Illustrative profile/CVs of personnel (both national and international).</li> </ol> <p>While submitting the Expression of Interest, the international/national bidders are encouraged to associate with each other to enhance their capabilities in the desired areas.</p> <p>Interested parties are requested to submit their written Expression of Interest (EOI) including information which will demonstrate their capabilities and experience latest by <b>16.00 hrs</b> on <b>31.01.2014</b> to the following address:</p> <p style="text-align: center;"><b>Secretary</b>  <b>Maharashtra Electricity Regulatory Commission</b>          13<sup>th</sup> Floor, Centre No.1, World Trade Centre,          Cuffe Parade, Mumbai- 400 005</p> <p>For any relevant information, prospective bidders may contact the office of TPC-D at</p> <p style="text-align: center;"><b>The Tata Power Company Limited,</b>  <b>Dharavi Receiving Station, Near Shalimar Industrial Estate,</b>  <b>Matunga (East), Mumbai 400 019.</b></p> <p>and also access available information from the website of the Commission <a href="http://www.mercindia.org.in">www.mercindia.org.in</a> / <a href="http://www.merc.gov.in">www.merc.gov.in</a>.</p> <p>MERC reserves the right to reject the application of any of the intending applicants without assigning any reason thereof.</p> <p style="text-align: right;">By order of the Commission Sd/- Secretary, MERC</p> <p>Place : Mumbai Date : 1<sup>st</sup> January, 2014</p>	

## Annexure 1.2: Public Notice of TPC

 <b>TATA POWER</b> <b>The Tata Power Company Limited</b> Registered Office : Bombay House, 24, Horni Mody Street, Mumbai 400 001.				
<b>PUBLIC NOTICE</b>				
<b>Notice inviting Comments/ Suggestions/ Objections on The Tata Power Company's Application for grant of Distribution Licence under Section 15 (2) of the Electricity Act 2003. (MERC Case No 96 of 2014)</b>				
<p>1. The Tata Power Company Ltd. (Tata Power) has filed an Application for grant of Distribution Licence before the Maharashtra Electricity Regulatory Commission under the provisions of Section 15 of the Electricity Act, 2003 and MERC (General Conditions of Distribution Licence) Regulations, 2008. The Commission has admitted the Application on May 5, 2014 and directed Tata Power to publish a Public Notice under Section 15 (2) of the Act.</p> <p>2. The salient features of the Application are provided below:</p>				
<b>A. Applicant's Name:</b>	The Tata Power Company Ltd.			
<b>B. Applicant's address of registered office:</b>	The Tata Power Company Ltd. Bombay House, 24, Horni Mody Street, Mumbai, 400 001			
<b>C. Applicant's principal place of business:</b>	Area covered by South Mumbai and parts of Mumbai Suburban Areas, areas of Mira Bhayander Municipal Corporation including area covered under Chene and Varsave.			
<b>D. Nature of licence applied for:</b>	Distribution Licence			
<b>E. Other salient features of the application:</b>				
<ul style="list-style-type: none"> <li>Tata Power is an existing Distribution Licensee in the city of Mumbai and its surrounding areas for almost a century and is seeking a Distribution Licence in the area as elaborated in Point C above.</li> <li>As stipulated under the Maharashtra Electricity Regulatory Commission (Specific Conditions of Distribution Licence applicable to The Tata Power Company Ltd.) Regulations, 2008, dated 20th August, 2008, the term of the existing licence of Tata Power is till August 15, 2014. This application for grant of Distribution Licence is filed for a period of 25 years, starting from August 16, 2014.</li> <li>Tata Power as a Distribution Licensee, satisfies the various criteria set out for grant of Distribution Licence laid down under the Electricity Act, 2003, Government of India Rules of 2005 (Minimum Area of Supply, Capital Adequacy, Credit worthiness and Code of Conduct) and MERC (General Conditions of Distribution Licence Conditions) Regulations, 2008 and its Amendments.</li> <li>Tata Power has to its credit, the distinction of providing uninterrupted and reliable power across consumer segments and has been a major catalyst to the development of Mumbai in its present status as a Financial Capital of independent India. Tata Power would continue such performance in future as well, with its technical and functional competence, distribution and consumer service infrastructure and adequate power purchase tie ups. All the supporting documents are included as part of the Distribution Licence Application.</li> </ul>				
<b>F. Legal Status of the applicant:</b>	Limited Company			
<b>Registration No.:</b>	L28520MH1919PLC000567			
<b>G. Shareholding pattern as on 31st December, 2013:</b>				
Promoter and Promoter Group	32.47%			
Institutional Investors	48.57%			
Others	18.96%			
<b>H. Management (Board of Directors) profile:</b>				
Sr. No.	Name	Age	Designation	Experience
1.	Mr. Cyrus Pallonji Mistry	46	Chairman	Chairman, Tata Sons and major Tata Group Companies.
2.	Mr. Ramakrishnan Gopalakrishnan	68	Director	Earlier Managing Director of Shreeji Pallonji Group Companies as Chairman / Vice Chairman / Director. 31 years experience with Hindustan Lever, where he last served as Vice Chairman.
3.	Mr. Homiar Sorabji Vachha	72	Director	25 years experience with ICICI Bank, where he last served as General Manager.
4.	Mr. Nawshir Hoshang Mirza	64	Director	Director on the Boards of Thermax Limited, Foodworld Supermarkets Limited, Coastal Gujarat Power Limited, Tata Power Delhi Distribution Limited and Health & Glow Retailing Private Limited. He was earlier a Partner of S. R. Batliboi & Co., Calcutta.
5.	Mr. Deepak Madhav Satwalekar	65	Director	Managing Director and CEO of HDFC Standard Life Insurance Company Limited from November 2000 till November 2008 and prior to this, he was the Managing Director of HDFC Limited from 1993 - 2000.
6.	Mr. Piyush Garwarlal Mankad	72	Director	Retired civil servant with a distinguished career of over 40 years in the Civil Services. He has held several senior positions in the Government of India, including that of Secretary Finance. He was the executive director for India and four other countries and Board Member for the Asian Development Bank, Manila.
7.	Mr. Ashok Kumar Basu	72	Director	He was in the Indian Administrative Service (IAS) since 1965. He is a former Secretary to the Government of India, Ministry of Steel, Secretary - Power and was a Chairman of the CERC.
8.	Mr. Thomas Mathew Thumpeparambil	61	Director	Extensive experience in the Life Insurance industry in India. He held various positions and retired as a Current-in-Charge Chairman of Life Insurance Corporation. He is on the Boards of Voltas Limited, Management Development Institute and is Vice-Chairman and public interest director on the Board of MCX-SX, nominated by SEBI.
9.	Ms. Vishakha Vhvek Mulye	45	Director	Experience in the areas of strategy, treasury and markets, proprietary equity investing and management of long-term equity investments, structured finance and corporate and project finance through KOCIL Group.
10.	Mr. Anil Kumar Sardana	55	CEO & Managing Director	Over three decades of experience in the power & infrastructure sector through companies like NTPC Limited, SSES (prior to it becoming an ADAG group company), Tata Power Delhi Distribution and Tata Teleservices Limited.
11.	Mr. Padmanabhan Sankaranarayanan	55	Whole Time Director	An experience of 28 years in Tata Consultancy Services Limited (TCS) as Director-HR, Head of Software Delivery Centre, Country Head of Switzerland, and CEO of JV with Singapore Airlines.
<b>I. Summary of activities and past experience in similar activities:</b>				
Tata Power has been involved in distribution and supply of electricity in Mumbai and surrounding areas for almost a century. In addition, Tata Power is also a distribution licensee in certain areas of Delhi, since 2002 and catering to around 13 Lakh consumers.				
<b>J. Proposed area of supply, its description and number of consumers proposed to be served:</b>				
Tata Power has proposed the following area of supply under its distribution licence application:				
<b>Existing Distribution Licence Area:</b>	Colaba in South to Vassa Creek in North and Vikhroli in the Central side			
<b>Additional Area:</b>	Chene and Varsave which are part of the Mira Bhayander Municipal Corporation and contiguous to the existing licence area (in line with the 'minimum area criterion' of Government of India Rules of 2005)			
The consumers proposed to be served by Tata Power are expected to increase from the current 5 lakhs to around 13 Lakhs by the end of 5 years.				
<b>K. Contact details of the nodal person from whom copy of application may be obtained for inspection or purchase:</b>				
<b>A.) Name and designation of person:</b>	Ms. Swati R. Mehendale Group Head (Corporate Regulations)			
<b>B.) Address of the office from where to obtain copy of application for inspection or purchase:</b>	The Tata Power Company Ltd. Dharavi Receiving Station, Near Shalimar Industrial Estate, Matunga (E), Mumbai - 400 019			
c) Detailed application documents along with CD (in English) (on payment of Rs 200/- in cash or by DD/ Cheque drawn on [The Tata Power Company Ltd.] payable at Mumbai).				
d) Detailed application documents (in English) (on payment of Rs. 150/-).				
e) CD of detailed application document (in English) (on payment of Rs. 50/-).				
L. Website address from where the copy of application and other documents mentioned therein may be downloaded free of cost: <a href="http://www.tatapower.com">www.tatapower.com</a>				
M. In case the application of licence falls under sixth proviso of Section 14 of the Act, statement along with necessary particulars corroborating compliance of the same:				
Tata Power hereby confirms and declares that the applicant complies with the additional requirements (including capital adequacy, credit worthiness, code of conduct) of the Government of India Rules of 2005 for Distribution Licensees.				
3. Note: Any person having any objection with reference to the application for licence may submit such objections to the Commission by a written intimation (1 + 5 copies) addressed to the Secretary, Maharashtra Electricity Regulatory Commission World Trade Centre, Center No.1, 13th Floor, Cuffe Parade, Colaba, Mumbai - 400005 [Fax : 22163976 : E-mail - <a href="mailto:mercindia@merc.gov.in">mercindia@merc.gov.in</a> ] within thirty (30) days from the date of publication of this notice, along with proof of service on The Tata Power Company Ltd.				
Place: Mumbai Date: 09th May, 2014	Sd/- Vidyadhar H. Wagle Head (Corporate Regulations)			



### Annexure 1.3: Public Notice of MERC



**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
13th Floor, Center No.1, World Trade Centre, Cuffe Parade, Colaba,  
Mumbai - 400005. Tel.: 22-22163964 / 65 / 69 Fax : 022-2216 3976  
Email: mercindia@merc.gov.in Website: www.merc.gov.in / www.mercindia.org.in

**Case No. 90 of 2014**

**NOTICE UNDER CLAUSE (a) OF SUB-SECTION (5) OF SECTION 15 OF THE ELECTRICITY ACT, 2003 (EA 2003)**

1. An application for grant of Distribution Licence has been made by The **Tata Power Company Ltd.** (hereinafter referred as "**TPC**") for distribution in Mumbai City and Part of Mumbai Suburban Area, areas of Mira Bhayandar Municipal Corporation including area covered under Chene and Varsave which is contiguous to its existing area of licence.
2. In accordance with sub-section (2) of Section 15 of the Electricity Act, 2003, TPC published a notice of its application on 9 May, 2014 in local Editions of 'DNA', 'Indian Express', 'Financial Express', 'Loksatta' and 'Prahar'.
3. Broadly, the boundary of the proposed licensed area is: Mumbai City and part of Mumbai Suburban District (Bandra to Dahisar in Western suburban parts of Mumbai Suburban District, Chunnabhatti to Vikhroli and Mankhurd in Eastern suburban parts of Mumbai Suburban District). The proposed area also covers complete area falling under Mira Bhanaydar Municipal Corporation including villages Chene and Varsave areas. It may be noted that the villages Chene and Varsave are not part of its existing licence area. For complete details of the proposed area of licence, any interested person may refer to TPC's application for grant of license, available in downloadable format on the Commission's website [www.merc.gov.in](http://www.merc.gov.in) / [www.mercindia.org.in](http://www.mercindia.org.in)
4. The registered office of **TPC** is at Bombay House, 24, Homi Mody Street, Mumbai-400 001.
5. A copy of the application along with its annexures and enclosures, made by **TPC** before the Commission can be accessed at the MERC's website [www.merc.gov.in](http://www.merc.gov.in) / [www.mercindia.org.in](http://www.mercindia.org.in) or inspected by any person in the Commission's office in accordance with the laid down procedure in Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
6. Pursuant to the notice of the aforesaid application in newspapers, suggestions and objections were received from the public. On consideration of the material available on record, the Commission is satisfied that *prima facie* the applicant qualifies for grant of Distribution licence for the proposed area of supply. The Commission proposes to grant the licence to the applicant, as a Distribution Licensee, in accordance with Maharashtra Electricity Regulatory Commission (General Conditions of Distribution Licence) Regulations, 2006 subject to fulfilment of all the requirements laid down in the Act and Regulations.
7. Notice is hereby given in pursuance of clause (a) of sub-section (5) of Section 15 of the EA 2003 to invite **suggestions and/ or objections**, if any, to the proposal to grant Distribution licence to the applicant by the Commission, to be received by the undersigned **latest by, 8 July, 2014 (Tuesday)** at the above noted address. The suggestions and/ or objections received after the specified date shall not be considered.
8. Every person who intends to file objections and comments/suggestions can submit the same in English or Marathi, in (6+1) copies, and should carry the full name, postal address and e-mail address, if any, of the sender. It should be indicated whether the suggestions and/ or objections is being filed on behalf of any organization or of any 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 on **Thursday, 10 July, 2014 at 11.30 hours in the Centrum Hall, First Floor, Centre No.1, World Trade Centre, Cuffe Parade, Colaba Mumbai 400 005**. No separate notice will be issued for the same.

**Place : Mumbai**  
**Date : 18th June, 2014**

Sd/-  
**(Ashwani Kumar)**  
**Secretary, MERC**

## Annexures 2: List of persons participated in Technical Validation Session

### Annexure 2.1: List of persons who attended the TVS on 17 April, 2014

Sr. No.	Name	Company / Institution
1.	Ashok Pendse	Thane Belapur Industries Association
2.	Shital Khairiya	The Tata Power Company
3.	M.D. Salvi	The Tata Power Company
4.	Behran Mehta	The Tata Power Company
5.	Gaurav Gautam	The Tata Power Company
6.	Aubhedeep Ghosh	The Tata Power Company
7.	Hitesh Gohani	The Tata Power Company
8.	R M Ranak	The Tata Power Company
9.	V H Wagle	The Tata Power Company
10.	Karthik krishnan	The Tata Power Company
11.	Swati Mehendale	The Tata Power Company
12.	Hawwa Inamadhar	The Tata Power Company
13.	Amey Naik	The Tata Power Company
14.	Shailey trivedi	The Tata Power Company
15.	Ambika Gupta	The Tata Power Company
16.	M Shenbagam	The Tata Power Company
17.	Narayanana V T	The Tata Power Company
18.	Anupam Patra	The Tata Power Company
19.	Pillai Ramachandran	The Tata Power Company
20.	Suhas Thapre	The Tata Power Company
21.	Cintanam Cintu	The Tata Power Company
22.	Vidyyesh Raye	The Tata Power Company
23.	K.R Cooper	The Tata Power Company
24.	Manasvi Sharma	The Tata Power Company
25.	Ajey s Desai	The Tata Power Company
26.	Amey S Mhapasekar	The Tata Power Company
27.	Santosh P Narayan	The Tata Power Company
28.	Ranjit Ganguli	The Tata Power Company
29.	Deepak Kabadi	The Tata Power Company
30.	B. N Varun Kumar	The Tata Power Company
31.	Arvind A Yadav	The Tata Power Company
32.	Rahul Singh	The Tata Power Company
33.	Kartik	The Tata Power Company
34.	S.N.Joshi	The Tata Power Company
35.	A.H. Pandit	Idam Infra
36.	Priyulesh	CESC
37.	D.S.Patil	The Tata Power Company
38.	M K Gupta	The Tata Power Company

**Annexure 2.2: List of persons who attended the TVS on 23 April, 2014**

<b>Sr. No.</b>	<b>Name</b>	<b>Company / Institution</b>
1	Hawwa Inamadar	The Tata Power Company
2	Ambica Gupta	The Tata Power Company
3	J.S.Wadhwa	The Tata Power Company
4	Chintamani Chitnis	The Tata Power Company
5	M.Shenbagan	The Tata Power Company
6	N.C.Potphode	The Tata Power Company
7	M.P.Kulkarni	The Tata Power Company
8	Amev Naik	The Tata Power Company
9	Kartik K.	The Tata Power Company
10	Ashok Pendse	Thane Belapur Industries Association
11	Nitin Lothe	The Tata Power Company
12	Swati Mehendale	The Tata Power Company
13	Brinda Alankar	The Tata Power Company
14	Shaily Trivedi	The Tata Power Company
15	V.Raje	The Tata Power Company
16	Rahul Singh	The Tata Power Company
17	Manasvi Sharma	The Tata Power Company
18	Santosh Narayan	The Tata Power Company
19	Shital Khairya	The Tata Power Company
20	S.Padmanathan	The Tata Power Company
21	A. Sethi	The Tata Power Company
22	A.S.Mhapsekar	The Tata Power Company
23	B.P.Mehta	The Tata Power Company
24	K.R.Cooper	The Tata Power Company
25	Arvind Yadav	The Tata Power Company
26	Ranjit Ganguli	The Tata Power Company
27	Vinodkumar	The Tata Power Company
28	M.D.Salvi	The Tata Power Company
29	Narayanan V.T	The Tata Power Company
30	Hitesh Gohani	The Tata Power Company
31	M.K.Gupta	The Tata Power Company
32	G.M.Goutam	The Tata Power Company
33	V.H.Wagale	The Tata Power Company
34	Puja Gupta	Idam Infra
35	A.V.Bute	MSEDCL
36	Mohit Ganeshani	Tata Power Company
37	Balawant Joshi	Idam Infra



### **Annexures 3: List of persons participated in Public Hearing on 10 July, 2014**

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
1.	Shri Shirish Deshpande	Mumbai Grahak Panchayat
2.	Shri Ashok Pendse	Thane Belapur Industries Association
3.	Shri Rakshpal Abrol	M/s. Bhartiya Udami Avam Upbhokta Sangh
4.	Shri. V.H. Wagle	Tata Power Company
5.	Shri. S.R. Mehendale	Tata Power Company
6.	Shri O.P.Gupta	General Manager, BEST
7.	Shri Jeetendra Sahil	Individual
8.	Shri Rajan Parab	Individual
9.	Shri Prashant Lahade	Individual
10.	Shri Gurunath Lad	Individual
11.	Shri Nikhil A. Gujar	Individual
12.	Shri. Prabhakar A. Karpe	Individual
13.	Shri. Pradeep K.Gaikwad	Individual
14.	Shri. Mohan Yadav	Individual
15.	Shri.Ramakant Salvi	Individual
16.	Shri.Akshaya Guddekar	Individual
17.	Shri.Narendra Mayank	Individual
18.	Shri.Anant Vishram Bane	Individual
19.	Smt. Manisha Tigote	Individual
20.	Shri. Harikesh Yadav	Individual
21.	Shri.Babu Kolluri	Individual
22.	Shri.Raghuvir Maruti Kodghunte	Individual
23.	Shri P.S.Chonkar	Individual
24.	M/s Empire Industries Ltd	Organization
25.	Shri Sandeep Thakur	Individual
26.	M/s Panchal Engineering Works	Organization
27.	Shri M.R.Tambe	Individual
28.	M/s Comrade Lease Finvest Pvt. Ltd.	Organization
29.	M/s Poonam Kunj Co.op Hospital Society Ltd	Organization
30.	Shri Mohmad Afzal	Individual
31.	Shri Udyā Chavan	Individual
32.	Shri Sachin Satpute	Individual
33.	M/s. Vinay Industries Soc. Ltd.	Organization
34.	M/s. IL & FS	Organization
35.	Shri Sharad Dave	Individual
36.	M/s. MIDC Marol Industries Association	Organization
37.	M/s. Kamdhenu Estate	Organization
38.	Shri Pradeep Bhide	Individual
39.	M/s. Godrej and Boyce	Organization

Sr. No	Name of the person	Individual / Organization
40.	M/s. Netmagic	Organization
41.	M/s. BPCL	Organization
42.	M/s. HPCL	Organization
43.	Hotel Shobha International	Organization
44.	M/s. Naresh Industries	Organization
45.	M/s. Karmyog Industries	Organization
46.	M/s. Bansal Estate	Organization
47.	M/s. Apaki Ind. Premises co-operative Soc. Ltd.	Organization
48.	Shri. Janeshwar Pande	Individual
49.	M/s. Blue Diamond Co-Operative Hsg. Soc.	Organization
50.	M/s. Nobtech Enterprises	Organization
51.	Shri. Mohd. Zabir Khan	Individual
52.	Shri. Raghunath Shinde	Individual
53.	Shri. Mahesh Bhat	Individual
54.	Shri Shantanu S	Individual
55.	Shri Manohar Shinde	Individual
56.	Borivali Dahisar Jagruk Nagrik Manch	Organization
57.	M/s. Balan Electricals Ltd.	Organization
58.	M/s. Thakur Electricals	Organization
59.	Shri. Vijay Vishwakarma	Individual
60.	Shri. Shripad Jain	Individual
61.	M/s. Golden Nest	Organization
62.	Shri. Snatoshkumar Yadav	Individual
63.	Shri. Vithoba Chavan	Individual
64.	Shri. Ajay Pednekar	Individual
65.	Shri. Vijay More	Individual
66.	M/s. Spice Court	Organization
67.	Shri. Guruprasad Shetty	Individual
68.	Shri Janardan Yadav	Individual
69.	Shri K.R. Nikumbh	Individual
70.	Shri Sandip Ohri	Individual
71.	Shri. Pradip Koli	Individual
72.	M/s. Amar Rubber Works	Organization
73.	Pratibhabai Pratishtan	Organization
74.	Shri Deepak Sakharkar	Individual
75.	Shri. Nandkishor Badgujar	Individual
76.	M/s. Sunflower CHS Ltd.	Organization
77.	M/s. Mahavir Darshan Bldg. CHS Ltd.	Organization
78.	M/s. Bombay Chamber of Commerce and Industries	Organization
79.	M/s Tata Hydro Co. Employees Union	Organization

Sr. No	Name of the person	Individual / Organization
80.	M/s Tata Hydro Co. Employees Union	Organization
81.	Shri Ganesh Kanekar	Individual
82.	Shri. Harischandra Govalkar	Individual
83.	Shri. Arjun Naik	Individual
84.	Shri Sharad Sane	Individual
85.	Shri Keshav Chavan	Individual
86.	Shri Allauddin Shah	Individual
87.	Shri P.R.Patharkar	Individual
88.	Shri Manikumar	Individual
89.	Shri Milind Rane	Individual
90.	M/s. Indian Hotel and Restaurant Association	Organization
91.	M/s. Yatra Foundation	Organization
92.	Shri Umesh Rane	Individual
93.	Shri Sikandar Azam	Individual
94.	Development Commissioner, Andheri Seepze	Organization
95.	M/s. Electrical Contractors Association of Maharashtra	Organization
96.	Shri. Sujal Hasan	Individual
97.	Shri. Rajaram Kumbhar	Individual
98.	Shri. Jadgeish Singh	Individual
99.	Shri. Sharad Yadav	Individual
100.	Shri. Smasher Singh	Individual
101.	M/s. Adil Power Enterprises	Organization
102.	M/s. Pawar Electricals	Organization
103.	M/s. Jay Maharashtra Electricals	Organization
104.	M/s. Urmi Electricals	Organization
105.	M/s. Greentech Consultant	Organization
106.	Shri. Raju Brahmhatta	Individual
107.	Shri. Santosh Thorat	Individual
108.	Shri. Uday Mohite	Individual
109.	Shri. Archana Tajane	Individual
110.	Shri. Sumeet Wajale	Individual
111.	M/s. Bombay Electric Workers Union	Organization
112.	Shri. Suhas Nalawade	Individual
113.	M/s. Arijit Mitra	Counsel, R Infra Ltd.
114.	Shri. Prajesh T.	Individual
115.	Shri. Prakash Bhosale	Individual
116.	Javed Haidery Trustee	
117.	Shri. Santosh Deshpande	Individual
118.	Shri Abbas Rahman	Individual
119.	Shri Narendra Uparkar	Individual
120.	Shri Kamkar Shenoy	Individual
121.	Shri P.S.Shridharan	Individual

Sr. No	Name of the person	Individual / Organization
122.	Shri Firoz Hawaldar	The Tata Power Company
123.	Ms Mega Yadav	The Tata Power Company
124.	Shri S.B.Kundargi	The Tata Power Company
125.	Ms. Nusreen Ahmed	The Tata Power Company
126.	Ms. Athira Damodharan	The Tata Power Company
127.	Shri Suhas Dhapare	The Tata Power Company
128.	Shri Devanjay Dey	The Tata Power Company
129.	Shri Roshan George	The Tata Power Company
130.	Shri G.V. hanirama	The Tata Power Company
131.	Shri S.A.Khan	The Tata Power Company
132.	Shri P.S.Nikhade	The Tata Power Company
133.	Shri R.V. Gawade	The Tata Power Company
134.	Shri S.N.Joshi	The Tata Power Company
135.	Shri Rajesh Singh	The Tata Power Company
136.	Shri Roopesh Shrivastava	The Tata Power Company
137.	Shri N.A.Paul	The Tata Power Company
138.	Shri P.P.Gaikwad	The Tata Power Company
139.	Shri A.B.Naik	The Tata Power Company
140.	Shri M.P.Kulkarni	The Tata Power Company
141.	Shri P.H.Edram	The Tata Power Company
142.	Shri Abhishek Ramkrishna	The Tata Power Company
143.	Shri Sumay Pushram	The Tata Power Company
144.	Shri A.T.Saste	The Tata Power Company
145.	Shri V. Raje	The Tata Power Company
146.	Shri Amey Naik	The Tata Power Company
147.	Shri R.P.Bhosale	The Tata Power Company
148.	Shri P.K.Patyare	The Tata Power Company
149.	Shri R.M.Waghchaure	The Tata Power Company
150.	Shri S.N.More	The Tata Power Company
151.	Shri D.S.Patole	The Tata Power Company
152.	Shri V.K.Gharat	The Tata Power Company
153.	Shri Pillai R.	The Tata Power Company
154.	Shri Deepak Ojha	The Tata Power Company
155.	Shri Niranjani Khantia	The Tata Power Company
156.	Shri R.R. Pote	The Tata Power Company
157.	Ms Smita Ayyar	The Tata Power Company
158.	Shri Malarvishi Krishna	The Tata Power Company
159.	Ms Yashika Kapoor	The Tata Power Company
160.	Shri Y.Goutam	The Tata Power Company
161.	Shri Amol Shinde	The Tata Power Company
162.	Shri Jagdeep Sangwe	The Tata Power Company
163.	Shri Suyog Kapse	The Tata Power Company
164.	Shri Chintamani Chitnis	The Tata Power Company
165.	Shri Avinash Disuza	The Tata Power Company
166.	Shri Nitin Sarve	The Tata Power Company
167.	Shri Rahul Singh	The Tata Power Company

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
168.	Shri Kartik Krishan	The Tata Power Company
169.	Ms Ambica Gupta	The Tata Power Company
170.	Shri K.R. Cooper	The Tata Power Company
171.	Shri I.E.Shithi	The Tata Power Company
172.	Shri Clarian Ganeshan	The Tata Power Company
173.	Shri P.P. kadam	The Tata Power Company
174.	Ms Sima Vavhyare	The Tata Power Company
175.	Shri H.B.Kadam	The Tata Power Company
176.	Shri Ravi Thakre	The Tata Power Company
177.	Shri D.M.Suryavanshi	The Tata Power Company
178.	Ms Nisha Bhargava	The Tata Power Company
179.	Shri Prasad Joshi	The Tata Power Company
180.	Shri S.A.Vaidhya	The Tata Power Company
181.	Shri Anwar Shaikh	The Tata Power Company
182.	Shri Merwyn Disuza	The Tata Power Company
183.	Shri Anil Nair	The Tata Power Company
184.	Shri A.V.Potdar	The Tata Power Company
185.	Shri Y.D.Athirao	The Tata Power Company
186.	Shri Nitin Lathe	The Tata Power Company
187.	Shri Mohammad	The Tata Power Company
188.	Shri J.K. Nair	The Tata Power Company
189.	Shri Manoranjan	The Tata Power Company
190.	Shri Nirnajan C.V.	The Tata Power Company
191.	Shri Pranav	The Tata Power Company
192.	Shri Avinash Gharat	The Tata Power Company
193.	Shri Bhaskar Sarkar	The Tata Power Company
194.	Shri M.D Salvi	The Tata Power Company
195.	Shri G.M. Gautam	The Tata Power Company
196.	Shri Promod Budhe	The Tata Power Company
197.	Shri L.P.Salunkhe	The Tata Power Company
198.	Shri Ajeet More	The Tata Power Company
199.	Shri Pravin	The Tata Power Company
200.	Shri Mayuresh Gangal	The Tata Power Company
201.	Shri Hitesh	The Tata Power Company
202.	Shri S.V. Savarkar	The Tata Power Company
203.	Shri Govind Dhole	The Tata Power Company
204.	Shri David	The Tata Power Company
205.	Shri Naresh Lingabpalli	The Tata Power Company
206.	Shri Manohar Joshi	The Tata Power Company
207.	Shri Sunil Joglekar	The Tata Power Company
208.	Shri Dheeraj	The Tata Power Company
209.	Shri R.P.Kamble	The Tata Power Company
210.	Shri A. S. Mhapsekar	The Tata Power Company
211.	Shri Mohit Ganeshani	The Tata Power Company
212.	Shri Bipin Kullarni	The Tata Power Company
213.	Shri Yogesh Pai	The Tata Power Company

Sr. No	Name of the person	Individual / Organization
214.	Shri Ranjit Ganguly	The Tata Power Company
215.	Shri Mangesh Chavan	The Tata Power Company
216.	Shri Dattaram Khengale	The Tata Power Company
217.	Shri Rajesh Pawar	The Tata Power Company
218.	Shri A.B. Alaware	The Tata Power Company
219.	Shri S.B. Kulkarni	The Tata Power Company
220.	Shri V.V. Joshi	The Tata Power Company
221.	Shri Ashok Sethi	The Tata Power Company
222.	Shri M. Shenbagam	The Tata Power Company
223.	Shri Victor Francis	The Tata Power Company
224.	Shri Manan Singal	The Tata Power Company
225.	Shri Narendra Rane	The Tata Power Company
226.	Shri Dinesh Sawant	The Tata Power Company
227.	Shri R.M.KaramPatil	The Tata Power Company
228.	Shri S.M. Khanolkar	The Tata Power Company
229.	Shri D.S. Mohare	The Tata Power Company
230.	Shri. S.P. Ake	The Tata Power Company
231.	Smt. Brinda Alankar	The Tata Power Company
232.	Shri Vaibhav Jain	The Tata Power Company
233.	Smt. Swati Mehendale	The Tata Power Company
234.	Shri Prashant Khalap	The Tata Power Company
235.	Shri Arvind Yadav	The Tata Power Company
236.	Shri C.S. Loke	The Tata Power Company
237.	Shri Deepak	The Tata Power Company
238.	Shri V.R. Shrikhande	The Tata Power Company
239.	Smt Shital Kheriya	The Tata Power Company
240.	Shri B.P. Mehta	The Tata Power Company
241.	Shri Kiran Desale	The Tata Power Company
242.	Shri T.K. Bhaskaran	The Tata Power Company
243.	Shri M. Sharma	The Tata Power Company
244.	Shri G.S. Kale	The Tata Power Company
245.	Shri Pradeep Singh	The Tata Power Company
246.	Shri Amit Kapoor, Adv.	The Tata Power Company
247.	Shri Abhishek Munot, Adv.	The Tata Power Company
248.	Shri Kunal Kaul, Adv.	The Tata Power Company
249.	Shri Manohar Desai	The Tata Power Company
250.	Shri N. Manjunath	The Tata Power Company
251.	Shri Nliesh Shukla	The Tata Power Company
252.	Ms Shaily Trivedi	The Tata Power Company
253.	Ms Nutan Kolhatkar	The Tata Power Company
254.	Ms Deepa Chawan, Adv.	The Tata Power Company
255.	Shri Ravindra Chile	The Tata Power Company
256.	Shri Maurice	The Tata Power Company
257.	Shri H.N. Paul	The Tata Power Company
258.	Shri K.N. Halarnkar	The Tata Power Company

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
259.	Shri S.M. Kapse	The Tata Power Company
260.	Shri N.S. Patel	The Tata Power Company
261.	Ms.Priti Kotla	The Tata Power Company
262.	Shri J.L. Aryan	The Tata Power Company
263.	Shri D.B. Rane	The Tata Power Company
264.	Shri K.R Shah	The Tata Power Company
265.	Shri R.M. Ranade	The Tata Power Company
266.	Shri S. Ghosh	The Tata Power Company
267.	Shri S.M. Joul	The Tata Power Company
268.	Shri Jemmy Bhamawat	The Tata Power Company
269.	Shri P. Phaneendra	The Tata Power Company
270.	Shri S.D. Khadilkar	The Tata Power Company
271.	Shri. D.S.Bhise	The Tata Power Company
272.	Shri. M.K.Patole	The Tata Power Company
273.	Shri Krishna Parab	The Tata Power Company
274.	Shri Harish	The Tata Power Company
275.	Shri Suleman	The Tata Power Company
276.	Shri Kaushal Pandya	The Tata Power Company
277.	Shri M.K. Gupte	The Tata Power Company
278.	Ms. Priyanka Wadke	The Tata Power Company
279.	Shri Sushil Singh	The Tata Power Company
280.	Shri Pratik Shah	The Tata Power Company
281.	Shri Sunil Seth	The Tata Power Company
282.	Shri N.A. Siddiqui	The Tata Power Company
283.	Shri S.S. Raskar	The Tata Power Company
284.	Adv. Arun Jagtap	Shivsena Grahak Sangh
285.	Shri Ulhas Chowdhary	Individual
286.	Shri P.B. Kotian	Individual
287.	Shri R.B. Dadal	Individual
288.	Shri. G.J. Peete	Individual
289.	Shri. P.S. Tayade	Individual
290.	Shri S.G. Mahamuddin	Individual
291.	Shri M.M. Thare	Individual
292.	Shri K. Royamathur	Individual
293.	Shri A.S. Tooshan	Individual
294.	Shri. R.J. Chirivella	Individual
295.	Shri P.R. Rasam	Individual
296.	Shri G.E. Peters	Individual
297.	Shri V.D. Shinde	Individual
298.	Shri S.W. Sawant	Individual
299.	Shri J.S. Bind	Individual
300.	Shri P.L. Londhe	Individual
301.	Shri Daleep	Individual
302.	Shri J.S. Wadhwa	Individual
303.	Shri N.C. Potphode	Individual
304.	Shri R.D. Shinde	Individual



Sr. No	Name of the person	Individual / Organization
305.	Shri Vinod Kher	Individual
306.	Shri S.G. Shetty	Individual
307.	Shri Sanjeev Chimbalkar	Individual
308.	Shri Aswin Ramnani	Individual
309.	Shri D'souza Caroline	Individual
310.	Shri Laxman Samant	Individual
311.	Shri Shivsaran Pahi	Individual
312.	Shri Avdesh Singh	Individual
313.	Shri Kamlesh Gaglani	Individual
314.	Shri Sabastin Fernandis	Individual
315.	Shri Samsher Singh	Individual
316.	Shri Bumbak Singh	Individual
317.	Shri Shivsaran Patil	Individual
318.	M/s. Spice Court, Mira-Bhayandar Road	Organization
319.	Shri D.K. Kosambey	Individual
320.	Shri Prashant Sane	Individual
321.	Shri Rajkumar Sharma	Individual
322.	Shri Soumen Mukharji	Individual
323.	Shri Keshav Chavan	Individual
324.	Shri Narendra Uparkar	Individual
325.	Shri R.D.Shinde	Individual
326.	Shri Tanaji Shelar	Individual
327.	Shri Anil Chaskar	Individual
328.	Shri N.K.Mohite	Individual
329.	Shri G.G. Bhandari	Individual
330.	Shri Bakay Edla	Individual
331.	Shri Rahul	Individual
332.	Shri Shailesh	Individual
333.	Shri Naresh	Individual
334.	Shri D.S. Sangre	Individual
335.	Shri S.S. Kanchan	Individual
336.	Shri Mahadev Sable	Individual
337.	Shri Bhushan Mayekar	Individual
338.	Shri Hemant Karadkar	Individual
339.	Shri Rajendra Parab	Individual
340.	Shri Krishna Parab	Individual
341.	Shri Shashwat Kumar	Individual
342.	Shri Gaurav Jha	Individual
343.	Ms Rachana Loukpalli	Individual
344.	Monimi Chakraborty	Individual
345.	Ms. Rakha Akela	Individual
346.	Shri Pali	Individual
347.	Shri Rajesh	Individual
348.	Shri Santosh Sawant	Individual
349.	Ms Riddhi Banerjee	Individual



<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
350.	Shri S.P. Upadhe	Individual
351.	Shri C.H. Patil	Individual
352.	Shri S.R. Mahalode	Individual
353.	Shri M.N. Mandve	Individual
354.	Shri S.G. Kanitkar	Individual
355.	Shri Shailesh Kelvalkar	Individual
356.	Shri P.G. Talekar	Individual
357.	Shri S.R. Chavan	Individual
358.	Shri R.L. Patel	Individual
359.	Shri S.M. Koli	Individual
360.	Shri V.H. Koli	Individual
361.	Shri V.N. Bhosale	Individual
362.	Shri J.D. Patel	Individual
363.	Shri N.B. Shinde	Individual
364.	Shri Namla	Individual
365.	Shri S.B. Patekar	Individual
366.	Shri S.D. Jadhav	Individual
367.	Shri S.D. Paelakar	Individual
368.	Shri S.N. Agavane	Individual
369.	Shri V. A. More	Individual
370.	Shri M.Y. Homkar	Individual
371.	Shri Wayal	Individual
372.	Shri Nikhil Pingle	Individual
373.	Shri D.A. Saleskar	Individual
374.	Shri R.G. Shirke	Individual
375.	Shri I.M. Shah	Individual
376.	Shri S.G. Gharat	Individual
377.	Shri D.J. Mehta	Individual
378.	Shri P.K. Nimbalkar	Individual
379.	Shri S.D. Mestry	Individual
380.	Shri A.N. Sawant	Individual
381.	Shri V.A. Harlikar	Individual
382.	Shri S.K. Shelar	Individual
383.	Shri E.V. Shaikh	Individual
384.	Shri V.D. Amberkar	Individual
385.	Shri Najappa Y.	Individual
386.	Shri Thomas Varghese	Individual
387.	Shri Ritesh Yadav	Individual
388.	Shri Sanjay Rana	Individual
389.	Shri S.D. Sawant	Individual
390.	Shri H.D. Wahi	Individual
391.	Shri M.B. Mhatre	Individual
392.	Shri S.R. Taulkar	Individual
393.	Shri V.L. Ravidas	Individual
394.	Shri P.R. Keeran	Individual
395.	Ms Shoma Shirgaokar	Individual

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
396.	Shri S.B. More	Individual
397.	Shri Ravi Waval	Individual
398.	Shri D.S. Sawant	Individual
399.	Shri Mahesh Joshi	Individual
400.	Shri Narayanan	Individual
401.	Shri Manish	Individual
402.	Shri Vivek Mishra	R Infra
403.	Shri Kishor Patil	R Infra
404.	Shri P.L. Manjrekar	Individual
405.	Shri A.V. Bhat	Individual
406.	Shri A.H. Pandit	Individual
407.	Shri Raja	Individual
408.	Shri Kundan Mare	Individual
409.	Shri K.V. Garud	Individual
410.	Shri P.P. Mazumdar	Individual
411.	Shri Rajesh	Individual
412.	Shri N.A. Khan	Individual
413.	Shri S.R. Kanange	Individual
414.	Shri M.B. Thakaral	Individual
415.	Shri Subhash Dhobi	Individual
416.	Shri Sunil Pawar	Individual
417.	Shri Naresh Gharat	Individual
418.	Shri P. Kode	Individual
419.	Shri A.M. Pawar	Individual
420.	Shri H.B. Padwal	Individual
421.	Shri R.D. Kudrane	Individual
422.	Shri P.V. Thorat	Individual
423.	Shri V.R. Naider	Individual
424.	Shri S.B. Tambe	Individual
425.	Shri S.M. Patil	Individual
426.	Shri K.H. Patil	Individual
427.	Shri V.R. Tambe	Individual
428.	Shri S.S. Bankar	Individual
429.	Shri A.H. Solankhi	Individual
430.	Shri M.S. Chodhari	Individual
431.	Shri Rajesh Arondekar	Individual
432.	Ms Ruchi Chourasia	Individual
433.	Shri Sunil Chapde	Individual
434.	Shri V.N. Pimple	Individual
435.	Shri S.P. Nair	Individual
436.	Shri V.B. Kamble	Individual
437.	Shri R.P. Bhoir	Individual
438.	Shri Aryan Kumar	Individual
439.	Shri R.D. Surve	Individual
440.	Shri V.P. Singh	Individual
441.	Shri M.P. Mate	Individual

Sr. No	Name of the person	Individual / Organization
442.	Shri K.N. Sakpal	Individual
443.	Shri R.D. Pingale	Individual
444.	Shri AB. Ghulge	Individual
445.	Shri Rohit Agarwal	Individual
446.	Shri I.M. Gave	Individual
447.	Shri N.L. Birla	Individual
448.	Shri B.B. Sawant	Individual
449.	Shri Rajaram	Individual
450.	Shri M.H. Dwivedi	Individual
451.	Shri Anilkuma Sharma	Individual
452.	Shri S.R. Waikar	BEST
453.	Shri A.V. Kadam	BEST
454.	Shri P.V. Haldankar	BEST
455.	Shri N.V. Bhandari	BEST
456.	Shri R.U. Patil	BEST
457.	Shri Rameshwaram P.V.	Individual
458.	Shri V.K. Chourey	Individual
459.	Shri G.D. Bhaumik	Individual
460.	Shri Nilesh	Individual
461.	Shri Uttam Pawar	Individual
462.	Shri Ganesh B.	R infra
463.	Shri Sagar Zambre	Individual
464.	Shri Balwant Joshi	Individual
465.	Shri D.A. Gharat	Individual
466.	Shri D.B. Kulkarni	Individual
467.	Shri M.D. Adhikari	Individual
468.	Shri S.B. Singh	Individual
469.	Shri P.J. Malvankar	Individual
470.	Shri Gupte	Individual
471.	Shri Vinod Kumar	Individual
472.	Shri Aashish	Individual
473.	Shri Tushar	Individual
474.	Shri Barkat	Individual
475.	Shri Sushil Koli	Individual
476.	Shri Prashant Shinde	Individual
477.	Shri Manik	Individual
478.	Ms. Namrata	Individual
479.	Shri Ramdayal	Individual
480.	Shri P.S. Pandya	Individual
481.	Shri U.P. Chodhari	Individual
482.	Shri R.R. Dubal	BEST
483.	Shri A.P. Gambhir	Individual
484.	Shri S.N. Bhosale	BEST
485.	Shri Harinder Toor,	Counsel, BEST
486.	Shri Manohar Tanki	Individual
487.	Shri C.G. Shankar	Individual

Sr. No	Name of the person	Individual / Organization
488.	Shri Bilal Shaikh	BEST
489.	Shri M.M. Daware	BEST
490.	Shri S.A. Jadhav	BEST
491.	Shri R.M. Pradhan	BEST
492.	Shri R.K.Waghchoure	Individual
493.	Shri S.R. Khedkar	BEST
494.	Shri V.H, Kurade	BEST
495.	Shri D.G. Patil	BEST
496.	Shri P.P. Karhade	Individual
497.	Shri M.M. Shaikh	BEST
498.	Shri S.P. Makwana	BEST
499.	Shri R.A. Rupnar	BEST
500.	Shri V.H. Vohra	BEST
501.	Shri M.V. Jamdagni	BEST
502.	Shri S.D. Pawar	BEST
503.	Shri K.K. Vyas	Individual
504.	Shri Santosh Mulam	Individual
505.	Shri A.V. P. Mirashi	Individual
506.	Shri H.S. Kini	Individual
507.	Shri P.S. Chad	Individual
508.	Shri Pradeep Mishra	Individual
509.	Shri Ashish Alva	Individual
510.	Shri M.B. Urunkar	BEST
511.	Shri R.D. Patsute	BEST
512.	Shri V.K. Rokade	BEST
513.	Shri Mandlik	Individual
514.	Shri N.N. Chaugule	BEST
515.	Shri N. Somrajan	BEST
516.	Shri Dilip Chavan	Individual
517.	Shri Ranjeet	Individual
518.	Shri V.K. Ade	BEST
519.	Shri S.G. Mhaskar	BEST
520.	Shri V.N. Patil	Individual
521.	Shri S.S. Adhlinge	BEST
522.	Shri Rajesh	Individual
523.	Shri Nitin Shetty	Individual
524.	Shri Keeran Karande	Individual
525.	Shri V.M. Kamat	BEST
526.	Shri Anand Katty	Individual
527.	Shri Tushar Shetty	Individual
528.	Shri Rajeev Nakhare	R infra
529.	Shri Prithiraj Singh	Individual
530.	Shri Fareed Khan	Individual
531.	Shri Seeraj Khan	Individual
532.	Shri Sagar Sharma	Individual
533.	Shri Zono	Individual

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
534.	Shri S.M. Chaulkar	Individual
535.	Ms Neelam Waghela	Individual
536.	Shri Dulzelal	Individual
537.	Shri Sagar Raskar	Individual
538.	Shri Pratik Shah	Individual
539.	Ms. Shinde	Individual
540.	Shri Meva Singh	Individual
541.	Shri Satish Kasbe	R infra
542.	Shri Vivek Mane	R infra
543.	Shri Rajendra	Individual
544.	Shri Vijay Vishwakarma	Individual
545.	Shri Arvind Dubey	R infra
546.	Shri Sameer Girkar	Individual
547.	Shri Balkrishna	Individual
548.	Shri Dharmit Singh	Individual
549.	Shri Raj Shukla	Individual
550.	Shri Ajit	Individual
551.	Shri Shoban Badgujar	Individual
552.	Ms Kirti Joshi	Individual
553.	Shri Laxman	Individual
554.	Shri J.M. Jhavar	R infra
555.	Shri Thakur	Individual
556.	Shri Somit Sen	Individual
557.	Shri Nadir	Individual
558.	Shri Jail Mati	Individual
559.	Shri Jabar Khan	Individual
560.	Shri Najrul	Individual
561.	Shri Ramesh R.	Individual
562.	Shri Salil	Individual
563.	Shri Ninad Nikam	Individual
564.	Shri Patel	Individual
565.	Shri Ravindra Tawre	Individual
566.	Shri Jaiprakash Singh	Individual
567.	Shri Hameed Shaikh	Individual
568.	Shri Layak Shaikh	Individual
569.	Shri Wastav Jaiswal	Individual
570.	Ms Fatma Shaikh	Individual
571.	Ms Shabana	Individual
572.	Ms Rubina	Individual
573.	Shri L.U. Neve	Individual
574.	Shri Sandeep	Individual
575.	Shri Ramchandra	Individual
576.	Shri Deepesh	Individual
577.	Shri Debashish Banarjee	R infra
578.	Shri Shashank Rao	Individual
579.	Shri Habib	Individual

<b>Sr. No</b>	<b>Name of the person</b>	<b>Individual / Organization</b>
580.	Ms Ruchita Balekar	Individual
581.	Shri Sami Khan	Individual
582.	Shri Shendeep	Individual
583.	Shri T. Gadekar	Individual
584.	Shri Dadasaheb	Individual
585.	Shri Ramgrha Chauhan	Individual
586.	Shri Kori	Individual
587.	Shri Saleem	Individual
588.	Shri Mohammad Khan	Individual
589.	Shri Mandar Haldavnekar	R Infra
590.	Shri Prakash Phalak	R Infra
591.	Shri Vinay	Individual
592.	Shri Narsh Sonawane	R Infra
593.	Shri Vivek Shah	R Infra
594.	Ms Sampada Jain	R Infra
595.	Shri A.P. Bendre	Individual
596.	Shri Umesh Agarwal	PwC
597.	Shri Anirban Banerjee	PwC
598.	Shri Tushar Kothavale	PwC
599.	Shri Prathush	SKV Legal
600.	Shri Venkatesh	SKV Legal