

Andhra Pradesh Electricity Regulatory Commission
4th & 5th Floors, Singareni Bhavan, Red Hills, Hyderabad -500004

Present
Sri A. Raghothama Rao, Chairman
Sri C.R. Sekhar Reddy, Member

Dated 17-01-2012

ORDER

In the matter of Determination of Fuel Surcharge Adjustment (FSA)
For Fourth Quarter (January 2009 – March 2009) of FY 2008-09

Central Power Distribution Company of A. P. Limited (APCPDCL) ...OP No:
35 of 2011
Eastern Power Distribution Company of A. P. Limited (APEPDCL) ...OP No:
36 of 2011
Northern Power Distribution Company of A. P. Limited (APNPDCL) ...OP No:
37 of 2011
Southern Power Distribution Company of A. P. Limited (APSPDCL) ...OP No:
38 of 2011

.....Applicants

1. This matter came up for public hearings before several consumers, the representatives of various consumer organizations & learned Counsels representing bulk consumers and associations, from 29-09-2011 to 30-11-2011; and having stood over for consideration till this day, the Commission passed the order.
2. Under clause 45-B of Commission's Conduct of Business Regulations as amended vide Regulation No 1 of 2003 read with Section 26(9) of AP Electricity Reform Act, 1998 (No. 30 of 1998), Section 62(4) of The Electricity Act, 2003 and Tariff Order for 2008-09, additional fuel and power purchase costs have to be passed on to the consumers as Fuel Surcharge Adjustment (FSA) on quarterly basis as per the terms of fuel surcharge formula specified under the said regulation.
3. Earlier, in its Order, dated: 29-07-2011, the Hon'ble High Court of Andhra Pradesh set aside the Order, dated: 05.06.2010, of APERC,

wherein the Commission determined the FSA, for the four quarters of the financial year 2008-09, payable by the consumers in the state. By the said order, Hon'ble High Court of AP set aside the impugned order passed by the Commission and the consequential demands made by the Licensees and observed that, it is open to the Licensees to file applications afresh claiming FSA, and if any such applications are filed by the Licensees, the Commission shall consider and decide them in accordance with law, and in the light of the observations made by the Court, as recorded in its order, and pass appropriate orders expeditiously.

4. In pursuant to the judgment of Hon'ble High Court of Andhra Pradesh, on the issue of levy of FSA for the FY 2008-09 and observations made therein, the four Distribution Licensees of AP state, namely, APCPDCL, APEPDCL, APNPDCL & APSPDCL afresh submitted FSA proposals for the fourth quarter of financial year 2008-09 i.e. period between January 2009 to March 2009 with the APERC, vide letter dated 25-08-2011.
5. The said filings were assigned OP Nos, vide No. 35 of 2011 (APCPDCL), OP No. 36 of 2011 (APEPDCL), OP No.37 of 2011 (APNPDCL) and OP No. 38 of 2011 (APSPDCL).
6. The Licensees were directed by the Commission as follows-
 - a) To notify their quarter wise FSA proposals to the public in one English and two Telugu daily newspapers, having wider circulation in their area of supply.
 - b) To place the FSA proposals in their websites along with allocation statements / background calculation sheets.
 - c) Keep the copies of the proposals available to the public, along with all the necessary supporting documents, at their offices.
 - d) Make available copies of the above, wherever requested by any person and supply copies at a reasonable cost of photo copying the same.

- e) As part of the public notification it was also mentioned that any objections / suggestions /comments on the proposals of the respective DISCOM can be submitted to the Secretary, AP Electricity Regulatory Commission, 5th Floor, Singareni Bhavan Red Hills –Lakdi-Ka-Pool Hyderabad -04, so as to reach by 28-09-2011 with a copy marked to the Chief General Manager/ Regulatory Affairs of the concerned DISCOM.
- f) It was mentioned in the notification that the Commission would be conducting public hearings on the matter on 29-09-2011, from 11:00AM onwards at APERC Court Hall, Hyderabad.

7. Brief details of the FSA proposals for the fourth quarter of FY 08-09, submitted by the Distribution Licensees (DISCOMs in short) are as follows:

APCPDCL

Particulars	Jan-09	Feb-09	Mar-09	Qtr IV Total
Proposed FSA Amount (Rs Cr)	86	153	139	378
Non Agricultural Sales (MU)	1386	1476	1419	4282
FSA Rate (Rs/kWh)	0.62	1.04	0.98	0.88
FSA (Domestic Category) (Rs Cr)	21.08	37.52	40.75	99.35
FSA (Other than Dom & Agl) (Rs Cr)	65.41	115.34	98.20	278.95

APEPDCL

Particulars	Jan-09	Feb-09	Mar-09	Qtr IV Total
Proposed FSA Amount (Rs Cr)	36	63	52	151
Non Agricultural Sales (MU)	581	608	532	1721
FSA Rate (Rs/kWh)	0.62	1.04	0.98	0.88
FSA (Domestic Category) (Rs Cr)	12.09	18.40	18.07	48.56
FSA (Other than Dom & Agl) (Rs Cr)	24.13	44.60	34.02	102.75

APNPDCL

Particulars	Jan-09	Feb-09	Mar-09	Qtrr IV Total
Proposed FSA Amount (Rs Cr)	26	42	38	105
Non Agricultural Sales (MU)	410	403	390	1203
FSA Rate (Rs/kWh)	0.62	1.04	0.98	0.88
FSA (Domestic Category) (Rs Cr)	6.88	11.74	12.34	30.96
FSA (Other than Dom & Agl) (Rs Cr)	18.69	30.03	25.80	74.53

APSPDCL

Particulars	Jan-09	Feb-09	Mar-09	Qtrr IV Total
Proposed FSA Amount (Rs Cr)	42	74	78	194
Non Agricultural Sales (MU)	679	717	792	2188
FSA Rate (Rs/kWh)	0.62	1.04	0.98	0.88
FSA (Domestic Category) (Rs Cr)	14.34	24.25	25.55	64.14
FSA (Other than Dom & Agl) (Rs Cr)	28.03	50.03	51.99	130.05

8. The DISCOMs submitted that they have filed fresh proposals before the Commission as the Hon'ble High Court, while setting aside the orders earlier issued by APERC in respect of the FSA proposals of the Licensees for FY 08-09, suggested to do so. They submitted that as per No: 45B of the Business Regulations of APERC, FSA proposals have to be filed before the commission within 30 days from the end of the relevant quarter and in the instant quarter the due date for such filing was 30-04-2009, thus, a delay of about 847days, up to 25-08-11. The DISCOMs requested to condone the delay, putting forth the reasons for delay in submission of FSA proposals as follows-

- a. "Unlike the earlier periods, DISCOMs (namely APCPDCL, APEPDCL, APNPDCL & APSPDCL) passed through complex power procurement and supply scenarios due to increased demand, shortages from approved sources, and predominant market conditions of huge demand and supply position.

Therefore market forces resorted to indiscriminate prices without any linkage to the costs of generation and representative costs. The said situation drove the DISCOMs to make elaborate arrangements to procure power. Therefore considerable amount of time was required to receive the data viz., to receive final bills, energy accounting, calculate accurate losses from each source of power procurement and sharing of losses and transmission charges between the DISCOMs and Generators, ascertaining the applicability of compensation for non delivery or under delivery, liability of DISCOM for any default on non performance of any of the conditions in Letter of Intent.

- b. As stated above DISCOMs required considerable amount of time to gather information on the fuel used which is a mix of domestic and imported coal to generate additional power. DISCOMs have to accumulate a lot of base data to file accurate and correct FSA to be collected from the consumers in just and equitable manner to avoid incorrect filing and computation of FSA. DISCOMs had taken adequate precaution to collect accurate data after the accounts are audited. This enabled DISCOMs to compute the correct FSA without any prospect of taking incorrect sales data or cost of power procurement and giving less scope to factor the prior period expenses or income, which forms part of FSA.
- c. During the FY 2008-09, there were specific directions from Govt of Andhra Pradesh (GoAP) to procure power from different sources to meet the demand gap with an assurance that the related costs met by the DISCOMs through Short Term Loans would be discharged by GoAP in the subsequent years. Keeping the assurance of GoAP, and keeping in view of the State Govt's promise that the tariffs shall not be increased, a letter, vide No: CE/Comml/FSA/D.No186 /09 Dt 21-01-09, was addressed to GoAP, with a request to communicate whether to file necessary FSA proposals for FY 2008-09 before APERC. Further, a reminder was also sent to GoAP, vide Lr No: CE/Coml./FSA/D

No 219/09 dated 16-03-09. The GoAP, vide the Lr No: 743/Pr.II (1)/2009 dated 29-06-2009, while communicating its decision to collect the fuel surcharge adjustment from non-domestic and non-subsidized categories, directed DISCOMs to file necessary Fuel Surcharge Adjustment proposals, for FY 08-09, before the Hon'ble APERC, under section 62 (4) of the Electricity Act 2003.

- d. Further, the Hon'ble High Court while passing the order, setting aside the FSA order, dated: 05-06-2010 for 2008-09 passed by the Commission, affirmed that it is open to the licensees i.e., DISCOMs to file applications afresh before APERC claiming FSA for FY 08-09. Further, it was directed that Commission shall consider such applications and decide in accordance with law in the light of the observations made and recorded by Hon'ble High Court and pass appropriate orders, expeditiously.
- e. Because of requirement of compliance of so many steps there was a delay in filing of FSA proposals for fourth quarter of FY 08-09 which is about 847 days.
- f. The delay of 847 days in filing of FSA proposals is neither due to negligence nor due to any faults on the part of the DISCOMs. The delay was due to unavoidable circumstances as detailed above. If the said delay is not condoned, DISCOMs will be deprived of claiming FSA/Charging FSA from consumers. In that event, DISCOMs would suffer irreparable loss. There is no provision to fill the gap that would occur between purchase cost of power and the tariff received from consumers. As such public interest is involved. On the other hand, there will be no loss to consumers in granting FSA with delay, as they are obligated to pay FSA as per Tariff Order, which is unchallenged and attained finality. The Hon'ble Commission has wide powers to condone delay by extending the time limit specified by it to do certain act by parties/DISCOM. The said powers are upheld by the Hon'ble High Court. Thus it is just and necessary to condone the delay and grant FSA as entitled to

- g. As stated supra, for the FY 08-09, GoAP had communicated its decision to exempt domestic category from levy of FSA against the orders issued by APERC. Therefore, it is requested to approve FSA claim of DISCOMs excluding the levy of FSA on domestic category. Hon'ble Commission had wide powers under Regulation 59 of Business Rules to condone the delay
- h. *It is prayed that Hon'ble Commission may be pleased to condone the delay in submission of FSA proposals by DISCOMs, as Hon'ble Commission had wide powers under Regulation 59 of Business Rules to condone the same and approve FSA claims"*
9. The Public Notice, issued by the Licensees at the directions of the Commission, appeared on 14-09-2011 in the Newspapers. About 17 Nos of Objectors (persons / organizations/ consumers) filed their objections by the due date i.e. 28-09-2011 and about 72 Nos of Objectors (persons/organizations/consumers) requested for postponement of the scheduled public hearings in lieu of shortage of time.
10. During the first Public Hearings held on 29-09-2011, about six persons, including two learned counsels on behalf of certain consumers, have submitted their objections on the request of the licensees for condonation of delay in submission of the proposals & on the merits of the proposals. Based on the requests from the objectors, public hearing was adjourned to 31-10-2011 and extension of time, up to 25-10-2011, was granted to submit views / objections on the proposals of the Distribution Licensees.
11. The Public Hearing was resumed on 31-10-2011. During this Public Hearing, the representative of FAPCCI and the learned counsel on behalf of AP spinning Mills Association, Sri Gopal Chowdary submitted their objections. Sri Gopal Chowdary, the learned counsel on behalf of AP spinning Mills Association, sought Commission's decision on

the IAs filed by various parties regarding condonation of delay in filing of FSA claims by DISCOMs as a condition precedent for presenting their views on the other aspects.

12. On this, Sri P.Siva Rao, Counsel for the Licensees, argued that the FSA regulation as well as the order of Hon'ble High Court in W.P.No.18212 of 2011 & batch of cases, do not contemplate a separate order on delay condonation of FSA being issued as a prior order and condition precedent for taking up the FSA claims of the Licensees into consideration. Further, Sri P.Siva Rao argued that the Hon'ble High Court had given liberty to the Licensees to file fresh claims for FSA and the Commission can address the issue of condonation of delay along with merits of FSA claims as per the regulations.
13. After considering the rival views on the issue and also taking note of the directions of the Hon'ble High Court in the APGPCL case reported in AIR 12,2005(6) ALD 368, Commission announced during the public hearing on 31-10-2011, that the issue of condonation of delay would also be taken up together with the merits of FSA claims and the interested parties can make their submissions on all relevant points including the delay condonation aspect during the public hearings.
14. Objectors pleaded the Commission to make the copies, of the proposals submitted by the Licensees to the Commission, available on the website of APERC. Accepting the plea, Commission directed the Secretary of the Commission to make the copies available on the website of APERC.
15. Public Hearing was resumed on 09-11-2011. At this hearing, the representative of Sri Challa Gunaranjan, Counsel for M/s The India Cements Ltd & others submitted that they are adopting the arguments of Sri Gopala Chowdary. Sri P.Siva Rao, Counsel for the Licensees, made submissions on the legal aspects of the FSA claims.

Commission directed the Licensees to make a presentation on 19.11.2011 at 3.00 PM on the financial aspects of their FSA claims, including the calculation methodology adopted by them. In response to the request of the objectors, the Commission directed the Licensees that they shall file before the Commission all the material they have posted on their websites. Further, the Secretary of the Commission was directed to ensure that all the material that is filed by the Licensees is uploaded and made available on the website of APERC.

16. Public Hearing was resumed on 19-11-2011 at 3PM. Director/Finance of APCPDCL, on behalf of all the four DISCOMs, through a presentation, explained their proposals to the Objectors, in the presence of the Commission. Licensees clarified certain doubts that arose during the course of their presentations in the public hearings. Responding to further queries from some of the objectors, the Licensees submitted to the Commission that they can present & explain all the points that are required as per the connected regulations issued by APERC.
17. Public Hearing was resumed on 30-11-2011. At this hearing, Sri Gopal Chowdary, counsel for M/s AP Spinning Mills Association, Sri DVAS Raviprasad, Counsel for M/s FAPSIA & others, Sri Challa Gunaranjan, Counsel for M/s The India cements Ltd & others, Sri Nalin Kumar, Counsel for M/s Ushakiran movies Ltd & others, Sri M Venugopala Rao, Sri Mora Srinivas, representing Siricilla Power loom consumers and Sri A Punna Rao, an un-registered objector, submitted their views/objections. Sri Gopal Chowdary sought for an additional time of three full days to make further submissions and to file further Memos. Sri Gopal Chowdary submitted a Memo to the Commission, reads as follows-

“And the Public Hearing on 31-10-2011, there were strong representations from consumers for the consideration of interlocutory applications filed for, inter alia, the consideration of the condonation of delay as a preliminary issue and a condition precedent before taking up

the applications on merit, and for the rejection of the applications for not being in the proper specified form, and for directions to the licensees to produce necessary and detailed information and answers to the previous issues raised in the letters of objections and also in the interlocutory applications, and for direction to the licensees to provide clarity in respect of the statements furnished by them

After the Commission re-assembled post-lunch, it was pronounced by the Commission that the Commission would not take up for consideration or pass any orders on any interlocutory applications on any of the issues raised therein, and that the Commission would pronounce upon all the issues only in the final order. The Commission stated that the same would be recorded as proceedings.

At the Public Hearing on 30-11-2011, at the request of the counsel, the Commission caused the record of proceedings of 31-10-2011 with respect to the aforesaid to be read out. While the proceedings as recorded reflected only that the Commission would not decide upon the condonation of delay as a preliminary issue, and that the same would be considered and decided only in the final order, the proceedings did not reflect the pronouncement of the Commission that the Commission would not consider and deal with any of the other issues raised in the interlocutory applications, and that the same would be considered only in the final order. Counsel sought clarification on the latter part with regard to consideration of any interlocutory applications with respect to any other issue, and the Commission confirmed that that was so. There upon, counsel sought leave of the Commission to file a Memo in this regard so that the same may be on record, and the Commission permitted counsel to do so”

18. Sri DVAS Ravi Prasad submitted that the RO at APERC, while allowing the petitions, is showing discrimination between the Licensees and legal councils for consumers. Sri Nalin Kumar also expressed the same view. On these, Sri Shiva Rao, counsel for the Licensees submitted that the said procedure is not applicable for Tariff filings of the Licensees. Commission concluded the Public Hearings giving an additional time of one week to enable the objectors to send any further objections/suggestions in writing

**SUMMARY OF OBJECTIONS/SUGGESTIONS
ON THE PROPOSALS SUBMITTED BY DISCOMs**

19. Responding to the Public Notice issued on 14-09-2011, many persons /representative bodies’ /organizations/ legal counsels

representing a group of consumers filed their objections/suggestions against the proposals submitted by the Distribution Licensees. The initial 'due date for filing of objections' i.e. 28-09-2011, was extended up to 25-10-2011 to enable all the interested to file their views. Further, to accommodate the views of all the stakeholders, Public Hearings were held on 28-09-2011, 31-10-2011, 09-11-2011, 19-11-2011 & finally on 30-11-2011, including a presentation on 19-11-2011 by the Licensees on their submissions, duly explaining the computations, on 19-11-2011. Objections were submitted both in writing i.e. through written submissions & in person at the public hearings. During the public hearings, the views of un-registered objectors i.e. the objectors who have not filed any objections by due date, were also heard. In the following paragraphs, a summary of the objections, submitted in writing and as well as orally at the public hearings, by various persons/representative bodies /organizations /legal counsel representing groups of consumers, is given. A List of persons/representative bodies/organizations/ legal counsel representing groups of consumers who filed objections before the Commission, is given as Annexure-B

Sri. M. Venugopala Rao, Sr Journalist

20. Sri Venugopala Rao welcomed the decision of Hon'ble Commission, conceding their long pending request to hold public hearings on the FSA proposals filed by the DISCOMs and he hoped that the Commission would issue a legally tenable order. Further, he suggested that the claims of the Licensees shall not be rejected just on technical grounds. He pointed out that though the Licensees submitted subsequent proposals, for the quarters pertaining to the FY 2010-11 & 2011-12, APERC is yet to initiate the process, thus, depriving the Licensees of their right to claim the FSA
21. Sri Venugopala Rao said that the Hon'ble High Court had also held that the "the provisions of Electricity Reforms act and rules framed by the commission categorically show that the hearing is not only

provided for, but it is mandated since the determination of FSA affects the rights and obligations of the petitioner. Hon'ble High Court further held that" there is sufficient scope for exercise of discretion & flexibility in fixation of FSA and therefore, there is an obligation for the Commission to give a hearing before exercising any discretionary powers".

22. Sri Venugopala Rao opined that the abnormal delay in filing the FSA claims itself defeats the very purpose for which the arrangement of FSA is made, as periodical and prompt adjustment of FSA could not be made. Moreover, the Commission also is not expected to be a mute spectator when the Licensees have not come forward to file the FSA claims.
23. Sri Venugopala Rao opined that if there are really problems like the ones explained by the Licensees, they should have been simplified on the basis of experience relating to the first quarter. He advised further that, necessary amendments to the prevailing regulations are brought in to curtail the interference of the State Govt in the day to day functions of the Licensees. He objected to levying of uniform charges across the DISCOMs, irrespective of the performances. He stated that such a levy would be unfair.
24. Sri Venugopala Rao pointed out that, the Distribution Licensees did not furnish any copies of approvals of the Commission for their power purchases at the exorbitant prices. As DISCOMs submitted that it is at the assurance of GoAP that they procured additional power, APERC should not allow the quantities that exceeded the Tariff Order approved quantities.
25. Sri Venugopala Rao advised that, if the factors pertaining to the total availability of power and its cost for the respective financial year can be properly foreseen and submitted at the time of submission of ARR filings before APERC or before the Commission issues tariff order, Commission can work out the revenue gaps of DISCOMs realistically

and the FSA amounts would be marginal compared with the original tariffs.

26. Sri Venugopala Rao opined that, the FSA component pertaining to the Agricultural consumption shall not be imposed on the non-Agricultural consumers and stated that as 'free power supply to the Agricultural consumers' is a policy of the GoAP, it is for the GoAP to reimburse this component of FSA.
27. Sri Venugopala Rao submitted that, Commission may work out FSA per kWh to different categories/slabs of consumers in proportion to the tariffs applicable to them to ensure provision for cross subsidy on the lines of the tariffs already fixed by the Commission for that financial year.

Sri Gopal Chowdary, Learned Counsel on behalf of
M/s AP Spinning Mills Association & Others

28. Sri Gopal Chowdary submitted that, the Hon'ble High Court while setting aside the previous order of the Hon'ble Commission clearly directed that any fresh application filed by the DISCOMs be considered and decided according to law. Clause 7 to 10 of the APERC (Conduct of Business Regulations) 1999, clearly states that the proceedings before the Commission are to be initiated on a petition filed, and such petition shall be in the prescribed manner and form duly verified by an affidavit. The Hon'ble High Court has held that the Hon'ble Commission may condone the delay in filing of the application for FSA beyond the time specified. The question of considering the FSA proposals on merits would arise only if the Hon'ble Commission has permitted the licensees to apply for FSA beyond the permitted time. It therefore follows that the proceedings for condoning the delay and extending the time is a necessary pre-condition to conduct the proceedings for considering the applications for FSA on merits. It is clearly laid down under the law that when a

statute prescribes the manner in which anything ought to be done, it must be done in that manner or not at all.

29. Sri Gopal Chowdary pointed out that the DISCOMs have made general statements with regard to the reasons for delay in submitting the FSA applications and no specific particulars and dates explaining the delay on day by day basis have been given.
30. Sri Gopal Chowdary brought it to the notice of the Commission that while submitting a request for condonation of delay in submission of FSA proposals, the DISCOMs have stated that there were specific directions from Govt of Andhra Pradesh (GoAP), in FY 2008-09, to procure power from different sources to meet the demand gap with an assurance that the related costs met by the CPDCL through Short Term Loans would be discharged by GoAP in the subsequent years. In the present applications, the DISCOMs, though referred to the specific directions of the State Government (GoAP) subsequently that the DISCOMs shall file applications with FSA proposals before the APERC, they did not file or furnish any copies of the specific directions and assurance from the state government and all the documents relating thereto.
31. Sri Gopal Chowdary submitted that the Distribution Licensees did not file their FSA claims as envisaged under clauses 7 to 10 of the Conduct of Business Regulations of APERC. The subject proceedings based on the letters addressed to the Secretary of the Commission should not have been initiated.
32. Sri Gopal Chowdary submitted that the proceeding for condoning the delay and extending the time is a necessary condition precedent to any proceedings for considering the FSA claims on merits.

33. Sri Gopal Chowdary submitted that it is trite law that when a statute prescribes the manner in which anything ought to be done, it must be done in that manner or not at all.
34. Sri Gopal Chowdary submitted that contrary to the public notice, copies of Excel sheets, without any explanatory notes, were only available on the websites of DISCOMs and copies of the applications filed by the DISCOMs were not available. At the requests of the objectors to the Commission and at the insistence of the Commission in turn only, copies of the papers were made available.
35. Sri Gopal Chowdary pointed out that the data given by the DISCOMs is inconsistent with the figures in the Annual Accounts Reports and audited financial statements of the DISCOMs which are themselves variously non-transparent and lacking in full, honest and truthful disclosure
36. Sri Gopal Chowdary submitted that under no circumstances can any DISCOM be allowed to claim anything more from its consumers than the extra expenditure actually incurred by it for purchasing electricity for supply to its own consumers.
37. Sri Gopal Chowdary submitted that in the APSPDCL's statement of month wise and category wise sales during 2008-09, monthly power purchase quantity aggregating to 14210.26MU is furnished. But, the monthly and aggregate power purchase quantities in the other statements appended is many times this figure. There appears to be suppression of material particulars and/or an attempt to willful mislead the consumers and the commission
38. Sri Gopal Chowdary submitted that there are no particulars whatsoever available as to the station / source wise power purchase of any DISCOM for the year. What is relevant to each DISCOM is the actual power purchases made by it and the

variations in its own power purchase cost. No such information is discernable from the available material.

39. Sri Gopal Chowdary submitted that the monthly consumptions for Category-V (Agriculture), say as for Feb-2009 of SPDCL, are shown at exactly the same figures as in APERC tariff order. Even if the DISCOMs are intending to limit the agriculture consumption to the tariff order limited quantities, the DISCOMs are bound to truthfully disclose the actual agriculture consumption and of the sources from which they consider the excess consumption as having been met. A full and complete energy balance for each DISCOM separately is a sine qua non for the present proceedings.
40. Sri Gopal Chowdary, stated that in the explanatory notes, the power purchase quantities are said to be arrived at by grossing up the incorrectly modified sales figure (i.e. restricting agriculture sales). There is no explanation whatsoever as to why this particular methodology is being adopted and under what provisions of the regulations.
41. Sri Gopal Chowdary submitted that as seen from the Annual Reports (of 2008-09), albeit with Auditor's qualification, that the power purchases of NPDCL, SPDCL, CPDCL and EPDCL are respectively 3157.09 Cr, 4228.55 Cr, 8666.29 Cr and 2953.09 Cr. If that be so, it is wondrous that the actual sources and rates of such power purchases are being suppressed.
42. Sri Gopal Chowdary submitted that It is not explained anywhere as to why and how the fixed cost for any station is varied and as to what the basis of such variation is and how regulatory approval for the same was obtained. It is not explained how the fixed cost can vary from month to month.

43. Sri Gopal Chowdary submitted that It is not clear from the statements as to how the DISCOMs have purchased and accounted for the power from generating stations as allocated to the respective DISCOMs specifically under the statutory third transfer scheme
44. Sri Gopal Chowdary submitted that in respect of power purchases made by each DISCOM from sources other than those specifically approved by the Commission in its Tariff Order, the DISCOMs will have to explain whether the approval of the Commission was not required for such purchases in terms of any regulations and/or any guidelines or directives of the Commission and whether and to what extent the Commission had given approval
45. Sri Gopal Chowdary submitted that there are no particulars given as to the prior period expenses, either with regard to the period to which they relate or the nature of expenses and as to whether such expenses have previously been subjected to any regulatory scrutiny and/or received regulatory approval.
46. Sri Gopal Chowdary submitted that it is seen from the public notice that all the DISCOMs have applied for exactly the same FSA rate per unit, which is not possible. The amount recoverable by a DISCOM through FSA is only so much as is the differential amount expended by it for its own purchases of electricity for the supply of supply to its own consumers and nothing more
47. Sri Gopal Chowdary submitted that Agricultural consumption cannot be excluded from the formula for computation of FSA. Act specifically requires that the licensee shall not supply any electricity except through a meter at any time after June-2005. Licensee must suffer the consequences of non-complying with the mandatory requirements of law with regard to Metering of Agriculture consumption as stipulated u/s 55 of the Electricity Act.

48. Sri Gopal Chowdary submitted that the Act envisages and permits variation of tariff only on account of fuel cost adjustment by way of a formula. The power purchase cost variation is neither permitted nor allowed by the Act.
49. Sri Gopal Chowdary submitted that the FSA applications filed are vitiated by vague, inconsistent, unreliable, arbitrary data and by suppressio veri suggestio falsi.
50. Sri Gopal Chowdary submitted that the Commission has not duly and diligently exercised its regulatory oversight to ensure the determination of the FSA for FY 2007-08 which would have resulted in a refund to the consumers for that year. The licensees also unfairly and willfully failed and omitted to furnish the data and apply for determination of FSA.
51. Keeping all the aforesaid lapses in view, Sri Gopal Chowdary prayed the Commission:
- a. To reject the letters of the DISCOMs, addressed to the Secretary of the commission, as they did not file in the format prescribed & did not pay the prescribed fee and that they are not in accordance with the relevant provisions of the Conduct of Business Regulations of APERC.
 - b. To direct the DISCOMs to submit specific separate petitions duly verified by the affidavits in the manner provided in the Regulations for extension of time for filing its FSA applications,
 - c. To direct the DISCOMs to file the copies of all documents referred to in the application for extension of time, including the entire correspondence with the GoAP and the directions and assurances of GoAP, and put up the copies thereof on its website with public notice,
 - d. To hear and decide such specific separate applications/petitions for extension of time and to consider and decide the question of extension of time in the first instance before proceeding with

- entertaining or considering the application for any FSA on merits,
- e. To direct the DISCOMs to file FSA determination applications for FY 2007-08 and to effect refunds to consumers before any proceedings for subsequent years are taken up.
 - f. To direct the DISCOMs to file their applications for FSA for 2008-09 and /or subsequent years in the manner required by the Regulations for the filing of petitions duly verified by an affidavit.
 - g. To direct the DISCOMs to furnish source wise & month wise particulars of its power purchases and full particulars of consumer-category wise consumptions, along with the full explanation for calculations of FSA, the reasons/justifications for the manner in which the FSA formula has been applied and the details of deviations from the FSA formula specified in the regulations.
 - h. To cause all information, explanations and particulars furnished by the DISCOMs to be subjected to pre-validation by the Hon'ble Commission for sufficiency and clarity and to direct the same to thereafter be placed for the consumption of public to enable them to submit their constructive objections/suggestions during the course of public hearings
 - i. To direct the DISCOMs to hold appropriate seminars to make public understand the entire process.

Sri Challa Gunaranjan Counsel on behalf of M/s India Cements Ltd and others

52. Sri Challa Gunaranjan submitted that, he is adopting the same arguments as submitted by Sri Gopal Chowdary.

DVAS Ravi Prasad, Counsel on behalf of M/s FAPSIA and Others

53. Sri DVAS Ravi Prasad submitted that the proposals submitted by the DISCOMs are contrary to law and are against the interests of all types of consumers, particularly the industrial consumers.

54. Sri Ravi Prasad submitted that the time between the notification and commencement of public hearing is not long enough to enable the objectors to gather complete data to frame effective objections.
55. Sri Ravi Prasad submitted that the DISCOMs ought to comply with all the procedural requirements while filing a petition before the Commission, but they did not do so.
56. Sri Ravi Prasad submitted that the Hon'ble High Court held that the Commission has powers to condone the delay in submitting the applications by the DISCOMs for the reasons duly record in writings, Without prejudice to the rights of consumers to contest the observations of the Hon'ble High Court by way of a writ appeal, the DISCOMs ought not have clubbed the condonation of delay and determination of FSA in a very general way in the form of a letter, seeking reliefs for both.
57. Sri Ravi Prasad submitted that the Hon'ble High Court did not give any unfettered right to the DISCOMs to seek condonation of delay and get it automatically from the Commission.
58. Sri Ravi Prasad submitted that the DISCOMs ought to have first moved the condonation of delay petition and on that alone, public hearings should have been held by the Commission first, considering the objections of the consumers to the condonation petitions. Only in the event, the delay is condoned; the petition for determination of FSA should have been taken up for hearing. In the event of Commission condoning the delay, aggrieved consumer can exercise his right of challenging the order of condonation of delay of the commission. By surpassing this legal process, there is always a danger of curtailing the rights of the consumers.
59. Sri Ravi Prasad submitted that the Hon'ble Apex court in number of cases held that delay can not ordinarily be condoned unless the

same is explained day by day. When the delay is too long a period ranging from one year to more than 3 years, it has to be explained in a proper manner, which has not been done.

60. Sri Ravi Prasad submitted that if the delay in filing of FSA proposals for FY 2008-09 by the CPDCL is on account of delay on the part of Government of Andhra Pradesh to give appropriate clarifications, the consumers in such circumstances cannot be burdened.
61. Sri Ravi Prasad submitted that the DISCOMs being a company incorporated under the Companies Act 1956, should act independently but it did not do so in the given circumstances.
62. Sri Ravi Prasad submitted that the consumers are not concerned with the correspondence the CPDCL has made with the GoAP and it shall not be a valid reason for condoning the delay.
63. Sri Ravi Prasad submitted that the petitioner companies have already exhausted the budgets for the above two financial years for which FSA is proposed to be levied, and if FSA is imposed now, the same would affect the current financials of the company.
64. Sri Ravi Prasad submitted that the DISCOMs did not give the cost variation which is a necessary ingredient for determination of FSA.
65. Sri Ravi Prasad submitted that since CPDCL primarily attributed GoAP for the delay in filing the FSA with the commission for FY 2008-09, the GoAP shall be the necessary party to all the proceedings connected with the condonation of delay and determination of FSA and their explanation should have been invited and considered before the proposals are taken on record by the Commission.
66. Sri Ravi Prasad submitted that the proposals filed by the DISCOMs claiming FSA for FY 2008-09 & 2009-10 before this commission is arbitrary, without any accurate record base for verification by either

Commission or by the objectors and are injurious to the interests of the consumers, particularly, the industrial consumers.

67. Sri Ravi Prasad submitted that as per condition no. 4 appended to No: 45-B of the Conduct of Business Rules (CBR) regulation issued by the commission, the licensee has to file required information for calculation of FSA within 30days of the end of the respective quarter, failing which the licensee would forfeit any future claims for such quarter. Since the applications filed by the DISCOMs were after a lapse of more than a year, the present proposals are barred by limitation.
68. Sri Ravi Prasad submitted that before determining FSA, the Commission should examine whether Metering has been done for all the services for which power supply is extended, as required u/s 55 of the Electricity Act 2003 and condition no. 1 of Regulation 45-B of the Business Regulations. But the proposal is silent on this aspect.
69. Sri Ravi Prasad submitted that the proposals filed by the DISCOMs before this Commission is based on the fictitious inputs, and it is not clear whether agriculture consumption has been excluded from computations. As per section 55 of the Act 2003, no licensee shall supply electricity after the expiry of two years from the date of commencement of Act except through correct meter.
70. Sri Ravi Prasad submitted that the FSA should be proportionate not only to the consumption of individual consumers pertaining to the relevant period but also to the tariffs applicable to different categories /slabs of consumers.
71. Sri Ravi Prasad submitted that the Commission should not entertain the unrealistic projections made by the DISCOMs and shall discourage tendencies like making unrealistic, inaccurate, and manipulative projections for deflating annual revenue requirements and revenue gap of the DISCOMs and the tariffs to be fixed by the Commission.

72. Sri Ravi Prasad submitted that the surcharge has to be collected for a period of twelve months before every March. If the state Government fail to provide subsidy for the FSA of the previous periods , the resultant deficit shall not be distributed raising the current tariff on industrial & commercial sector without any relation to cost of supply.
73. Sri Ravi Prasad submitted that the Government instead of strengthening power sector by continuing reform measures to minimize the cost of supply through improved efficiency of T&D network, cannot penalize the consumers.
74. Sri Ravi Prasad submitted that presently the Industry sector is in crisis in view of the present state of affairs prevailing in the state, recession & continued power cut problems for all seasons and additional burden in the form of FSA at this stage on the consumers, essentially the industrial consumers, would jeopardize their interests.
75. Sri Ravi Prasad submitted that there is a defined set of procedure to be followed by the DISCOMs and the learned Commission from the petitions till the orders are issued. Unless the DISCOMs comply with the procedure under the CBR regulations issued by this commission and submit petitions in consistence with the provisions of the same regulation the same should not be entertained. In the given cases the letters submitted by the DISCOMs cannot be considered to be petitions under the CBR regulations and therefore the proposals submitted by the DISCOMs should be dismissed at the numbering stage itself.
76. Sri Ravi Prasad submitted that the letters of the DISCOMs are silent about the delay and the reasons for the delay occurred in between 30-07-2008 and 21-01-2009 in approaching the GoAP about its commitment to pay the amounts to the DISCOMs, against the power purchases made.

77. Sri Ravi Prasad submitted that the letters submitted by the DISCOMs and the statements attached thereto, do not show all the components of the FSA formula considered to arrive at the FSA amounts. Similarly, the workings as per the formula were not revealed in the letters by the DISCOMs and in the absence of the same, it is not possible to come to any reasonable conclusion that the DISCOMs have correctly applied the formula for arriving at the FSA.
78. Sri Ravi Prasad submitted that the DISCOMs have not submitted any declaration that the amount claimed by them is strictly in compliance with the conditions laid in the regulation and there is no wrong calculation or misrepresentation.
79. Sri Ravi Prasad submitted that the DISCOMs have not given any information about the completion of Agriculture Metering.
80. Sri Ravi Prasad submitted that before determining FSA, the Commission has to examine whether metering has been done as required under section 55 of the Electricity Act 2003 and condition No.1 of Regulation 45-B of the CBR Regulations, but the proposals filed by the DISCOMs is silent on the above aspects.
81. Sri Ravi Prasad submitted that the Commission is not empowered to pass any order affecting the rights of any consumer, in particular, to the rights of Micro & Small Scale Industrial Units, which are established under MSMED Act, 2006.
82. Sri Ravi Prasad submitted that the liability of the Agriculture sector has to be borne by the state government by way of subsidy u/s 65 of the Act

Sri Upendra Gupta Senior Counsel on behalf of M/s MSN Group & Others:

83. While advancing the same arguments as submitted by Sri DVAS Ravi Prasad, Sri Upendra Gupta submitted further that the respondent has already preferred appeal before the division bench of Hon'ble High Court to limited extent of issue relating to applicability of clause 59 of regulations and non-consideration of the effect of forfeiture clause contained in clause 45-B of the regulations and hence pending consideration of the writ appeal, proceeding further with the present cases would render injustice. In view of this, Hon'ble Commission should defer the hearings of the proceedings till the appeals are decided.

Other Objectors

84. Apart from the above mentioned, objections were also submitted by other objectors, including Swami Jaganmayananda of Mahabubnagar District, Sri Mora Srinivas, representative of the Power loom consumers of Siricilla, Sri M.Sridhar Reddy State Treasurer and others, representatives of Bharathiya Kisan Sangh and Sri A Punna Rao.
85. Swami Jaganmayananda submitted that by improving the internal efficiency, by curbing the theft of energy, by proper metering of services, by taking up proper energy conservation measures, by proper energy audits & by better service to the consumers, DISCOMs can relieve the consumers from the FSA charges.
86. Sri Mora Srinivas submitted that the plight of the Power loom consumers of Siricilla may be taken into consideration before taking any decision to burden them further with FSA charges.
87. Sri M.Sridhar Reddy State Treasurer and others, representatives of the Bharathiya Kisan Sangh submitted that the farmers have already lost their lands for Industrial development, hence, it is not proper on

the part of the Industrial consumers to demand the farmers to pay for the Agricultural consumption. He further submitted that the DISCOMs misusing the amounts collected from GoAP in lieu of the Agricultural consumption and if these amounts are audited properly, there would be no need to levy FSA charges.

88. Sri A Punna Rao submitted that the Distribution Licensees shall not be deprived of their genuine FSA claims as that would not only crumble the financials of the DISCOMs but also would crumble the State Power Sector; however, while issuing the FSA order, Commission may ensure the protection of interests of the Small Scale Industrial Units in the state. Further, Sri Punna Rao suggested that by putting efforts in curbing of theft of energy & energy conservation measures, DISCOMs can save Crores of rupees.

SUMMARY OF REPLIES BY THE LICENSEE TO THE OBJECTIONS

89. At the direction of the Commission, the DISCOMs furnished replies to the objections raised against their FSA proposals and also posted the replies on their respective official websites together with the methodology adopted by them for calculating the FSA amounts. A summary of the replies of the DISCOMs is given hereunder-
- a. *“The Clause: 45-B of the Conduct of Business Regulations of APERC stipulates that the filing of FSA be made within 30 days, which is not sufficient in the abnormal years like FY 2008-09 and FY 2009-10, wherein, the shortages were met through generation by naphtha, imported coal mixed with domestic coal and short term power purchases from market and power exchanges. In this process, a lot of data were to be accumulated and assimilated, before arriving at FSA amounts for each of the quarters of the respective financial years. Further, the number days mentioned in the application/letter for condonation of delay include the time taken by APERC for issuing of FSA orders and then time taken in the Hon'ble High Court etc.,*
 - b. *Distribution Licensees are incurring huge amounts of financial loss on*

- the time lag for submission of proposals and then for collection of FSA charges.*
- c. The Hon'ble High Court had made it clear that, under Regulation 59 of the Business Regulations, the Commission has the power to condone the delay in filing applications by the licensees claiming FSA beyond the time prescribed. Further, it was directed that Commission shall consider such applications and decide in accordance with law in the light of the observations made and recorded by Hon'ble High Court and pass appropriate orders, expeditiously. Accordingly, the Distribution Licensees have submitted FSA proposals afresh for the FY 2008- 09 & FY 2009-10.*
 - d. The FSA proposals were submitted in accordance with the Section 45-B of Conduct of Business Regulations, read with Amendment 1 of 2003. In addition, FSA was computed and filed before Commission excluding energy consumed by Agriculture category as stipulated in the formula for computation of FSA for a respective quarter of the year.*
 - e. The recovery of excess cost incurred on the energy supplied is very much essential to make utilities to be on self-sufficient. Hence, the additional expenditure incurred by the Distribution Licensees in the energy supplied to the consumers shall be paid in full.*
 - f. As the power was procured from other sources at the directions of GoAP and there was a commitment from GoAP that power tariffs would not be increased; its decision was sought for filing FSA, duly referring the Section 62(4) of Electricity Act, 2003 whether to exempt any specific category from FSA and if so the commitment of the GoAP to reimburse the entire cost. It was because of such persuasion, GoAP had given orders to exempt Domestic Category of consumers from levy of FSA for FY 2008-09 to the extent of Rs.502.07 Cr based on the earlier Tariff Order of Hon'ble Commission.*
 - g. It was clearly stated in the respective Tariff Orders that FSA would be levied in addition to the tariffs as applicable and notified by Commission from time to time. The FSA mechanism is established to pass on the variance in cost to the consumers in a systematic manner and if it is not realized it would jeopardize the sustainability of*

Distribution Licensees. These are all statutory obligations which shall be adhered to.

- h. During the FY 2008-09 & FY 2009-10, acute shortage of power was witnessed due to various reasons. In addition, there were shortages in the quantum of energy from stations approved by the Commission. To minimize the demand and supply gap to the extent possible, GoAP had directed to use the idle capacities of IPPs by using Naphtha, generation of power using imported coal and to purchase power from various sources. It was a composite task of receiving final bills, accounting energy, arriving at accurate losses to finalize the final cost. Further, receiving of bills, collection and analysis of data is a continuous process.*
- i. The Hon'ble High Court had made it clear that, under Regulation 59 of the Business Regulations, the Commission has the power to condone the delay in filing applications by the licensees claiming FSA beyond the time prescribed. Deferment of hearing till the disposal of Writ Appeal filed by consumers on applicability of Clause 59 would have impact on the financials of utilities. Calculation of FSA doesn't require technical expertise as it is mere arithmetical calculations of variance between cost already approved by Hon'ble Commission and the actual cost incurred by utilities.*
- j. The FSA charges would be levied as per the approval given by the Hon'ble Commission, duly keeping the payment convenience of the consumers in view. FSA would be levied based on the energy consumed during the period for which FSA is approved by Commission duly showing FSA charges as a separate item in the power consumption bill. However, the suggestions offered would be considered for future guidance.*
- k. The FSA filings along with back up data were kept on the website of the Distribution Licensees on 15-09-11. Further, explanatory notes on computation of FSA charges, along with monthly calculation sheets, was already placed on the website. The prior period expenditure indicated is station wise & month wise and the supporting bills were submitted to Hon'ble Commission for verification.*

- l. As per the regulation in vogue i.e. vide clause 45-B of Conduct of Business Regulations amendment 1 of 2003, agriculture consumption is specifically exempted from FSA computations.*
- m. The month-wise cost sheets are placed on website. The variable cost shown in the tariff order is based on the provisional cost of raw material. The increased value of fuel is factored and shown as actual variable cost. Energy purchased in units and station wise is placed on website. Computation of FSA is a mere arithmetical calculation approved by the respective Commissions to decide the variance in cost considered at the time of tariff order and actual costs incurred by utilities. Further, operating norms for calculating the variable cost is determined/ approved by the regulators. Fixed cost approved by the commission is available in tariff order and the same is compared with actual fixed cost admitted (as shown website in the monthly sheets) for arriving at the variance.*
- n. With regard to statement showing month-wise, category wise sales during FY 08-09, it is to submit that the actual retail sales by each of the Distribution Licensees is summed up to arrive at the total sales made at state level [for this purpose, agriculture sales is taken at least of i) target given in the tariff order (or) ii) actual energy consumed by agriculture category of consumers]. The monthly power purchase quantity shown is the energy arrived at by grossing up the above sales figure with the line losses given in the tariff order. In the month-wise, category-wise sheet the details of each of the Distribution Licensees is shown and in monthly FSA computation sheets the sum of all the Distribution Licensees is shown because merit order is given in the Tariff Order issued by Commission considering the AP State as a whole, not considering each of the Distribution Licensees separately.*
- o. For the FY 2008-09 all the additional power was procured to meet the shortages from the approved sources and to bridge the gap between demand and sales. GoAP had given assurance to reimburse the cost except FSA. Therefore, the cost of excess energy consumed by agriculture consumers would be reimbursed by GoAP. Sales are being grossed up at the suggestion of the Hon'ble Commission in the*

- interest of consumers so that losses reported by each of the Distribution Licensees over and above the normative losses fixed by Commission, which are much lesser than the actual losses, are not passed on to the consumers.*
- p. The station wise actual fixed costs are shown in monthly statements. The increment in fixed cost is due to final orders of CERC/APERC in respect of Central/APGENCO stations, foreign exchange variation, and increase in working capital interest rates. All the corresponding bills are submitted to Commission for scrutiny.*
 - q. All the variable costs are admitted and paid for actual energy supplied keeping in view of the operating norms envisaged in successive regulations and the cost related to coal, gas, GCV etc., is audited and authenticated by the internal auditors and AG audit.*
 - r. The FSA is only a cost variance on account of increase in fuel cost. Power purchase quantities over and above tariff order are excluded from marginal stations and as a result high cost variance stations are excluded from levy of FSA, which is beneficial to consumer.*
 - s. The Energy in the denominator i.e., Q_i is the actual energy sold to all categories (except agriculture) in the respective quarter, which is taken as per the regulation. Power purchase cost can be classified into variable and fixed cost and regulation provides for pass through of variation either due to fuel or due to fixed cost.*
 - t. The Distribution Licensee wise FSA statements were also placed on website. Distribution Licensee wise FSA amounts are arrived based on the sales of the respective Distribution Licensee during a month. The FSA was computed for each of the consumed units. In addition, the FSA would be levied based on the energy consumed by each of the consumer categories, multiplied by FSA per unit arrived at for that month.*
 - u. There are adequate and sufficient back calculations and the copies of invoices claimed by Generators, which were submitted to Hon'ble Commission for the better assessment of FSA charges claimed. The claims are based on the approval of CERC/APERC and are as per the provision of the PPA'*

- v. *According to the present provisions of the relevant regulations, the Agriculture consumption is to be excluded while computing the Fuel Cost variance. Also, in the present FSA regulation there is no discrimination or differential rate in levy of FSA charges. Therefore, all categories are levied with one rate of FSA uniformly.*
- w. *FSA per unit is same for all the DISCOMs in view of the single merit order for the entire state”*

90. Commission communicated to the Government of Andhra Pradesh regarding the Schedule of Public Hearings in respect of the FSA claims submitted by the Licensees to enable a statement by the GoAP during the Public Hearing on the FSA claims. No response was received from GoAP.

FRAMING OF ISSUES:

91. In the light of the submissions made by the interested persons/objectors/ representative bodies/ organizations/ legal counsel in writing in response to the public notice and at the time of public hearing, the following issues emerge for consideration in the instant case:
- a) Whether the consideration of the IAs filed by various parties regarding condonation of delay in filing of FSA claims by DISCOMs is to be taken up first and pronounced as a condition precedent for taking up the matter relating to the determination of FSA.
 - b) Format of FSA claims filed by the DISCOMs.
 - c) Condonation of delay/extension of time regarding filing of FSA claim by the DISCOMs.
 - d) Treatment of Agricultural Consumption for purpose of FSA computation.
 - e) Methodology of calculation of FSA and adequacy of data made available by the DISCOMs.

ANALYSIS OF ISSUES:

Issue (a):

Whether the consideration of the IAs filed by various parties regarding condonation of delay in filing of FSA claims by DISCOMs is to be taken up first and pronounced as a condition precedent for taking up the matter relating to the determination of FSA.

92. Sri DVAS Ravi Prasad Counsel on behalf of M/s. FAPSIA and others has contended that the DISCOMs ought to have first moved the condonation of delay petition and on that alone, public hearings should have been held by the Commission first, considering the objections of the consumers to the condonation petitions. Only in the event, the delay is condoned; the petition for determination of FSA should have been taken up for hearing. In the event of Commission condoning the delay, aggrieved consumer can exercise his right of challenging the order of condonation of delay of the commission. By surpassing this legal process, there is always a danger of curtailing the rights of the consumers.
93. Sri Gopal Chowdary submitted that, the Hon'ble High Court has held that the Hon'ble Commission may condone the delay in filing of the application for FSA beyond the time specified. The question of considering the FSA proposals on merits would arise only if the Hon'ble Commission has permitted the licensees to apply for FSA beyond the permitted time. It therefore follows that the proceedings for condoning the delay and extending the time is a necessary pre-condition to conduct the proceedings for considering the applications for FSA on merits. It is clearly laid down under the law that when a statute prescribes the manner in which anything ought to be done, it must be done in that manner or not at all.
94. Sri Gopal Chowdary, the learned counsel on behalf of AP spinning Mills Association, also has contended that the Commission's decision on the IAs filed by various parties regarding condonation of delay in

filing of FSA claims by DISCOMs should be taken and pronounced as a condition precedent for presenting their views on the other aspects. He has also contended that the proceeding for condoning the delay and extending the time is a necessary condition precedent to any proceedings for considering the FSA claims on merits.

95. Sri P.Siva Rao, Counsel for the Licensees, has argued that the FSA regulation as well as the order of Hon'ble High Court in W.P.No.18212 of 2011 & batch of cases, do not contemplate a separate order on delay condonation of FSA being issued as a prior order and condition precedent for taking up the FSA claims of the Licensees into consideration. Further, Sri P.Siva Rao argued that the Hon'ble High Court had given liberty to the Licensees to file fresh claims for FSA and the Commission can address the issue of condonation of delay along with merits of FSA claims as per the regulations.

The rival contentions have been examined by the Commission.

96. The present proceedings are in pursuance of fresh filings of FSA claims by the DISCOMs made by them in conformity with the liberty given to them by the Hon'ble High Court of Andhra Pradesh in W.P.No.18212 of 2011 & batch of cases wherein the Hon'ble High Court, while setting aside the impugned order passed by the Commission and the consequential demands made by the Licensees, had observed that it is open to the Licensees to file applications afresh claiming FSA, and if any such applications are filed by the Licensees, the Commission shall consider and decide them in accordance with law, and in the light of the observations made by the Court, as recorded in its order, and pass appropriate orders expeditiously.
97. In pursuance of the above liberty given by the Hon'ble High Court, the DISCOMs have afresh filed their FSA claims for the tariff year 2008-09 which have been taken up by the Commission. In pursuance of the directions and observations of the Hon'ble High Court, the Commission has decided to hold a public hearing to receive the views

/ objections / suggestions of all the stake holders before finalizing the FSA order. Accordingly, a public notice was issued on 14-09-2011 informing all the public/consumers that the proposals submitted by four DISCOMs in respect of determination of Fuel Surcharge Adjustment (FSA) for FY 2008-09 have been taken on record and that the proposals filed by the DISCOMs have been placed in their website. The notice informed that anybody desirous to submit their views/comments on the proposals may send their comments to the commission by 28-09-2011 and that the Andhra Pradesh Electricity Regulatory Commission (APERC) would be conducting a public hearing on the subject on 29-09-2011 from 11:00AM onwards at APERC Court Hall, 4th Floor, Singareni Bhavan, Red Hills, Lakdi –Ka-Pool Hyderabad-04. It was informed that anybody desirous to be heard in person can submit their views / comments on the subject matter during the hearing.

98. The DISCOMs have presented their FSA applications in the light of the judgment of Hon'ble High court of AP wherein no specific direction has been given that a separate petition is to be filed by the DISCOMS for delay condition and that the same has to be decided by the commission as a condition precedent for taking up the consideration of the FSA claims.
99. It has to be noted that the present FSA claims are in the context of the determination of Retail Tariff Rates made in the Retail Supply Tariff Order for FY2008-09 for which Public Hearings were held. In that sense, the present Public Hearings are nothing but a continuation of the Public Hearings originally conducted while issuing the Tariff Order for FY2008-09.
100. Public Hearing in respect of Tariff determination is a non-adversarial process which is completely different from quasi-judicial adversarial litigations. In tariff determination proceedings, including FSA determinations, there are no respondents as such and it is for the Commission to determine in the tariff based on the filings made by

the licensees, keeping in view the interests of the licensees as well as the various categories of stake-holders, consumers and the electricity sector in general. It is from this point of view that public hearings are held and views elicited from different interested persons and consumers. It is not possible to treat the millions of individual consumers who have a stake in the tariff rates as “adversaries” to the DISCOMs. The Commission, during tariff determination process elicits views /objections /suggestions from the different stake-holders which are duly examined by the Commission before issue of the tariff order. In such tariff proceedings, there is no scope to implead the millions of individual consumers as respondents or entertain IAs as is customary in quasi-judicial proceedings. The FSA claims submitted by the Licensees before the Commission cannot be seen in the light of the adversarial proceedings before a Court of law between two parties. Any such treatment will negate the very purpose of conducting of public hearings by the Commission, inviting the objections from all the interested persons through a notification in the newspapers. All relevant issues including condonation of delay are to be treated as part of the various issues involved in the tariff determination order. The stake-holders, during the public hearings have abundant opportunity to state anything they desire on all issues including delay condonation aspect and the same is given due consideration along with other issues in the FSA order.

101. It was in the light of this approach that the Commission assigned OPs and placed the same for public hearing on all relevant issues including delay condonation issue. Hence, it cannot be said that an irregularity was committed in assigning OP Nos without first taking up the IAs on delay condonation issue as a condition precedent for taking up consideration of FSA claims.
102. The observations of the Hon’ble High Court of Andhra Pradesh in the case of APGPCL reported in AIR 12,2005(6) ALD 368 are very

relevant in the present context. In this case the Hon'ble High Court of Andhra Pradesh has observed as follows:

103. “ Before parting with this case, it is necessary to observe that the power is 2005(6) FR-F-25 conferred on State Commission to Act as an Effective grievance redressal forum in the matter of generation, distribution, transmission of electricity and tariff fixation, These are the matters which brook no delay. Therefore, APERC instead of determining the issues at preliminary stage and final stage, should always decide all the issues at one time. The procedure of issuing a notice to contending respondents at the time of admission is not contemplated under the Act. Indeed whenever an application is filed APERC is bound to look into the same and give appropriate disposal. It has no discretion either to admit or reject the case. It can even summarily reject petitions but the method of hearing preliminary objections is not warranted under the Scheme of the Act. If at the stage of determination of preliminary objections, the cases are kept pending in the Courts, the very purpose for which State Commission is constituted would be lost. Under Sub-section (3) of Section 86, the State Commission shall have to ensure transparency while exercising its powers, discharging its functions and be guided by National electricity Policy and National electricity Plan on tariff policy Regulations made by it under Section 181 of Act.....”
104. After considering the rival views on the issue and also taking note of the ratio of the judgement of the Hon'ble High Court in the APGPCL case extracted above, Commission has taken the decision that the issue of condonation of delay is to be taken up together with the merits of FSA claims and that the submissions made by the interested parties on the delay condonation aspect can be addressed as part of the present order which is being issued as a comprehensive order covering the issue of delay condonation / extension of time along with the issue of determination of FSA.

105. The decision that the issue of condonation of delay will be taken up together with the merits of FSA claims, was announced during the public hearing on 31-10-2011. Accordingly, the issue of delay condonation / extension of time is being dealt in detail as a specific issue as issue (c) hereinafter.

Issue (b):

Format of FSA claims filed by the DISCOMs.

106. Sri Gopal Chowdary submitted that, the Hon'ble High Court while setting aside the previous order of the Hon'ble Commission clearly directed that any fresh application filed by the DISCOMs be considered and decided according to law. Clause 7 to 10 of the APERC (Conduct of Business Regulations) 1999, clearly states that the proceedings before the Commission are to be initiated on a petition filed, and such petition shall be in the prescribed manner and form duly verified by an affidavit.
107. Sri Gopal Chowdary submitted that the Distribution Licensees did not file their FSA claims as envisaged under clauses 7 to 10 of the Conduct of Business Regulations of APERC. The subject proceedings based on the letters addressed to the Secretary of the Commission should not have been initiated.
108. Sri Gopal Chowdary submitted that it is trite law that when a statute prescribes the manner in which anything ought to be done, it must be done in that manner or not at all.
109. Sri DVAS Ravi Prasad submitted that the DISCOMs ought to comply with all the procedural requirements while filing a petition before the Commission, but they did not do so.
110. Sri Ravi Prasad submitted that there is a defined set of procedure to be followed by the DISCOMs and the learned Commission from the petitions till the orders are issued. Unless the DISCOMs comply with the procedure under the CBR regulations issued by this Commission

and submit petitions in consistence with the provisions of the same regulation, the same should not be entertained. In the given cases the letters submitted by the DISCOMs cannot be considered to be petitions under the CBR regulations and therefore the proposals submitted by the DISCOMs should be dismissed at the numbering stage itself.

111. Sri. Siva Rao, counsel for the licensees argued that the proceedings of the commission are enrooted through the process of Public Hearings in respect of the Tariff applications filed by the Licensees. Sri. Siva Rao submitted that FSA claims shall be treated as the supplementary filings to the ARR/Tariff filings submitted by the Licensees for FY 2008-09, or for the respective year, on which the Commission already issued Tariff Order, clearly mentioning against each of the categories of the Tariff Schedule that 'FSA is extra as applicable'.
112. Sri. Siva Rao submitted that the FSA claims submitted by the Licensees before the Commission shall not be seen in the light of the adversarial proceedings before a Court of law between two parties and had it been so, the very purpose of conducting of public hearings by the Commission, inviting the objections from all the interested persons through a notification in the newspapers, is defeated. Sri. Siva Rao submitted that they are ready to fulfill any such technical deficiencies, if the Commission directs them to do so, but, for these minor reasons their claims shall not be rejected as that rejection amounts to huge financial loss to them.
113. Sri M Venugopala Rao suggested that the FSA claims of the DISCOMs shall not be rejected on technical grounds as that amounts to the deprival of DISCOMs of their genuine financial claims.
114. The objections regarding the format of filing of FSA claims for 2008-09 by the DISCOMs, are examined below in the light of the regulations covering the subject and the different contentions made during the public hearing.

115. The main objection is that the Licensees did not file their FSA proposals as stipulated in CI Nos 7 to 10 of the Conduct of Business Regulations of APERC and that the Licensees might not have paid the fee prescribed even.
116. In this connection, it has to be kept in view that FSA is a surcharge on tariff already fixed in public mode and the procedure has to be essentially the procedure of tariff fixation which is not an adversarial nature proceeding. While there are general procedures in the conduct of business regulations, 1999, the aspect of FSA is governed by the provisions of computation of FSA specifically laid down in the 2003 amendment to the conduct of business regulations, 1999, which are the principle criteria, being specific provisions on FSA.

Condition no: 2 of 45-B of the conduct of business regulations, 1999, as amended by the latest 2003 amendment,(which deals exclusively with FSA), reads as follows-

“The licensee shall provide the Commission with its calculation of each fuel surcharge adjustment required to be made pursuant to its tariff before it is implemented with such documentation and other information as it may require for purpose of verifying the correctness of adjustments.”

117. After examining the filings made by the DISCOMs together with the enclosed data, in the light of the provisions contained in the regulations regarding filing of FSA claims by the licensees, Commission is of the view that the FSA claims submitted by the Licensees need not be rejected on the ground that they are not filed in the format prescribed in the Regulations.

Issue (c):

Condonation of delay/extension of time regarding filing of FSA claim by the DISCOMs.

118. Sri Gopal Chowdary has contended that the DISCOMs have made general statements with regard to the reasons for delay in submitting the FSA applications and no specific particulars and dates explaining the delay on day by day basis have been given.
119. Sri Gopal Chowdary has brought it to the notice of the Commission that while submitting a request for condonation of delay in submission of FSA proposals, the DISCOMs have stated that there were specific directions from Govt of Andhra Pradesh (GoAP), in FY 2008-09, to procure power from different sources to meet the demand gap with an assurance that the related costs met by the CPDCL through Short Term Loans would be discharged by GoAP in the subsequent years.
120. Sri. Gopal Chowdary has pointed out that in the present applications, the DISCOMs, though referred to the specific directions of the State Government (GoAP), that the DISCOMs shall file applications with FSA proposals before the APERC, they did not file or furnish any copies of the specific directions and assurance from the state government and all the documents relating thereto.
121. Sri DVAS Ravi Prasad has submitted that the Hon'ble High Court held that the Commission has powers to condone the delay in submitting the applications by the DISCOMs for the reasons duly record in writings, without prejudice to the rights of consumers to contest the observations of the Hon'ble High Court by way of a writ appeal, Sri. Ravi Prasad submitted that the DISCOMs ought not have clubbed the condonation of delay and determination of FSA in a very general way in the form of a letter, seeking reliefs for both.

122. Sri Ravi Prasad has submitted that the Hon'ble High Court did not give any unfettered right to the DISCOMs to seek condonation of delay and get it automatically from the Commission.
123. Sri Ravi Prasad has submitted that the Hon'ble Apex court in number of cases had held that delay can not ordinarily be condoned unless the same is explained day by day. When the delay is too long a period ranging from one year to more than 3 years, it has to be explained in a proper manner, which has not been done.
124. Sri Ravi Prasad has submitted that if the delay in filing of FSA proposals for FY 2008-09 by the CPDCL is on account of delay on the part of Government of Andhra Pradesh to give appropriate clarifications, the consumers in such circumstances cannot be burdened.
125. Sri Ravi Prasad has submitted that the DISCOMs being a company incorporated under the Companies Act 1956, should act independently but it did not do so in the given circumstances.
126. Sri Ravi Prasad has submitted that the consumers are not concerned with the correspondence the CPDCL has made with the GoAP and it shall not be a valid reason for condoning the delay.
127. Sri Ravi Prasad has submitted that since CPDCL primarily attributed GoAP for the delay in filing the FSA with the commission for FY 2008-09, the GoAP shall be the necessary party to all the proceedings connected with the condonation of delay and determination of FSA and their explanation should have been invited and considered before the proposals are taken on record by the Commission.
128. Sri Ravi Prasad has submitted that as per condition no. 4 appended to No: 45-B of the Conduct of Business Rules (CBR) regulation issued by the commission, the licensee has to file required

information for calculation of FSA within 30days of the end of the respective quarter, failing which the licensee would forfeit any future claims for such quarter. Since the applications filed by the DISCOMs were after a lapse of more than a year, the present proposals are barred by limitation.

129. Sri Ravi Prasad has submitted that the letters of the DISCOMs are silent about the delay and the reasons for the delay occurred in between 30-07-2008 and 21-01-2009 in approaching the GoAP about its commitment to pay the amounts to the DISCOMs, against the power purchases made.
130. Sri Venugopala Rao has welcomed the decision of Hon'ble Commission, conceding their long pending request to hold public hearings on the FSA proposals filed by the DISCOMs and he hoped that the Commission would issue a legally tenable order. Further, he suggested that the claims of the Licensees shall not be rejected just on technical grounds. He pointed out that though the Licensees submitted subsequent proposals, for the quarters pertaining to the FY 2010-11 & 2011-12, APERC is yet to initiate the process, thus, depriving the Licensees of their right to claim the FSA
131. Sri A Punna Rao has submitted that the Distribution Licensees shall not be deprived of their genuine FSA claims as that would not only crumble the financials of the DISCOMs but also would crumble the State Power Sector;
132. The DISCOMs have submitted that they have filed fresh proposals before the Commission as the Hon'ble High Court, while setting aside the orders earlier issued by APERC in respect of the FSA proposals of the Licensees for FY 08-09, suggested to do so.
133. DISCOMs have submitted that as per No: 45B of the Business Regulations of APERC, FSA proposals have to be filed before the commission within 30 days from the end of the relevant quarter and in

the instant quarter the due date for such filing was 30-04-2009, thus, a delay of about 847 days, up to 25-08-11.

134. The reasons put forth for the delay in submission of FSA proposals and for condoning the delay are as follows, as submitted by the DISCOMs:

“a. The period of 30 days is not sufficient in an abnormal year like FY 2008-09, wherein, the shortages were met through generation by naphtha, imported coal mixed with domestic coal and short term power purchases from market and power exchanges. In this process, a lot of data were to be accumulated and assimilated, before arriving at FSA amounts for each of the quarters of the respective financial years. Further, the number days mentioned in the application/letter for condonation of delay include the time taken by APERC for issuing of FSA orders and then time taken in the Hon’ble High Court etc.,

b. Unlike the earlier periods, DISCOMs (namely APCPDCL, APEPDCL, APNPDCL & APSPDCL) passed through complex power procurement and supply scenarios due to increased demand, shortages from approved sources, and predominant market conditions of huge demand and supply position. Therefore market forces resorted to indiscriminate prices without any linkage to the costs of generation and representative costs. The said situation drove the DISCOMs to make elaborate arrangements to procure power. Therefore considerable amount of time was required to receive the data viz., to receive final bills, energy accounting, calculate accurate losses from each source of power procurement and sharing of losses and transmission charges between the DISCOMs and Generators, ascertaining the applicability of compensation for non delivery or under delivery, liability of DISCOM for any default on non performance of any of the conditions in Letter of Intent.

c. The Hon’ble High Court while passing the order, setting aside the FSA order, dated: 05-06-2010 for 2008-09 passed by the Commission,

affirmed that it is open to the licensees i.e., DISCOMs to file applications afresh before APERC claiming FSA for FY 08-09. Further, it was directed that Commission shall consider such applications and decide in accordance with law in the light of the observations made and recorded by Hon'ble High Court and pass appropriate orders, expeditiously. Accordingly, the Distribution Licensees have submitted FSA proposals afresh for the FY 2008- 09 & FY 2009-10.

- d. The Hon'ble High Court had made it clear that, under Regulation 59 of the Business Regulations, the Commission has the power to condone the delay in filing applications by the licensees claiming FSA beyond the time prescribed.*
- e. DISCOMs required considerable amount of time to gather information on the fuel used which is a mix of domestic and imported coal to generate additional power. DISCOMs have to accumulate a lot of base data to file accurate and correct FSA to be collected from the consumers in just and equitable manner to avoid incorrect filing and computation of FSA. DISCOMs had taken adequate precaution to collect accurate data after the accounts are audited. This enabled DISCOMs to compute the correct FSA without any prospect of taking incorrect sales data or cost of power procurement and giving less scope to factor the prior period expenses or income, which forms part of FSA.*
- f. During the FY 2008-09, acute shortage of power was witnessed due to various reasons. In addition, there were shortages in the quantum of energy from stations approved by the Commission. The idle capacities of IPPs were used by using Naphtha, generation of power using imported coal and to purchase power from various sources. It was a composite task of receiving final bills, accounting energy, arriving at accurate losses to finalize the final cost.*
- g. Distribution Licensees are incurring huge amounts of financial loss on*

the time lag for submission of proposals and then for collection of FSA charges.

- h. The recovery of excess cost incurred on the energy supplied is very much essential to make utilities to be on self-sufficient. Hence, the additional expenditure incurred by the Distribution Licensees in the energy supplied to the consumers shall be paid in full.*
- i. It was clearly stated in the respective Tariff Orders that FSA would be levied in addition to the tariffs as applicable and notified by Commission from time to time. The FSA mechanism is established to pass on the variance in cost to the consumers in a systematic manner and if it is not realized it would jeopardize the sustainability of Distribution Licensees. These are all statutory obligations which shall be adhered to.*
- j. During the FY 2008-09, there were specific directions from Govt of Andhra Pradesh (GoAP) to procure power from different sources to meet the demand gap with an assurance that the related costs met by the DISCOMs through Short Term Loans would be discharged by GoAP in the subsequent years. Keeping the assurance of GoAP, and keeping in view of the State Govt's promise that the tariffs shall not be increased, a letter, vide No: CE/Comml/FSA/D.No186 /09 Dt 21-01-09, was addressed to GoAP, with a request to communicate whether to file necessary FSA proposals for FY 2008-09 before APERC. Further, a reminder was also sent to GoAP, vide Lr No: CE/Coml./FSA/D No 219/09 dated 16-03-09. The GoAP, vide the Lr No: 743/Pr.II (1)/2009 dated 29-06-2009, while communicating its decision to collect the fuel surcharge adjustment from non-domestic and non-subsidized categories, directed DISCOMs to file necessary Fuel Surcharge Adjustment proposals, for FY 08-09, before the Hon'ble APERC, under section 62 (4) of the Electricity Act 2003.*
- k. Because of requirement of compliance of so many steps there was a*

delay in filing of FSA proposals for 4th quarter of FY 08-09 which is about 847days.

- 1. The delay of 847 days in filing of FSA proposals is neither due to negligence nor due to any faults on the part of the DISCOMs. The delay was due to unavoidable circumstances as detailed above. If the said delay is not condoned, DISCOMs will be deprived of claiming FSA/Charging FSA from consumers. In that event, DISCOMs would suffer irreparable loss. There is no provision to fill the gap that would occur between purchase cost of power and the tariff received from consumers. As such public interest is involved. On the other hand, there will be no loss to consumers in granting FSA with delay, as they are obligated to pay FSA as per Tariff Order, which is unchallenged and attained finality. The Hon'ble Commission has wide powers under Regulation 59 of Business Rules to condone delay by extending the time limit specified by it to do certain act by parties/DISCOM. The said powers are upheld by the Hon'ble High Court. Thus it is just and necessary to condone the delay and grant FSA as entitled to".*

135. The request of the DISCOMs for delay condonation/extension of time is examined below:
136. The counsel for the DISCOMs has argued that the applications for FSA have been filed as per the judgment given by the Hon'ble High Court wherein liberty has been given to the DISCOMs to file applications afresh claiming FSA charges.
137. The Hon'ble High Court in its judgment dated 29-07-2011, in W.P.No.18212 of 2011 & batch of cases has observed that it is open to the DISCOMs to file applications afresh claiming FSA and if any such applications are filed by the licensees, the Commission shall consider and decide whether they are in accordance with law and in the light of the observations made by the court.

138. In pursuance of the said direction, the DISCOMs have filed their applications for all the quarters and they have come up for public hearing by the Commission. The Commission has already issued public notice to hear the objections of all the respective parties and heard them, including respective legal counsel of certain groups of consumers.
139. Regarding the aspect of delay condonation, the Hon'ble High Court, in its judgment dated 29-07-2011, in W.P.No.18212 of 2011 & batch of cases has held that:

“Though, Regulation 55 does not empower the Commission to exercise its inherent power to entertain a belated petition by condoning the delay in the present case, Regulation 59 of Business regulation, empowers the Commission to extend or abridge the time prescribed in the regulations.”

Clause No: 59 of Conduct of Business Regulations reads as follows:

“Subject to the provisions of the Act, the time prescribed by these regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by order of the Commission”.

The Hon'ble High Court has also further held that:

“Even though the above provision empowers the Commission to extend or abridge the time prescribed in the regulations, such power can be exercised by the Commission only for sufficient reason pursuant to an order of the Commission”.

140. Therefore, it has to be examined whether there are sufficient reasons for the Commission to exercise its powers under Clause No: 59 of Conduct of Business Regulations and extend the time beyond the 30 days period prescribed for filing application, for claiming FSA.

141. The object of putting the time limit of 30 days, as condition No: 4 under 45 (B) of the Business Regulation of APERC, to file FSA application for the respective quarter of the financial year, is only to expedite the settlement of the FSA claims. The Hon'ble High Court has already pronounced that the Commission has got the power to extend the time under 59 of the said Regulation but it has to assign the reasons while condoning the delay.
142. So, the Commission has to look into the reasons for the delay caused in presenting the applications and whether there is sufficient cause for the delay. For exercise of discretion for condoning delay, proof of sufficient cause is a condition precedent, though what circumstances would constitute a sufficient cause, cannot be laid down by hard and fast rules.
143. In the instant case, the DISCOMs have submitted that the delay is not due to the negligence of the DISCOMs but for want of information required to project their exact claim for FSA. The DISCOMs have clearly mentioned in their application about the reasons that caused the delay in obtaining the information required to file exact FSA claims including sales data, calculation of accurate losses from each source of power procurement and prior period expenses which form part of FSA.
144. The delay of 847 days is the period between the due date of filing i.e., 30-04-2009 and the date of present filing namely 25-08-2011. However, it has to be noted that the present filing is a filing made for the second time. The DISCOMs cannot be held responsible for delay subsequent to the date of their original filing i.e, 12-08-2009. After the original filing, certain events beyond the control of DISCOM have taken place including issue of the original FSA order by the Commission, its getting challenged before the Hon'ble High Court, setting aside of the Commission's FSA order by the Hon'ble High Court necessitating the filing of the FSA claims a second time by the DISCOM etc. These events and reasons are included in the 847 days delay that has taken place in the present filing and have to be

given due consideration by the Commission while examining the request for delay condonation / extension of time.

145. The DISCOMs have submitted that the period of 30 days is not sufficient in an abnormal year like FY 2008-09, wherein, the shortages were met through generation by naphtha, imported coal mixed with domestic coal and short term power purchases from market and power exchanges. In this process, a lot of data were to be accumulated and assimilated, before arriving at FSA amounts for each of the quarters.
146. The DISCOMs have submitted that unlike the earlier periods, DISCOMs (namely APCPDCL, APEPDCL, APNPDCL & APSPDCL) passed through complex power procurement and supply scenarios due to increased demand, shortages from approved sources, and predominant market conditions of huge demand and supply position. Therefore market forces resorted to indiscriminate prices without any linkage to the costs of generation and representative costs. The said situation drove the DISCOMs to make elaborate arrangements to procure power. Therefore considerable amount of time was required to receive the data viz., to receive final bills, energy accounting, calculate accurate losses from each source of power procurement and sharing of losses and transmission charges between the DISCOMs and Generators, ascertaining the applicability of compensation for non delivery or under delivery, liability of DISCOM for any default on non performance of any of the conditions in Letter of Intent.
147. The DISCOMs have given clear details regarding the information required for filing the FSA claims and the circumstances which led to the delay in procuring the requisite information which led to the delay in filing the FSA claims.
148. It is also pertinent to note that the data furnished pertains to the respective quarter only and no change in the FSA claim figures has occurred due to the delayed filing. No financial prejudice has been

caused to the consumers due to the late filing by way of any extra FSA charges consequent to late filing.

149. In fact, even the Hon'ble ATE has very recently given directions to the state ERCs, on the tariff revision issues, in its Order, dated: 11th November-2011, in OP No: 1 of 2011. The extract of relevant Paras is given below:

“Para-65 (iii): in the event of delay in filing of ARR, truing up and Annual Performance review; one month beyond scheduled date of submission of the petition, the state commission must initiate Suo-motu proceedings for tariff determination in accordance with Section 64 of the Act read with clause 8.1 (7) of the Tariff Policy

Para-65 (vi): Fuel and Power Purchase cost is a major expense of the distribution company which is uncontrollable. Every State Commission must have in place a mechanism for fuel and power purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably on monthly basis on the lines of the Central Commission's regulations for the generating companies but in no case exceeding a quarter. Any state Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/mechanism”

150. When there are no changes in figures and when there is no substantial loss to the consumers and when no prejudice is caused to the consumers and when the reasons submitted by the Licensees is sufficient to condone the delay, there is no justification for rejecting the request to condone the delay.
151. Apart from the technical reasons, the question that stood before the Commission is ‘if the claims are not admitted, who would pay for the amounts which the DISCOMs have already spent to meet the power supply demands of the state in the needy times?’ If the delay is not condoned, the financial position of DISCOMs would tumble, as they had already procured the power and supplied to the consumers to the extent of about Rs.3100crs as per their submissions. They cannot

reverse the process and above transaction or else can try to recover the same through any other legitimate way except through claiming FSA. Non-condonation delay will hamper the already precarious condition of the power sector in the State which may lead to darkness. The balance of convenience is in favour of the licensees as the non-recovery of FSA will lead to financial crisis to DISCOMs and consequent power breakdowns.

152. In view of the above reasons, the Commission is of the view that there is justification in the request of the DISCOMs to condone the delay in filing the FSA claims of the 4th quarter of tariff year 2008-09. Accordingly, the Commission hereby grants the extension of time for filing of the FSA claim of the 4th quarter of tariff year 2008-09.

Issue (d):

Treatment of Agricultural Consumption for purpose of FSA computation.

153. Sri Gopal Chowdary submitted that Agricultural consumption cannot be excluded from the formula for computation of FSA. He pointed out that the Electricity Act specifically requires that the licensee shall not supply any electricity except through a meter at any time after June-2005. He contended that the licensee must suffer the consequences of non-complying with the mandatory requirements of law with regard to Metering of Agriculture consumption as stipulated u/s 55 of the Electricity Act.
154. Sri DVAS Ravi Prasad submitted that before determining FSA, the Commission should examine whether Metering has been done for all the services for which power supply is extended, as required u/s 55 of the Electricity Act 2003 and condition no. 1 of Regulation 45-B of the Business Regulations. But the proposal is silent on this aspect.
155. Sri Ravi Prasad submitted that the proposals filed by the DISCOMs before this Commission is based on the fictitious inputs, and it is not

clear whether agriculture consumption has been excluded from computations. As per section 55 of the Act 2003, no licensee shall supply electricity after the expiry of two years from the date of commencement of Act except through correct meter.

156. Sri Ravi Prasad submitted that the DISCOMs have not given any information about the completion of Agriculture Metering.
157. Sri Ravi Prasad submitted that before determining FSA, the Commission has to examine whether metering has been done as required under section 55 of the Electricity Act 2003 and condition No.1 of Regulation 45-B of the CBR Regulations, but the proposals filed by the DISCOMs is silent on the above aspects.
158. Sri Ravi Prasad submitted that the Commission is not empowered to pass any order affecting the rights of any consumer, in particular, to the rights of Micro & Small Scale Industrial Units, which are established under MSMED Act, 2006.
159. Sri Ravi Prasad submitted that the liability of the Agriculture sector has to be borne by the state government by way of subsidy u/s 65 of the Act
160. Sri Venugopala Rao opined that, the FSA component pertaining to the Agricultural consumption shall not be imposed on the non-Agricultural consumers and stated that as 'free power supply to the Agricultural consumers' is a policy of the GoAP, it is for the GoAP to reimburse this component of FSA.
161. Sri M.Sridhar Reddy State Treasurer and others, representatives of the Bharathiya Kisan Sangh submitted that the farmers have already lost their lands for Industrial development, hence, it is not proper on the part of the Industrial consumers to demand the farmers to pay for the Agricultural consumption. He further submitted that the DISCOMs

misusing the amounts collected from GoAP in lieu of the Agricultural consumption and if these amounts are audited properly, there would be no need to levy FSA charges.

162. DISCOMS contended that as per the regulation in force i.e. clause 45-B of Conduct of Business Regulations amendment 1 of 2003, agriculture consumption is specifically exempted from FSA computations and the Agriculture consumption is therefore to be excluded while computing the Fuel Cost variance.
163. The Issue of exclusion or otherwise, of Agricultural Consumption from the FSA computations, is examined hereunder.
164. During the public hearing, different views have been expressed by different stake-holders. Representatives of industrial sector have argued that the FSA should be levied on all categories of consumers and that exclusion of the Agricultural Consumers will result in levy of unjustified quantum of FSA on the other categories of consumers, mainly those of the industrial sector. The argument is that the Agricultural consumption should not be excluded for the purpose of computation of FSA and that the question has to who should bear the consequential FSA charges in respect of Agricultural consumers is to be decided separately. The industry representatives have argued that the Agricultural part of FSA burden should either be borne by the Agricultural consumers themselves or by the Government under the subsidy arrangement but the same should not be imposed on the other sectors like industry.
165. The industry representatives have also argued that with effect from 2005, supply of electricity without metering is unauthorized as per section 55 of Electricity Act and that any supply made in contravention of this provision cannot be a basis for levying FSA charge pertaining to un-metered Agricultural consumption onto the other sector like industry.

166. Sri. Venugopala Rao, has also argued that the FSA component pertaining to the Agricultural consumption shall not be imposed on the non-Agricultural consumers, but he has contended that as 'free power supply to the Agricultural consumers' is a policy of the GoAP, it is for the GoAP to reimburse this component of FSA. In other words, he has contended that the burden of FSA charges of Agricultural consumers should devolve on the state government but not on either Agricultural consumers or on other categories of consumers like industry.
167. The above contentions are examined hereunder in terms of the provisions of the Electricity Act, the Regulations of the Commission on the aspect of FSA and the relevant judgements of the Hon'ble Appellate Tribunal for Electricity.
168. While it is true that Section 55 of the Electricity Act stipulates that Electricity shall not be supplied after two years of the appointed date except through installation of meters, this provision, has to be examined in the context of observations of the Hon'ble ATE regarding the effect of non-compliance of metering requirement of section 55 in the context of Agricultural consumption.

Sec: 55 of the Electricity Act-2003 reads as follows:

'Sec 55 (1): No Licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter'

'Provided further that the State Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification'

'Sec 55 (2): For proper accounting and audit in the generation, transmission and distribution or trading of electricity , the Authority may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.'

169. Vide its Order dated: 07-02-2008, Hon'ble Appellate Tribunal for Electricity, in Appeal No: 250 of 2006 (5 Nos of Distribution Licensees of Karnataka Vs Karnataka ERC & KPTCL), in the matter of power supplied to the agricultural consumers, has held that *'Once a decision has been taken by the Government, it may not be proper to designate the existing connections as unauthorized'* (Para-32 of the ATE's Order).
170. The Hon'ble ATE further held that *"in view of the aforesaid discussions and since interest of consumers is being protected by the appellants, we hold that the Commission should allow the power requirement as estimated by the appellants"* (Para-33 of the ATE's Order).
171. As far as Andhra Pradesh state is concerned, the policy decisions of the Government of Andhra Pradesh with reference to supply of electricity to agricultural consumers are very clear for each tariff year and they not only mandate the DISCOMs to supply electricity to agricultural consumers but also that the same should not be charged. But should be free in terms of the policy under section 65 of the Act. This has been brought out clearly in the Tariff Order for 2008-09. Hence, the criterion prescribed by the Hon'ble ATE regarding *"decision has been taken by the Government, in the matter of power supplied to the agricultural consumers,"* stands fulfilled and hence the

arguments of the counsels of the consumers with reference to Sec: 55 of the Act, cannot be sustained, in the context of agricultural consumers.

172. Coming to the provisions in the regulations of the Commission on FSA in the context of agricultural consumption, the position is as follows:

Condition No: 1 of 45-B of Conduct of Business Regulations reads as follows:

'The FSA as worked out will be distributed among all categories of consumers that existed in the quarter. However, the consumption by the Agricultural sector will be excluded till the Commission is satisfied that metering of Agricultural consumption is complete, as may be notified in the tariff orders from time to time'

173. As far as the state of Andhra Pradesh is concerned, the status of metering of agricultural services has been elucidated in the tariff order for 2008-09. The observations of the Commission on this aspect in the tariff order for 2008-09 are as follows:

'Para-173: *Estimates of agricultural consumption and the methodology for arriving at robust estimates has always been the concern of the Commission and is under continuous review. To recall, estimation of agricultural consumption based on readings from DTR meters of purely agricultural loads to arrive at specific consumption per HP aggregated for the each DISCOM/State as a whole, as per the survey of agricultural pump sets carried out by DISCOMs was accepted as scientific by the Indian Statistical Institute (ISI) as mentioned as early as in the Tariff Order of FY2003-04. Robust estimates however, also depend on the availability of continuous, consistent and valid readings from a given set of meters'*

'Para-174: *In the Tariff Order for FY2006-07, the Commission expressed concern on the quality of data with regard to consistency and validity echoing the Staff's observations that while the agricultural*

consumption estimates are sensitive to quality and coverage, the available DTR meter readings information for the period November 2004 – October 2005 indicated a poor ratio (19%) of valid meter readings. Under these conditions, the Commission preferred to take more conservative estimates of agricultural consumption than those projected by the Licensees. The Licensees were also directed to ensure the availability of valid DTR meter readings. Subsequently, the Government in its letter No.870/Pr II (1)2006-1 dated 03.11.2006 desired 3rd party verification of agricultural estimates. ISI was entrusted with the task. The ISI Report suggested that an alternative robust methodology of data collection was necessary in view of unsatisfactory ratio of valid DTR meter readings which were resulting in considerable uncertainty as regards the robustness of data estimates and suggested an alternative mechanism for arriving at the estimates. The Report as desired has been sent to the Government'

'Para-175: *As on date, there is no robust measurement mechanism and data to take an informed decision on consumption volumes for unmetered agricultural consumers. ISI is working out a feasible alternative mechanism, the details of which are awaited. At the same time, any alternative mechanism suggested by ISI will need to be verified and tested at the field to ascertain the robustness of the new methodology. The Commission has therefore, in the meanwhile, decided to adopt the agricultural consumption figures of 2007-08 Tariff Order (when the figures for 2006-07 were similarly adopted) and thereby not delay the issuance of the Tariff Order for 2008-09'*

'Para-176: *If, however, no significant progress is visible in this estimation by ISI, by 30th of September, 2008, the Commission will be prepared to consider hearing the DISCOMs on the agriculture consumption quantities adopted by the Commission. The Commission also clarifies that quantities of agriculture subsidy to various DISCOMS as referred to elsewhere in this Order do not cover the additional power purchases*

made by the DISCOMs over and above the Tariff Order quantities, at the instance or with the approval of GoAP'

174. The extracts of paras 173 to 176 of the Tariff Order for 2008-09 (extracted above) clearly indicate that the Commission is not satisfied that metering of agricultural consumption is complete. Hence, the computation of FSA during 2008-09, has to exclude the consumption to agricultural sector as mandated by condition no.1 of 45-B of the FSA Regulation.
175. Considering all the above points, Commission has decided to proceed with the FSA computations, as envisaged in the Formula given under 45-B of the Business Regulations by excluding the consumption to agricultural sector.

Issue (e):

Methodology of calculation of FSA and adequacy of data made available by the DISCOMs.

176. Sri Gopal Chowdary has pointed out that the data given by the DISCOMs is inconsistent with the figures in the Annual Accounts Reports and audited financial statements of the DISCOMs which are themselves variously non-transparent and lacking in full, honest and truthful disclosure.
177. Sri Gopal Chowdary has submitted that in the APSPDCL's statement of month wise and category wise sales during 2008-09, monthly power purchase quantity aggregating to 14210.26MU is furnished. But, the monthly and aggregate power purchase quantities in the other statements appended is many times this figure. There appears to be suppression of material particulars and/or an attempt to willful mislead the consumers and the commission.
178. Sri Gopal Chowdary has submitted that the monthly consumptions for Category-V (Agriculture), say as for Feb-2009 of SPDCL, are shown

at exactly the same figures as in APERC tariff order. Even if the DISCOMs are intending to limit the agriculture consumption to the tariff order limited quantities, the DISCOMs are bound to truthfully disclose the actual agriculture consumption and of the sources from which they consider the excess consumption as having been met. A full and complete energy balance for each DISCOM separately is a sine qua non for the present proceedings.

179. Sri Gopal Chowdary has submitted that as seen from the Annual Reports (of 2008-09), albeit with Auditor's qualification, that the power purchases of NPDCL, SPDCL, CPDCL and EPDCL are respectively 3157.09 Cr, 4228.55 Cr, 8666.29 Cr and 2953.09 Cr. If that be so, it is wondrous that the actual sources and rates of such power purchases are being suppressed.
180. Sri Gopal Chowdary has submitted that It is not clear from the statements as to how the DISCOMs have purchased and accounted for the power from generating stations as allocated to the respective DISCOMs specifically under the statutory third transfer scheme.
181. Sri Gopal Chowdary has submitted that there are no particulars given as to the prior period expenses, either with regard to the period to which they relate or the nature of expenses and as to whether such expenses have previously been subjected to any regulatory scrutiny and/or received regulatory approval.
182. Sri Gopal Chowdary has submitted that under no circumstances can any DISCOM be allowed to claim anything more from its consumers than the extra expenditure actually incurred by it for purchasing electricity for supply to its own consumers.
183. Sri Gopal Chowdary has submitted that it is seen from the public notice that all the DISCOMs have applied for exactly the same FSA rate per unit, which is not possible. The amount recoverable by a

DISCOM through FSA is only so much as is the differential amount expended by it for its own purchases of electricity for the supply of supply to its own consumers and nothing more.

184. Sri Gopal Chowdary has submitted that there are no particulars whatsoever available as to the station/source wise power purchase of any DISCOM for the year. What is relevant to each DISCOM is the actual power purchases made by it and the variations in its own power purchase cost. No such information is discernable from the available material.
185. Sri Gopal Chowdary, has stated that in the explanatory notes, the power purchase quantities are said to be arrived at by grossing up the incorrectly modified sales figure (i.e. restricting agriculture sales). There is no explanation whatsoever as to why this particular methodology is being adopted and under what provisions of the regulations.
186. Sri Gopal Chowdary has submitted that It is not explained anywhere as to why and how the fixed cost for any station is varied and as to what the basis of such variation is and how regulatory approval for the same was obtained. It is not explained how the fixed cost can vary from month to month.
187. Sri Gopal Chowdary has submitted that in respect of power purchases made by each DISCOM from sources other than those specifically approved by the Commission in its Tariff Order, the DISCOMs will have to explain whether the approval of the Commission was not required for such purchases in terms of any regulations and/or any guidelines or directives of the Commission and whether and to what extent the Commission had given approval.
188. Sri Gopal Chowdary has submitted that the Act envisages and permits variation of tariff only on account of fuel cost adjustment by

way of a formula. The power purchase cost variation is neither permitted nor allowed by the Act.

189. Sri DVAS Ravi Prasad has submitted that the letters submitted by the DISCOMs and the statements attached thereto, do not show all the components of the FSA formula considered to arrive at the FSA amounts. Similarly, the workings as per the formula were not revealed in the letters by the DISCOMs and in the absence of the same, it is not possible to come to any reasonable conclusion that the DISCOMs have correctly applied the formula for arriving at the FSA.
190. Sri Ravi Prasad has submitted that the DISCOMs have not submitted any declaration that the amount claimed by them is strictly in compliance with the conditions laid in the regulation and there is no wrong calculation or misrepresentation.
191. Sri Ravi Prasad has submitted that the FSA should be proportionate not only to the consumption of individual consumers pertaining to the relevant period but also to the tariffs applicable to different categories /slabs of consumers.
192. Sri Venugopala Rao has submitted that, Commission may work out FSA per kWh to different categories/slabs of consumers in proportion to the tariffs applicable to them to ensure provision for cross subsidy on the lines of the tariffs already fixed by the Commission for that financial year.
193. DISCOMs have submitted that all the variable costs are admitted and paid for actual energy supplied keeping in view of the operating norms envisaged in successive regulations and the cost related to coal, gas, GCV etc., is audited and authenticated by the internal auditors and AG audit.

194. DISCOMs have submitted that the Distribution Licensee wise FSA statements were also placed on website. Distribution Licensee wise FSA amounts are arrived based on the sales of the respective Distribution Licensee during a month. The FSA was computed for each of the consumed units. In addition, the FSA would be levied based on the energy consumed by each of the consumer categories, multiplied by FSA per unit arrived at for that month.
195. DISCOMs have submitted that there are adequate and sufficient back calculations and the copies of invoices claimed by Generators, which were submitted to Hon'ble Commission for the better assessment of FSA charges claimed. The claims are based on the approval of CERC/APERC and are as per the provision of the PPA'.
196. DISCOMs have contended that in the present FSA regulation there is no discrimination or differential rate in levy of FSA charges. Therefore, all categories are levied with one rate of FSA uniformly. DISCOMs have stated that FSA per unit is same for all the DISCOMs in view of the single merit order for the entire state.
197. With regard to statement showing month-wise, category wise sales during FY 08-09, DISCOMs have submitted that the actual retail sales by each of the Distribution Licensees is summed up to arrive at the total sales made at state level [for this purpose, agriculture sales is taken at least of i) target given in the tariff order (or) ii) actual energy consumed by agriculture category of consumers]. The monthly power purchase quantity shown is the energy arrived at by grossing up the above sales figure with the line losses given in the tariff order. In the month-wise, category-wise sheet the details of each of the Distribution Licensees is shown and in monthly FSA computation sheets the sum of all the Distribution Licensees is shown because merit order is given in the Tariff Order issued by Commission considering the AP State as a whole, not considering each of the Distribution Licensees separately.

198. DISCOMs have submitted that for the FY 2008-09 all the additional power was procured to meet the shortages from the approved sources and to bridge the gap between demand and sales. GoAP had given assurance to reimburse the cost except FSA. Therefore, the cost of excess energy consumed by agriculture consumers would be reimbursed by GoAP. Sales are being grossed up at the suggestion of the Hon'ble Commission in the interest of consumers so that losses reported by each of the Distribution Licensees over and above the normative losses fixed by Commission, which are much lesser than the actual losses, are not passed on to the consumers.
199. DISCOMs have submitted that the station wise actual fixed costs are shown in monthly statements. The increment in fixed cost is due to final orders of CERC/APERC in respect of Central/APGENCO stations, foreign exchange variation, and increase in working capital interest rates. All the corresponding bills are submitted to Commission for scrutiny.
200. DISCOMs have submitted that all the variable costs are admitted and paid for actual energy supplied keeping in view of the operating norms envisaged in successive regulations and the cost related to coal, gas, GCV etc., is audited and authenticated by the internal auditors and AG audit.
201. DISCOMs have submitted that the month-wise cost sheets are placed on website. The variable cost shown in the tariff order is based on the provisional cost of raw material. The increased value of fuel is factored and shown as actual variable cost. Energy purchased in units and station wise is placed on website. Computation of FSA is a mere arithmetical calculation approved by the respective Commissions to decide the variance in cost considered at the time of tariff order and actual costs incurred by utilities. Further, operating norms for calculating the variable cost is determined/ approved by the regulators. Fixed cost approved by the commission is available in

tariff order and the same is compared with actual fixed cost admitted (as shown website in the monthly sheets) for arriving at the variance.

202. DISCOMs have submitted that the FSA is only a cost variance on account of increase in fuel cost. Power purchase quantities over and above tariff order are excluded from marginal stations and as a result high cost variance stations are excluded from levy of FSA, which is beneficial to consumer.
203. DISCOMs have submitted that the Energy in the denominator i.e., Qi is the actual energy sold to all categories (except agriculture) in the respective quarter, which is taken as per the regulation. Power purchase cost can be classified into variable and fixed cost and regulation provides for pass through of variation either due to fuel or due to fixed cost.
204. DISCOMs have submitted that the Distribution Licensee wise FSA statements were also placed on website. Distribution Licensee wise FSA amounts are arrived based on the sales of the respective Distribution Licensee during a month. The FSA was computed for each of the consumed units. In addition, the FSA would be levied based on the energy consumed by each of the consumer categories, multiplied by FSA per unit arrived at for that month.
205. The above contentions regarding the methodology of computation of FSA/ adequacy of the data are examined hereunder:
206. The main objection raised by the objectors regarding the data concerning FSA claims was that the information pertaining to the FSA claims, put forth by the DISCOMs in the public domain, is not in complete shape to enable them to understand the arithmetic behind the claims. On the other hand, the DISCOMs have submitted that they had filed before the Commission whatever is warranted from them as per the respective provisions of the FSA regulations.

207. The Licensee's FSA filings are in compliance to paragraph Nos. 278 and 292 of Tariff Order 2008-09 (Annexure – B) read with clause 45-B of Commission's Conduct of Business Regulations as amended vide Regulation No 1 of 2003. As per the provisions of this regulation under which the present FSA computation is being made, the formula for computation of FSA charges does not enable to arrive at different FSA charges in proportion to the Consumer Category wise tariffs already fixed in the Tariff Order.
208. The formula prescribed in Section 45-B of Conduct of Business Regulations, read with Amendment 1 of 2003 which contains four components to arrive at the amount eligible for recovery towards FSA during any quarter.
209. These components constitute the numerator of the FSA formula, which are described below:

$$(P_i \times E_i + FC_i + Z + A_i)$$

Where,

- P_i** is the difference in the monthly Weighted Average Variable Cost in Rupees, adjusted to four decimal points, of power purchase cost in a month during quarter 'i', for the approved power purchase quantity, **E_i**, for the month computed for FSA purposes, as given below, compared to the Weighted Average Variable Cost for the said month adopted in the tariff order.
- E_i** is the monthly energy purchase as mentioned in the tariff order in kWh (or its equivalent actual monthly draws in each month) during the quarter 'i' to be submitted for each of the generating stations,

Or

approved power purchase quantity for each month, during the quarter 'i', computed for FSA purposes, drawn in monthly Merit Order up to the power purchase requirement (calculated by grossing up the actual sales for the respective month with Commission approved losses) for each month,

Or

actual energy purchased by all DISCOMs for each month, during the quarter 'i', whichever is lower or considered prudent to be applicable for the month.

- FC_i** difference in Rupees, of the actual total monthly fixed charges of the generating stations, from the base values adopted in the tariff order, during the quarter 'i'.
- Z** is the changes in the cost in Rupees as allowed by the Commission, for any month during the quarter 'i', which is counted for a period extending in the past beyond the relevant quarter 'i' but claimed by any generating company along with any monthly bill raised during quarter 'i'.
- A_i** adjustment in Rupees to account for the financial impact of demonstrated incidents of merit order violation on account of controllable factors or any other events during the quarter 'i', the financial impact of which, in the Commission's view, should be given appropriate treatment.

210. During erstwhile Andhra Pradesh State Electricity Board (APSEB) regime, the Electricity Board was a vertically integrated utility having all four main functions, like Generation, Transmission, Distribution and Retail Supply of Electricity under the same management of the State Electricity Board. Fuel was the only item under Variable Cost, which was being purchased by APSEB for its thermal power stations, from external sources. Hence, the incremental fuel cost was the only component constituting FSA during that period.
211. Consequent upon Reforms and Restructuring of the APSEB, as per the provisions of Andhra Pradesh Electricity Reforms (APER) Act, 1998 and the Electricity Act, 2003, the Distribution and Retail Supply function, as distinct or separate from Generation and Transmission functions of Electricity, has been vested with four Distribution Companies (DISCOMs), dividing the State into four areas of supply.
212. The DISCOMs purchase power from different sources, like APGENCO, CGS, IPPs, NCE sources, Traders, Energy Exchanges (IEX, IPX) and Bi-lateral sources. The Power Purchase Agreements

(PPAs) and other terms and conditions of purchase of power by a DISCOM gives rise to the four components to arrive at FSA amount, as described above.

213. The FSA amount so arrived for all DISCOMs, based on the accounts and other information maintained by SLDC, during any quarter is divided by Q_i as denominator, i.e. the quantum of the energy sold, as given below, to arrive at the uniform rate of FSA for all category of consumers in the area of supply of all four DISCOMs and four Rural Electricity Supply Co-operatives (RESCOs).

Q_i is the actual energy sold to all categories in kWh in the quarter in the area of supply of four DISCOMs and four RESCOs, subject to condition No. 1, mentioned here under.

Condition 1:

The FSA as worked out will be distributed among all categories of consumers that existed in the quarter. However the consumption by the agricultural sector will be excluded till the Commission is satisfied that metering of agricultural consumption is complete, as may be notified in the Tariff orders from time to time.

214. The DISCOM wise FSA amount has been computed for every quarter, based on the monthly consumption by all categories of consumers in that quarter using the rate of FSA computed for the quarter.
215. The FSA amount, due to incremental variable charges, eligible for recovery from all consumers across the four DISCOMs, for any month during the year, has been computed by multiplication of the incremental Weighted Average Variable Charge, over that of Tariff Order, with the approved quantum of power purchase, computed for FSA purpose, drawn in a Merit Order (in the ascending order of station-wise Variable Charges, except those of must run stations), up to the approved quantum or actual purchase, whichever is less, during that month.

216. FSA being an incremental charge to the main tariff rates charged to different categories of consumers arising largely due to incremental cost of fuel for the thermal power stations, the rate of FSA chargeable per unit of energy consumption by all categories of consumers during a particular quarter to recover the incremental fuel and power purchase cost for the quarter will be uniform across all the consumer categories.
217. While issuing the Tariff Order for FY 2008-09, the Government of AP, under Section 108 of the Electricity Act 2003, issued a policy direction that the tariffs be uniform across the state and accordingly the Commission kept the tariffs uniform across all the four DISCOMs of the state. (Para-321 of Page-131 of the Tariff Order of APERC for FY 2008-09).
218. When the tariff rates for each consumer category have been maintained uniform across the four different DISCOMs of the state as a result of the direction given by GoAP under section 108 of the Electricity Act 2003, the question of determination of FSA rates for each category on a differential basis across the different DISCOMs does not arise since the FSA component is nothing but a surcharge on main tariff and the original tariff together with the FSA now being determined will be the eventual effective overall tariff, which has to be construed as the figure which is expected to be uniform across the DISCOMs as per the Section 108 directive. In such a situation it is not possible to have separate FSA rates for different DISCOMs or differential FSA rates for different consumer categories.
219. Coming to the aspect of adequacy of data made available by the DISCOMs, it has to be noted that the FSA is being computed in the present order as per the formula and approach discussed above and the requirement for data has to be assessed in the light of the methodology for determination and formula for determination being followed in the present order in the light of the FSA regulation in force. In this context, the commission has noted that the following

details have been placed on the web by the DISCOMs at different stages of the public hearing process:

220. Monthly information of FSA amounts claimed, Non-Agricultural sales, proposed FSA rate, FSA amount for domestic category and FSA amount other than domestic and agricultural category contained in their filings.

(On 14-09-2011 by APCPDCL, on 15-09-2011 by APEPDCL, on 17-09-2011 by APNPDCL and on 15-09-2011 by APSPDCL.)

221. Additional information by way of brief notes, methodology applied for calculating FSA, source/ Generating station wise, month wise, actual energy purchased with cost of purchase.

(On dt. 18-11-2011 by APCPDCL, on three dates i.e. 08-11-2011, 09-11-2011 and 10-11-2011 by APEPDCL, on 09-11-2011 by APNPDCL and on two dates i.e. 10-10-2011 and 08-11-2011 by APSPDCL.)

Replies to the objectors.

(On dt.29-10-2011 by APCPDCL, on dt. 29-10-2011 by APEPDCL, on dt.30-09-2011 and on 10-11-2011 by APNPDCL and on dt. 29-09-2011 by APSPDCL.)

222. In addition, the Director (Finance) of APCPDCL on behalf of all the four DISCOMs made a presentation on dated 19-11-2011, explaining the financial aspect of their FSA claims including methodology adopted.

223. Commission is of the view that the information furnished by the DISCOMs is sufficient to process their claims and for computation of FSA as per the methodology adopted in the present order for such computation and that the data furnished is adequate from the point of the consumers also.

224. As regards the other contentions raised during the public hearing and the written representations on behalf of consumers on the aspect of methodology, many of the points raised therein are in the context of the FSA claim filings as made by the DISCOMs. Many of them do not arise in the context of the actual determination of FSA by the Commission wherein a number of claims get disallowed by the Commission during its scrutiny, which can be inferred from the difference between the quantum of FSA actually allowed by the Commission in the present order as against the claim made by the DISCOMs.

<p>225.</p> <p>DETERMINATION OF FSA</p> <p>(for Fourth Quarter of FY 2008-09)</p> <p>(January 2009 to March 2009)</p>	
<p>I. <u>Difference in the Weighted Average Variable Cost. (Pi)</u></p> <p>DISCOMs Claim:</p> <p>Weighted Average Variable Cost of energy from all sources for Quarter -IV as claimed by DISCOMs' in FSA claims (Annexure AI):</p> <ul style="list-style-type: none"> ▪ <i>(DISCOMs' claim is based on actual cost of energy incurred from other sources, to supplement any short fall in the generation from the approved stations in Merit Order list specified in the Tariff Order.</i> ▪ <i>DISCOMs have limited the actual Energy Dispatch to the quantum specified in T.O. 2008-09.)</i> <p>Weighted Average Variable Cost of energy from all sources for Quarter-IV (as per T.O. 2008-09)</p> <p>Pi - Difference in the Weighted Average Variable Cost (Rs/kWh) claimed by the DISCOMs as a variation with respect to Tariff Order. (Annexure AI)</p>	<p>Rs. / Unit</p> <p>1.68</p> <p>1.08</p> <p>0.60</p>
<p>Commission's Scrutiny</p> <p>Weighted Average Variable Cost of energy from all sources for Quarter-IV as specified in Tariff Order (Rs/kWh): (Table 24 : T.O. 2008-09)</p> <p>The following points have been taken into consideration while scrutinizing the claim of DISCOMs</p> <ul style="list-style-type: none"> ▪ Actual energy dispatched or quantity specified in Tariff Order, whichever is lower has been taken for the purpose of the calculation 	<p>1.08</p>

<ul style="list-style-type: none"> ▪ High cost power purchased from other sources & UI drawal, if any, to supplement any shortfall in the approved stations, has been limited to a rate equivalent to sum of variable cost of Marginal Station in the Merit Order stack and average fixed cost during the month as specified in the TO. (Annexure AI) <p>After above scrutiny, the Commission determined the Weighted Average Variable Cost of Energy (Rs/kWh)</p>	1.34
<p>Pi - Difference in the Weighted Average Variable Cost (Rs/kWh) as determined by the Commission as compared to the figure in the Tariff Order. (Annexure AI)</p> <p>(The Pi. Allowed by the Commission is lesser by 34.24 paise/kWh than the claim made by the DISCOMs)</p>	0.2558
<p>II. <u>Actual Energy Purchase (Ei)</u></p>	(MU).
<p>DISCOMs' Claim:</p> <p>Actual Energy Purchase (MU) quantity claimed by the DISCOMs for the purpose of FSA. (Annexure A-I)</p> <ul style="list-style-type: none"> ▪ <i>Even though actual energy purchase by the DISCOMs for the quarter is 18161.3 MU, DISCOMs have limited their claim to 16942.74MU.</i> ▪ <i>DISCOMs' claim is based on actual sales including Agl as per Audited Accounts and actual losses in the system</i> 	16942.74
<p>Commission's Scrutiny:</p> <p>Authorized Energy Purchase (MU) as specified in the T.O. (Annexure –E (III) of T.O., page 225)</p> <p>Taking in to account, the required energy purchase based on actual sales to metered categories, quantum of sales specified for Agriculture category in the Tariff Order and the losses specified in the Tariff</p>	17112.00

Order, the Commission has allowed, the Actual Energy Purchase (Ei) (Annexure A-I) as	16462.40
III. <u>Variation in the Variable Cost: (Pi X Ei)</u>	(Rs. in Crs)
DISCOMs' Claim: Variation in the Variable Cost (0.60*16942.74)/10	1020.46
Commission's Scrutiny: Variation in the Variable Cost as allowed by the Commission: (0.2558*16462.4)/10 (The scrutiny of the Commission, in this parameter, has resulted in the reduction of DISCOMs claim by an amount of Rs.598.99Crs.)	421.47
IV. <u>Difference in actual Fixed Charges (FCI)</u>	(Rs. in Crs)
DISCOMs' Claim: Fixed cost specified in the T.O.	1304.15
Actual Fixed Cost paid for the quarter as claimed by the DISCOMs for FSA claim purpose (Annexure A-I) <ul style="list-style-type: none"> ▪ <i>In the Tariff Order, both fixed and variable costs are given in respect of NPC-MAPS and Kaiga I and II. But as per notification of Department of Atomic Energy Govt bills were claimed in the form of variable cost only. Thus there is a variance in Actual fixed cost and Tariff order fixed cost around Rs. 29 crores and the variation in Fixed cost is due to some new stations approved in the Tariff Order, missing the expected implementation schedules and COD and unable to claim their due fixed charges.</i> 	1112.95

Difference in the actual fixed charges as compared to the figure for fixed charges as specified in the T.O. (Annexure A I)	-191.20
Commission's Scrutiny: Fixed Cost Payment for the quarter as specified in T.O. (Derived from Tables 19,22,23 of T. O. 2008-09)	1304.15
Commission has accepted the figure claimed by DISCOMs on this account and determined the actual Fixed Cost paid for the quarter as	1112.95
Difference in the actual fixed charges as compared to the figure for fixed charges as specified in the T.O. FCi (as allowed by Commission) (Annexure –A I).	-191.20
V. <u>Prior Period Expenditure (Zi)</u>	(Rs. in Crs)
DISCOMs' Claim: Prior Period Expenditure for the quarter as claimed by DISCOMs. (Annexure A-I) <ul style="list-style-type: none"> ▪ <i>DISCOMs have claimed prior period expenditure on actual basis incurred in respect of certain generating stations.</i> 	0.02
Commission's Scrutiny: Commission has accepted the figure of DISCOMs on this account and determined the Prior Period Expenditure Zi as	0.02
VI. <u>Adjustments for Merit Order Violations (Ai)</u>	(Rs. in Crs)
The DISCOMs have not claimed any adjustments on this item. The Commission has accepted the stand of the DISCOMs. Hence Ai is determined as	0

VII. Calculation of FSA Amount:**(Rs. in Crs.)**

Based on the above determination, the Commission has determined the FSA amount as follows:

Pi x Ei / 10	(0.02558 *16462.40) / 10	421.47
FCi		-191.20
Zi		0.02
Ai		0
FSA amount		230.29
(Pi x Ei / 10 + FCi + Zi + Ai)		
(421.47 – 191.20 + 0.02 + 0)		

(The FSA amount claimed by the DISCOMs is Rs 829.28 Crs)

VIII. <u>FSA eligible Sale Units (Qi)</u>	(MU)
DISCOMs' Claim:	
FSA eligible units as claimed by the DISCOMs	9393.87
<ul style="list-style-type: none"> ▪ <i>Claim of the DISCOMs excludes consumption towards HT IV –Private Lift Irrigation Schemes also.</i> 	
Commission's Scrutiny:	
FSA eligible units as specified in Tariff Order: (Annexure H (i) of T.O. 2008-09)	9908.79
After scrutiny, the Commission has considered HT Agriculture sales also for the purpose of FSA.	
FSA eligible units allowed by the Commission. (Annexure –AI)	9384.00
IX. <u>FSA Rate (Fi)</u>	(Paise / kWh)
<u>FSA amount * 1000 / Qi</u>	
FSA Rate for the Fourth Quarter of FY 2008-09 as per the above determination of the Commission comes to (230.29 * 1000 / 9384)	24.54

(The per unit FSA claim of the DISCOMs is paise 88.28 / kWh)

226. The Distribution Licensees are directed to charge FSA on all consumers (Except LT Agriculture Consumers) for the fourth quarter of FY 2008-09 on monthly basis with effect from November 2012 over a period of 3months as shown in the Table below.

Month of Consumption for which FSA is Charged	FSA Rate (Paise /kWh)	To be collected along with monthly bill of
January, 2009	24.54	November, 2012
February, 2009	24.54	December, 2012
March, 2009	24.54	January, 2013

227. The above FSA order shall be duly notified by the Distribution Licensees at least 7days before the date of implementation of such orders as per conditions 8 & 9 of Amendment Regulation No. 1 of 2003 to APERC (Conduct of Business) Regulations.
228. The GoAP issued a letter vide Lr.No.211/Pr.II(1)/2012-1 Dated 16-01-2012 , stating that Government reiterated its commitment to reimburse the FSA amount in respect of Domestic sector to the extent of the amount to be determined by the Honourable Commission subject to maximum ceiling of amount indicated in the APERC order, dated 05-06-2010 i.e., Rs.502.07 crores and Discoms accordingly may be directed not to collect FSA from Domestic categories for the financial year 2008-09 subject to the above condition.
229. Since the GoAP has given a commitment to reimburse FSA amount of F.Y. 2008-09 for the Domestic categories upto a maximum limit of Rs.502.07 crores, the Commission hereby directs that FSA amount shall not be collected from consumers of Domestic Categories for the F.Y. 2008-09 and instead, the amount of FSA in respect of domestic categories for the 4th quarter of F.Y. 2008-09 amounting to Rs.67.35 crores shall be reimbursed to the DISCOMs by the GoAP as per their commitment dated 16-01-2012, referred above. (This amount of Rs.67.35 crores for the 4th quarter of 2008-09, together with the

corresponding amounts of the other 3 quarters of F.Y. 2008-09, comes to a total of Rs.499.90 crores and is within the maximum reimbursement limit indicated by GoAP in their commitment letter dated 16-01-2012.)

230. The DISCOMs shall claim the bills pertaining to the domestic category FSA of each quarter in the first week of the month in which the said FSA is due and the same shall be reimbursed by GoAP before the end of such month.
231. The Licensees are further directed to submit compliance of this FSA order within 30days of its implementation in the format already communicated vide Lr.No.-T-102-JD(T-Engg)/ 06, dated 23-10-2006.
232. The Hon'ble High Court of AP, have passed the following order on 3rd December 2011 in WA MP No. 2564 of 2011 in WA No. 941 of 2011 filed by M/s Vamsadhara Paper Mills, Srikakulam and others, against the FSA proposals filed by the DISCOMs for FY 2008-09 & FY 2009-10.
Order: "We are told that proceedings are going on with respondent No. 1-Andhra Pradesh Electricity Regulatory Commission. The proceedings may go on and a final order may also be passed, but that final order will not be given effect to. Application is disposed off."
233. In view of the above order of Hon'ble High Court of AP, the present FSA Order passed herein shall not be given effect to until further orders of the Hon'ble High Court in the W.A 941 of 2011 and shall be subject to the orders therein.

This order is corrected and signed on this 17th day of January, 2012.

Sd/-
(C.R.Sekhar Reddy)
Member

Sd/-
(A.Raghotham Rao)
Chairman

Annexure - A (I)

Particulars	Filing				APERC			
	Jan/09	Feb/09	Mar/09	4th Qtr	Jan/09	Feb/09	Mar/09	4th Qtr
Ei Actual Energy Purchase:	5520.73	5477.00	5945.01	16942.74	5317.16	5331.02	5814.22	16462.40
Actual Weighted Average Variable Cost (Rs/kwh)	1.51	1.81	1.73	1.68	1.29	1.39	1.34	1.34
Weighted Average Variable Cost: T O (Rs/kwh)	1.11	1.10	1.04	1.08	1.11	1.10	1.04	1.08
Pi. Difference in Weighted Average Variable Cost	0.40	0.71	0.69	0.60	0.18	0.29	0.29	0.2558
Pi X Ei (Rs.in Crores)	222.04	388.92	409.49	1020.46	94.28	156.13	171.07	421.47
Actual Fixed Cost Paid (Rs Crs)	403.31	377.71	331.94	1112.95	403.31	377.71	331.94	1112.95
Fixed Cost allowed as per TO (Rs Crs)	434.72	434.72	434.72	1304.15	434.72	434.72	434.72	1304.15
Fci . Difference in Fixed Cost (Rs.in Crores)	-31.41	-57.01	-102.78	-191.20	-31.41	-57.01	-102.78	-191.20
Z (Rs.in Crores)	0.02	0.00	0.00	0.02	0.02	0.00	0.00	0.02
Ai (Rs.in Crores)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
FSA Amt. (Fi.) in Rs.Crs.	190.65	331.91	306.71	829.28	62.88	99.12	68.29	230.29
FSA Eligible Units (Qi in MU)	3055.98	3205.55	3132.35	9393.87	3053.09	3203.17	3127.75	9384.00

FSA for Fourth Quarter		
Item Name	Claimed by DISCOMs	Allowed by APERC
Quarterly FSA Claim (Rs Crs)	829.28	230.29
FSA Eligible Units (MU)	9393.87	9384.00
FSA Rate Paise/kwh	88.28	24.54

ANNEXURE - A(III)

**Month-wise, Category-wise sales (MU) - FY 2008-09 (Qtr IV)
(incl. Losses and Power Purchase quantity (PP Qty))**

EPDCL

Category	Jan'09	Feb'09	Mar'09	TOTAL	Loss (MU)	APERC approved Loss(%)
LT						
I	193.79	177.68	184.58	556.04		
II	40.32	40.92	38.69	119.93		
III	40.65	43.24	33.36	117.25		
IV	0.14	0.17	0.13	0.45		
V	120.51	116.21	134.98	371.70		
VI	20.01	20.39	18.43	58.83		
VII	2.56	2.52	1.70	6.78		
VIII	0.15	0.15	0.18	0.48		
Sub-Total	418.12	401.28	412.05	1231.45		
HT						
I	203.63	240.45	176.35	620.43		
II	19.98	21.81	21.38	63.17		
IV	2.36	1.73	1.55	5.64		
V	41.52	42.36	38.46	122.34		
VI	15.62	17.01	17.16	49.78		
VII	-0.13	0.00	0.00	-0.13		
Sub-Total	282.98	323.36	254.90	861.23		
G.TOTAL	701.10	724.64	666.95	2092.68		
PP Qty	827.43	855.22	787.13	2469.78	377.10	15.27%

SPDCL

Category	Jan'09	Feb'09	Mar'09	TOTAL	Loss (MU)	APERC approved Loss(%)
LT						
I	229.92	234.18	260.95	725.05		
II	53.02	54.40	88.11	195.53		
III	59.19	52.11	100.80	212.10		
IV	2.22	1.71	3.52	7.45		
V	343.05	249.04	431.55	1023.64		
VI	57.43	75.72	71.53	204.68		
VII	3.21	3.31	5.43	11.95		
VIII	0.21	0.21	0.06	0.48		
Sub-Total	748.25	670.68	961.95	2380.88		
HT						
I	183.93	197.16	171.96	553.05		
II	18.62	20.83	21.04	60.49		
IV	3.73	5.45	4.15	13.33		
V	44.55	45.86	41.67	132.08		
VI	23.06	26.31	22.55	71.92		
VII	0.10	0.10	0.12	0.32		
Sub-Total	273.99	295.71	261.49	831.19		
G.TOTAL	1022.24	966.39	1223.44	3212.07		
PP Qty	1234.15	1166.72	1477.06	3877.93	665.86	17.17%

CPDCL

Category	Jan'09	Feb'09	Mar'09	TOTAL	Loss (MU)	APERC approved Loss(%)
LT						
I	337.87	362.40	416.12	1116.39		
II	111.45	120.93	133.62	366.00		
III	97.01	91.22	88.24	276.47		
IV	1.46	1.25	1.37	4.08		
V	581.35	553.49	736.88	1871.72		
VI	54.50	53.31	58.60	166.41		
VII	4.36	4.83	5.17	14.36		
VIII	0.29	0.22	0.18	0.69		
Sub-Total	1188.29	1187.65	1440.18	3816.12		
HT						
I	663.00	703.95	581.90	1948.85		
II	83.70	93.31	88.96	265.97		
IV	14.64	27.87	28.57	71.08		
V	8.61	8.37	8.47	25.45		
VI	8.79	7.73	6.98	23.50		
VII	0.71	0.92	0.79	2.42		
Sub-Total	779.45	842.15	715.67	2337.27		
G.TOTAL	1967.74	2029.80	2155.85	6153.39		
PP Qty	2395.92	2471.48	2624.96	7492.37	1338.98	17.87%

ANNEXURE - A(III)

**Month-wise, Category-wise sales (MU) - FY 2008-09 (Qtr IV)
(incl. Losses and Power Purchase quantity (PP Qty))**

NPDCCL

Category	Jan'09	Feb'09	Mar'09	TOTAL	Loss (MU)	APERC approved Loss(%)
LT						
I	110.51	114.12	122.19	346.82		
II	22.81	23.08	24.71	70.60		
III	33.51	29.01	23.22	85.74		
IV	0.43	0.38	0.35	1.16		
V	298.24	285.98	373.89	958.11		
VI	27.28	26.65	25.42	79.35		
VII	1.88	1.69	1.96	5.53		
VIII	0.01	0.03	0.58	0.62		
Sub-Total	494.67	480.94	572.32	1547.93		
HT						
I	91.07	96.00	82.13	269.20		
II	4.79	5.21	5.37	15.37		
IV	34.16	18.66	15.63	68.45		
V	29.19	29.49	27.86	86.54		
VI	8.30	9.57	10.08	27.95		
VII	42.98	47.19	45.42	135.59		
Sub-Total	210.49	206.12	186.49	603.10		
G.TOTAL	705.16	687.06	758.81	2151.03		
PP Qty	859.66	837.59	925.07	2622.32	471.29	17.97%

**ALL DISCOMs
(in MU)**

Category	Jan'09	Feb'09	Mar'09	TOTAL	Loss (MU)	APERC approved Loss(%)
LT						
I	872.09	888.38	983.84	2744.30		
II	227.60	239.33	285.13	752.06		
III	230.36	215.58	245.62	691.56		
IV	4.25	3.51	5.37	13.14		
V	1343.15	1204.72	1677.30	4225.17		
VI	159.22	176.07	173.98	509.27		
VII	12.01	12.35	14.26	38.62		
VIII	0.66	0.61	1.00	2.27		
Sub-Total	2849.33	2740.55	3386.50	8976.38		
HT						
I	1141.63	1237.56	1012.34	3391.53		
II	127.09	141.16	136.75	405.00		
IV	54.89	53.71	49.90	158.50		
V	123.87	126.08	116.46	366.41		
VI	55.77	60.62	56.77	173.15		
VII	43.66	48.21	46.33	138.20		
Sub-Total	1546.91	1667.34	1418.55	4632.79		
G.TOTAL	4396.24	4407.89	4805.05	13609.17		
PP Qty	5317.16	5331.02	5814.22	16462.40	2853.23	17.33%

Excl. LT AGL	3053.09	3203.17	3127.75	9384.00		
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List of Objectors on FSA claims of DISCOMs for FY 2008-09 & 2009-10

Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
1	M.Venugopala Rao	M.Venugopala Rao, Journalist, H.No.7-1-408 to 413, Flat No.203, Sri Sai Darsan Residency, Balkampet Road, Ameerpet, Hyd
2	Swamy jaganmayananda	Swamy jaganmayananda, Husnabad village, Kodangal Mandal, Mahaubnagar dist., A.P.
3	Sri Ch.Prabhakara Rao	Sri Ch.Prabhakara Rao, Unit Head, M/s Hindustan Zinc Ltd., Zinc Smelter (P.O.),
4	Sri P.Narendranath Chowdary	P.Narendranath Chowdary, JMD/ The Andhra Sugars Limited, Venkatarayapuram, Tanuku
5	Sri P.Prabhakara Rao	Sri P.Prabhakara Rao, Secretary General, Federation of Andhra Pradesh Small Industries Association,
6	Sri Challa Gunaranjan, Advocate for M/s The India Cements Ltd.	Sri Challa Gunaranjan, Advocate, 05, Subhodaya Apartments, Boggulakunta, Hyderabad - 500 001
7	Sri Challa Gunaranjan, Advocate for M/s GMR Hyderabad International Airport Ltd.,	Sri Challa Gunaranjan, Advocate, 05, Subhodaya Apartments, Boggulakunta, Hyderabad - 500 001
8	Muduganti Anitha	Muduganti Anitha, Ph: 9848371945
9	M.Yadagiri Reddy	M.Yadagiri Reddy, Shamshabad
10	Ganesh Goud	Ganesh Goud, Shamsgabad
11	Adi Reddy	Adi Reddy, Shamshabad
12	Veera Swamy	Veera Swamy
13	Bhoopla reddy	Bhoopla reddy, Shamshabad
14	Ganesh	Ganesh, Shamshabad
15	Lakshmaiah	Lakshmaiah, Shamshabad
16	K.Vittal Rao	K.Vittal Rao, Shamshabad
17	Muduganti Sridhar Reddy	Muduganti Sridhar Reddy, Tresurer, Bharatiya Kisan Sangh, A.P., 2-3-51, Classic Towers, F.No.203, Bagh Amberpet, Hyderabad - 500 013
18	K.Gopal Chowdary, C-13/2, Sainikipuri, Secunderabad - 534215	M/s The Andhra Sugars Ltd., Venkatarayapuram, Tanuku - 534 215
19		M/s Hindustan Zinc Ltd., Zinc Smelter(P.O.), Visakhapatnam - 530 015
20		M/s Priyadarsini Spinning Mills Ltd, Satyanarayana Enclave, Icon Block, 2nd Floor, Madinaguda, Hyderabad - 500 049

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Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
21		M/s Surya Jyotyhi Spinning Mills Ltd., Surya Towers, Secunderabad
22		M/s A.P.Spining Mills Association, D.No.3-6-168/4, Hyderguda, Hyderabad - 500 029
23		M/s Sravanthi Agencies Pvt. Ltd, Icon Block, 2nd Floor, Madinaguda, Near Miyapur, Hyderabad-49
24	K.V.Upendra Guptha, H.No.1-1-336/110, Chikkadapally, Opp.Abhudya High School, Hyderabad - 500 020	M/s MSN Group, MSN Laboratories, C-24, Industrial Estate, Sanath nagar, Hyderabad - 8
25		M/s Sree Rayalaseema Alkalies and Allied Chemicals Ltd
26		M/s The Roller Flour Mills Association
27		M/s A.P.Rice Bran Oil Solvent Extractors Association
28		A.P.Rice Millers Association
29		M/s Nutrine Confectionary Compnay Ltd, Palamaneru Road, Chittoor, Chittoor dist. - 517 002
30		Dhulipalla V.A.S. Ravi Prasad, 12-0-1289(Old No.12-186/5/1) Road No.2, Anand Nagar Colony, Bandalaguda, Hyderabad - 68
31	M/s S.P.M. Ploymers (P) Ltd., H.No.MIG - 172, KPHB Colony, Kukatpally, Hyderabad - 500 072	
32	M/s Alshine Aluminium Companies Pvt. Ltd., H.No.MIG - 172, KPHB Colony, Kukatpally, Hyderabad - 500 072	
33	M/s V.S.N.Plastics Pvt. Ltd., H.No.MIG - 172, KPHB Colony, Kukatpally, Hyderabad - 500 072	
34	M/s Keerthi Industries Ltd., Adminsitrative Office, Plot No.40, IDA, Balanagar, Hyderabad - 500 037	
35	M/s Koganti Steels Pvt. Ltd., 16/123, 7thn Road, Jawhar Autonagar, Vijayawada - 520 007	
36	M/s Tirumala Tirupati Lodge & Hotel Owners Association, C/o Hotel Bliss, 19-3-45, Near Ramanuja Circle, Tirupati - 517 501	
37	M/s Chittoor Granite Factory Owners Association, D.No.45/1A, Balaji Nagar, Greampet, Chittor dist.	
38	M/s Mohan's Wood Works, Plot No.18, ,IDA, Cherlapally, Phase-I,Hyderabad - 500 051	
39	M/s Modular Millennium, Plot No.14, IDA, Cherlapally, Phase-I, Hyderabad - 500 051	
40	M/s Jeedimetla Effluent Treatment Ltd., Plot No.267, Phase-I, I.D.A., Jeedimetla, Hyderabad - 500 055	
41	M/s Vimta Labs Ltd., 142, IDA Phase II, Cherlapally, Hyderabad - 500 051	

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List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
42		M/s Surya Jyothi Polymers Pvt. Ltd., Plot Nop.47, CIE, Gandhi nagar, Balanagar, Hyderabad
43		M/s Raavela Engineering Industries, Plot No.16, IDA, Cherlapally, Phase-I, Hyderabad - 500 051
44		M/s Aman Tubes Pvt. Ltd., Vth Floor, Surya Towers, S.P.Road, Secunderabad
45		M/s Vasant Chemicals Pvt. Ltd., 4th Floor, Vasant Towers, Behind Shopper's Stop, Begumpet, Hyderabad - 500 016
46		M/s VSF Projects Ltd., Plot No.89/A, Aiswarya, street No.8, Sagar Society, Road No.2, Banjara Hills, Hyderabad - 500 034
47		M/s Rayalaseema Bio Fuels, 14/36, I.D.A., Renigunta, Chittoor dist.
48		M/s Bhimas Residency Hotels Ltd., D.No.19-03-41, Near Railway Over Bridge, Renigunta Road, Tirupati
49		M/s Sneha Vinyl Products Ltd., I.D.A, Renigunta, Chittoor dist.
50		M/s NELCAST Ltd., Gudur, Nellore dist.
51		M/s INCAP Ltd., # 1-58, Nidamanur, Vijayawada - 521 104
52		M/s Sidhvin Agro Ltd. (M/s Vijayawada Roller Flour Mills)
53		M/s Ramdev Industries Ltd.
54		M/s Sri Krishna Re-Rolling Mill, D.No.6-224, sarpavaram, Kakinada - 533 005
55		M/s Sri Ramdas Pulp Packagings, Godavari Edible Oil Road, Kesavaram - 533 341
56		M/s Sri Ramdas Paper Boards Pvt. Ltd, 60-8-18, P& T Colony, Rajahmundry - 533 105
57		M/s Andhra Pulp Products, Godavari Edible Oil Road, Kesavaram - 533 341, Mandapeta Mandal, E.G.Dist.
58		M/s Rolex Paper Mills Ltd., 4-96, Chintaparru - 534 250, Palakol(Mandal), W.G.Dist.
59		M/s Sri Vinayaka paper and Boards Ltd, 404A, 4th Floor, Concourse, 7-1-58, Greenlands Road, Ameerpet, Hyderabad - 500 016
60		M/s Hanuman Ispat Udyog, Plot No.50, Industrial park, Parawada, Visakhapatnam
61		M/s Abhedya Industries Ltd., Sy.No.160, Kothur Industrial Estate , Kothur, Mahaboobnagar - 509228
62		M/s Pankaj Polymers Ltd., Vth Floor, Surya Towers, S.P.Road, Secunderabad

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Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
63		On behalf of M/s Vamshadhara Paper Mills Ltd., O.P.No.24 of 2011
64		M/s Hitesh chemicals & Drugs (P) Ltd., 6-3-354/1/1, Hindi Nagar, Panjagutta, Hyderabad
65		Federation of A.P.Small Industrial Association, Administrative Building, Industrial Estate,Sanathnagar, Hyderabad - 500 018
66		M/s Sonali Steels
67		M/s VSN Plastics Pvt Ltd., 50B, SVCIE, Bachupally Village, Qutubullapur Mandal, RR Dist.
68		M/s BHEL Ancillary Industrial Estate
69		M/s Sri Gokul Engineering Works, B-38/A, BHEL-AIE, R.C.Puram, Hyderabad - 502 032
70		M/s Raavela Doors & Decors, A-13, Road No.09,IDA, Cherlapally, Hyderabad - 500 051
71		M/s Sri Balaji Industries, Plot No.113, CIE, Gandhi Nagar, Balanagar, Hyderabad - 37
72		M/s Jeevan Jyothi Polymers Ltd., Plot Nop.F-12/Part Road No.07, IDA, Kukatpally, Gandhi Nagar, Balanagar, Hyderabad
73		M/s Jeevan Polymers Ltd, Plot No. 12 CIE, Gandhi Nagar, Balanagar, Hyderabad
74		M/s Jakhotia Polysacks Pvt. Ltd, Sy.No.36, Rangampally Village - 505 172, Peddapalli(M), Karimnagar dist.
75		M/s Jakhotia Plastics Pvt. Ltd., Plot No.43/A, Phase 1, Road No.10, IDA, Jeedimetla, Hyderabad - 500 055
76		M/s Jakhotia Polymers Pvt. Ltd., Plot No.44/A/2, Phase 1, Road No.10, IDA, Jeedimetla, Hyderabad - 500 055
77		M/s Raghuram Synthetics Pvt. Ltd., Sy.No.463/A & 463/E, Suglampally(V), Sultanabad Mandal, Karimnagar dist.
78		M/s Goldstone Infratech Ltd., S.D.Road, Secunderabad
79		M/s Vantech Chemicals Ltd, 103, Vijaya Enclave, Plot No.32, Sri Nagar Colony, Hyderabad - 500 073
80		M/s Surya Jyothi Polymers Pvt. Ltd., Plot Nop.47, CIE, Gandhi nagar, Balanagar, Hyderabad
81	B.Nalini Kumar	L.Chimanlal Industries Pvt. Ltd, Plot No.A1/1(part), Bloack No.3, Survey No.1, Industrial development Area, Uppal, Hyderabad
82		M/s Usha Kiron Movies Ltd, Ramoji Film City
83		M/s Dolphin Hotels Ltd, Dabagardens, Visakhapatnam
84	Challa Gunaranjan, Advocate, 05, Subhodaya Apartments, Boggulakunta, Hyderabad - 500 001	M/s Guntur District Cold Storage Owners Ltd, C/o Siva Sai Cold Storage, D.No.4/191, Nallapadu Road, Guntur - 522 005

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List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
85	E.Srinivas	M/s Dual Rings Pvt. Ltd, Plot No.28-1-13/B, IDA Nacharam, Hyderabad - 500 076
86	M.V.Rajeswar Rao	Secretary General, FAPCCI, Federation House, FAPCCI Marg, Red Hills,Hyderabad - 500 004
87	Director	M/s Somani Inpat Pvt. Ltd, 5-4-1 to 16, 1st Floor, Distillary Road, Ranigunj, Secunderabad - 500 003
88	MD	M/s Vinayaka Pulp Packaging, 404 A, 4th Floor, Concourse, 7-1-58, Greenlands Road, Ameerpet, Hyderabad - 500 016
89		ICFAI Foundation for Higher Education, #52, Nagarjuna Hills, Panjagutta, Hyderabad - 500 082
90		M/s Central India Packaging Co Pvt Ltd, Dwaraka Kunj, 177, Bowenpally, Secunderabad - 500 011
91	G.V.S.Raju	M/s Deccan Polypacks Ltd., Sy.No.142 A, IDA Bollaram(Village Road), Via Miyapur, Jinnaram Manadal, Medak Dist. - 502 325
92		M/s Sai Krishna Alloys, Shed No.E4, LE, Patancheru, Medak Dist.
93	Sri I.Srinivas Reddy	M/s Sri Venkatarama Ice Factory, Sy.No.145, Gagillapur(V), Quthbullapur(M), R.R.dist.
94		M/s Mayur Stonex Pvt. Ltd, Sy.No.30, Suraram Village, Quthbullapur Mandal, Hyderabad - 500 055
95		M/s Martopearl Alloys Pvt. Ltd, Plot No.17, IDA, patancheru - 502319
96		M/s Marvel Granites, Sy.No.67 & 69, Bahadurpally, Quthbullapur(M), R.R.dist.
97		M/s Artemis Biotech, Plot No.1,5,14 &15, Industrial Development Area, Jeedimetal, Hyderabad - 500 055
98		M/s Mayur Granites, Sy.No.67 & 69, Bahadurpally, Quthbullapur(M), R.R.Dist. - 5000 55
99		M/s Deccan Alloy Castings(I) Pvt. Ltd, Plot No.5-B, Phase-I, I.D.A., Patancheru - 502319
100		M/s Uma Industries, 15-02-686, Siddiamber Bazar, Hyderabad - 500 012
101	Sri Ajoy Kumar Vinnokota	M/s Gayatri Granites, 2-158/11, Suraram, Hyderabad
102	V.Revathi Padma	M/s Vinnakota Enterprises, 2-158/8, Suraram, Hyderabad - 500 055
103	A.Hari Hara Prasad	M/s Tejaswi Packaging Pvt. Ltd, Plot No.6A, Phase-I, IDA, Cherlapally, Hyderabad - 500 051
104		M/s Rudra Alloys Castings Pvt. Ltd, Phase-III, Shed No.D-173, IDA, Jeedimetla, Hyderabad - 500 055
105		M/s Kantha Rubber Pvt. Ltd, 143-144, Phase-V, I.D.A., Jeedimetal, Hyderabad - 500 055
106		M/s DeeJay Miltipacks(P) Ltd, Agarwal House, 10 & 8/3A, Vepery Church Road, Vepery, Chennai - 600 007

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Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
107		M/s Madras Cements Ltd., Kumaraswamy Raja Nagar - 521 457, jaggayyapeta Taluk, Krishna Dist. , A..P.
108	Nitin Singh	Joint secretary, Biscuits Wafers & Confectionary Manufacturies Ltd
109	P.Parthasarathi	M/s Balkrishna Livestocks Breeders Pvt. Ltd, Tirupathi
110	K.V.Ranganatham	M/s Bhimas Delux Hotels
111	N.Raghava Rao	M/s Sri Dhanalakshmi Cotton & Rice Mills Pvt Ltd.,
112	M.Ananda Rao	M/s Thermal Systems (Hyderabad) Pvt. Ltd, Flat No.1, Apuroopa Township, IDA, Jeedimetal, Hyderabad - 500 055
113	Harsh Chordia	M/s Binju Metals & Alloys Industries (P) Ltd, 15-09-466, Mahaboob Gunj Road, Hyderabad
114	Nemi Chand	M/s Kaycee Soaps & Detergents, 14-07-81, Shanker Bazar, Hyderabad - 500 012
115	Gautham Chand Jain	M/s Kishoresons Detergents Pvt. Ltd, 14-06-86, Chaudi Bazar, Hyderabad - 500012
116	Gautham Chand Jain	M/s Sayarsons Detergents Toletries, 15-9-469/3, Mahaboob Gunj, Hyderabad - 500012
117	Gautham Chand Jain	M/s Kishoresons Toiletries, 15-09-469/1, Mhaboob Gunj Road, Hyderabad - 500012
118	Gautham Chand Jain	M/s Kishoresons Surfacants, 14-06-86, Chaudi Bazar, Hyderabad - 500012
119	Sanjay Kumar Jain	M/s K.K.Detergents, 15-09-469, Mahaboobgunj Road, Hyderabad - 500 012
120	C.Rama Rao	M/s Avra laboratories Pvt. Ltd., Plot No.9/15, Road No.6, IDA nacharam, Hyderabad
121		M/s Randsun Engineering Company Pvt. Ltd, Morampudi Road, Hukumpeta, Rajahmundry - 533 105
122	B.Sankariah	M/s Grindwell Norton Ltd, Kadapa Road, Renigunta - 517520, A.P.
123	Varun Agarwal	Ms Ellebarrie Industrial gases Ltd, Plot No.57-A, J.N.Pharma City, Parawada Mandal, Visakhapatnam - 531 019
124	R.Shiv Kumar	M/s Aditya Spinners Ltd, 6-3-668/10/66, Durga nagar Colony, Panjagutta, Hyderabad - 500 082
125		M/s Inox Air Products Ltd, F.No.202, D.No.6-3-902/D/202, Durga Apartments, Rajbhavan Road, Somajiguda, Hyderabad - 500 082
126	M.Rajyalakshmi	M/s Vikram Lodge, 208, T.P.Area, Tirupati - 517501
127	M.Suryanarayana Reddy	M/s Vikram Lodge, 207, T.P.Area, Tirupati - 517501
128	M.Balakrishna Reddy	M/s Bliss Hotels Ltd, 19-3-45, Near Ramanuja Circle, Renigunta Road, Tirupati - 517501

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Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
129	Madhu Pratap Pemmasani	M/s Sibar Autoparts Ltd
130	K.V.Ranganatham	M/s Bhimas Paradise, D.No.33-37, Renigunta Road, Tirupati
131	Maganti Murali	M/s Krishna Polypacks(P) Ltd, 8-3-833/15, Phase-I, Kamalapuri Colony, Srinagar Colony Post, Hyderabad - 500 073
132	L.Nagaraja Naidu	M/s Tirumala Tirupathi Family Health Care(P) Ltd, 19-9-29/2A, Tiruchanur Road, Sankarambadi Circle, Tirupati
133	K.Prabhakara Reddy	M/s Fortune Kences Hotel, Tirupathi
134	Vajawat Manoj Kumar Jain	M/s Jayanthi Boards Ltd, Tanuku
135	P.Purnachand	M/s Relmix Pvt. Ltd, 203, Vijaya Enclave, Plot No.32, Srinagar Colony, Hyderabad - 500 073
136	P.Purnachand	M/s Rocksand Minerals Pvt. Ltd, 203, Vijaya Enclave, Plot No.32, Srinagar Colony, Hyderabad - 500 073
137	M.Sasidhar Babu	M/s Upputuramma Hotesl and Resorts Pvt. Ltd, D.No.14-2-118,119, T.P. Area, Tirupati
138	V.Parthasaradhi	M/s Balkrishna Livestocks Breeders Pvt. Ltd, No.377/C1, 43rd cross, 9th Main, 5th Block, Jayanagar, Bangalore - 560 041
139	K.M.Chinnaswamy Naidu	M/s Srinivas Granites, Narigapalli (V&P.O.), Chittoor dist.
140	K.C.Bakthavachal	M/s Sai Raocks, S.No.28/2, Narigapalle(V&P), Chittoor dist.
141	N.K.Madan	M/s Arun Ispat Udyog, 5-4-42, Distillary Road, Ranigunj, Secunderabad
142	R.Shravan Kumar	M/s Sree Vinayaka Steels, 2-3-577/2, Sri Sai Complex, Minister Road, Nallagutta, Secunderabad
143	Vinod Kumar Agarwal	M/s Deepthi Steels, 5-4-42, Distillary Road,Ranigunj, Secunderabad
144	N.Purushotham Rao	M/s Porus Laboratories, Flat No.401, SVs Classic Residency, Ameerpet, Hyderabad
145	Madukanti Sridhar Reddy	Bharatiya Kisan Sangh, 2-3-51, classic Towers, F.No.203, Bagh Amberpet, Hyderabad
146	M.Rajarajesh	Bharatiya Kisan Sangh, Ph:9848252628
147	J.Sri Ranga Rao	Bharatiya Kisan Sangh
148	Sujit Kumar Thakur	M/s Pragati Polymers Unit III, Survey No.351/E, Domadugu Village, Bonthapally post, Jinnaram Mandal, Medak Dist.
149	Sujit Kumar Thakur	M/s Pragati Polymers Unit II, Survey No.351/E, Domadugu Village, Bonthapally post, Jinnaram Mandal, Medak Dist.
150	Sujit Kumar Thakur	M/s Pragati Polymers, Survey No.351/E, Domadugu Village, Bonthapally post, Jinnaram Mandal, Medak Dist.

List of Objectors on FSA claims of DISCOMs for FY 2008-09 & 2009-10

Dt.30-11-2011 - LIST OF OBJECTORS

List of Objectors

S.No.	Objector / Adovocate Name	Individual / On Behalf of
151	R.Muralidharan	M/s A.P.Woven Sacks Manufactures Association
152	M.Ananjaneya Raju	Joint Secretary, West Godavari Ice Factory Owners Welfare Association, #22-2-133, Maha lakshmi Complex, Opp.Padmasri Picture Palace, P.P.Road, Bhimavaram - 534 201