

**BEFORE THE RAJASTHAN ELECTRICITY REGULATORY COMMISSION
JAIPUR**

CASE NO.....OF 2016

PETITION NO.....OF 2016

IN THE MATTER OF:

Determination and approval of Cross Subsidy Surcharge under Section 42 (2) read with Sections 39 and 40 and other applicable provisions of the Electricity Act, 2003.

AND

IN THE MATTER OF:

AJMER VIDYUT VITARAN NIGAM LTD.

Old Power House, HathiBhata,
Jaipur Road, Ajmer-305001
Represented by Director

JAIPUR VIDYUT VITARAN NIGAM LTD.

Vidyut Bhawan, Janpath,
Jaipur -302005
Represented by Director

JODHPUR VIDYUT VITARAN NIGAM LTD.

New Power House, Industrial Area,
Jodhpur-342003
Represented by Director

Petitioners

REPLY TO THE OBJECTIONS FILED BY THE OBJECTORS TO THE PETITION UNDER SECTION 42 (2) READ WITH SECTIONS 39 AND 40 OF THE ELECTRICITY ACT, 2003 AND THE NATIONAL TARIFF POLICY NOTIFIED UNDER SECTION 3 OF THE ELECTRICITY ACT, 2003 FOR DETERMINATION OF CROSS SUBSIDY SURCHARGE

MOST RESPECTFULLY SHOWETH

1. The Petitioners have received Objections / comments from number of persons, as listed in **Appendix-A**. The nature of objections raised are somewhat common and the Petitioners are filing this common reply to the objections/ Comments.
2. However before dealing with the objections, the Petitioners reiterate the contents of the Petition filed for determination of the Cross Subsidy Surcharge applicable in the State of Rajasthan. It is reiterated that the Cross Subsidy Surcharge is payable by every person whose premises are situated within the licensed area of any of the Petitioners herein but who seek to source their electricity requirements from persons other than the distribution licensees (the concerned Petitioner) within whose licensed area, the premises are situated. The only exemption from payment of Cross Subsidy Surcharge provided is for captive generation and captive use which duly falls within the scope of Section 2 (8) of the Electricity Act, 2003 read with Rule 3 of the Electricity Rules, 2005.
3. Further, in terms of Sections 38, 39, 40 and 42 (2) of the Electricity Act, such Cross Subsidy Surcharge to be determined is on the basis of the concept of compensatory payment to the distribution licensee for loss of cross subsidy which are prevalent in the tariff design, namely, cross subsidisation of the subsidised category of consumers by the higher tariff of subsidising category of consumers. The objections filed are generally on behalf of the subsidising category of consumers. Section 42 (2) - proviso is the basis on which the determination of Cross Subsidy Surcharge need to be undertaken.
4. The provisions of the Electricity Act in regard to the Cross Subsidy Surcharge has already been interpreted and the law has been laid down

by the Hon'ble Supreme Court in SESA Sterlite Limited v Orissa Electricity Regulatory Commission (2014) 8 SCC 444. Further, the Tariff Policy, 2016 makes it clear that the cross subsidy computation has to be based on the difference between the average cost to supply and the tariff determined for the relevant category of consumers. The nature, scope, purpose and methodology of determination of the Cross Subsidy Surcharge is, therefore, now well settled. Despite the above, the Objectors are attempting to raise the aspect which have already been settled.

5. The Objections raised by various Objectors can be broadly summarised under the following heads and the submissions of the Petitioners in regard to the same are also given under respective heads:

A. Re: Cross Subsidy Surcharge Petition needs to be filed along with ARR petition as tariff and cross subsidy are inter-related

The objection raised is hyper-technical and has no merit. As mentioned herein above, the principle on which the Cross Subsidy Surcharge is to be determined and the methodology to be applied is abundantly clear as laid down by the Hon'ble Supreme Court in SESA Sterlite case (supra), the National Tariff Policy, 2016 and above all, the basic provisions of Section 42 (2) of the Electricity Act. The average cost to supply is determined in the tariff proceedings for determination of the distribution and retail supply of electricity by the distribution licensee. Similarly, the tariff design, namely, the tariff payable by each of the category of consumers are determined in such tariff proceedings for determination of distribution and retail supply tariff. Similarly, the other tariff elements like, the transmission and distribution expenses, cost of power purchase, loss adjustments etc. are determined in the said tariff proceedings. The

methodology for the Cross Subsidy Surcharge can be applied and the Cross Subsidy Surcharge can be determined either along with the determination of revenue requirements and tariff of the distribution licensee or subsequently based on the various tariff elements determined in such Annual Revenue Requirements or on the basis of actuals as determined by the Petitioner. In the circumstances of the present case, where there have been changes brought about by the National tariff Policy, 2016 and issues of transmission and wheeling charges being settled, there is nothing contrary to law if the Hon'ble Commission determines the Cross Subsidy Surcharge amount by an independent proceeding. The objections raised is hyper-technical. No prejudice whatsoever has been caused to any of the Industries or Objectors by reason of the Hon'ble Commission determining the Cross Subsidy Surcharge amount by a separate proceeding instead of the same being done in the distribution and retail supply tariff determination process. In the absence of any prejudice being shown to have been caused to the Objectors/Industries by reason of the cross subsidy determination being done by a separate proceeding, the objections raised is misconceived. In fact, the Cross Subsidy Surcharge determination by a separate proceeding after determination of the Annual Revenue Requirements of the distribution licensees and tariff for different categories of consumers, affords an opportunity to the Objectors/Industries to raise appropriate issues on the computation of the Cross Subsidy Surcharge amount. Accordingly, the Objectors/Industries have been benefitted by the determination of the Cross Subsidy Surcharge amount in a separate proceeding. It is, however, submitted that in a given case such as for determination of the cross subsidy for the subsequent financial year, the Hon'ble

Commission may adopt such determination of cross subsidy amount along with the determination of the Annual Revenue Requirements and tariff for the distribution and retail supply of electricity. The allegations to the contrary are wrong and are denied.

B. Cross subsidy needs to be computed before computing cross subsidy surcharge

There is no merit in the allegation made by the Objectors. The existence of cross subsidy in the tariff design is not disputed. This is clear from the average cost of power purchase being much lower than the applicable tariff to the concerned category of consumers after adjusting for the transmission, wheeling etc. The transmission, wheeling charges and adjustment for losses is common both in the case of Open Access consumers and also to be considered as part of the retail supply tariff to the consumers at large. The difference between the average power purchase cost and the tariff determined for the concerned category of consumers clearly indicates that there is an element of cross subsidy. Such an element of cross subsidy is to be computed as a surcharge. The allegations to the contrary are wrong and are denied.

C. All cost elements including wheeling charges and voltage wise losses needs to be first approved

With regard to the above objection, it is submitted that the cost element regarding wheeling charges voltage-wise, losses etc. are to be adopted as per the tariff determination done for the retail supply of electricity. In case the tariff elements including wheeling charges and voltage-wise losses are considered at a higher amount, the Cross Subsidy Surcharge gets reduced. The cost of supplying electricity to

the retail supply consumers excluding the cost of power purchase is to be taken as the cost of other charges such as wheeling charges, transmission for losses as per the formulae given in the formulae in the Tariff Policy. There is, therefore, no merit in the contention of the Objectors that in the absence of determination of the wheeling charges voltage wise and adjustment for losses on voltage wise, the Cross Subsidy Surcharge cannot be determined. It is respectfully submitted that the contention of the Objectors in this regard has no merit inasmuch as if on the basis the determination of wheeling charges for each category of consumers voltage wise or otherwise and adjustment of losses for each voltage level consumers, the said amount being lower in the case of industrial consumers, the cross subsidy amount will increase. Accordingly, the Objectors/Industries cannot have any objection to the determination of the Cross Subsidy Surcharge taking the wheeling charges and wheeling losses at a higher amount as the same would be beneficial to them. In any event, whatever wheeling charges and wheeling losses are considered for the purpose of retail supply tariff, the same need to be factored for the purpose of computation of Cross Subsidy Surcharge.

D. Cross subsidy surcharge is to be based on tariff and costs approved for the relevant year, in this case FY 2016-17.

The Cross Subsidy Surcharge can be determined based on the tariff and cost approved for a relevant period and not necessarily for the current financial year. The tariff determination including the cross subsidy determination is an on-going process. The tariff is adjusted on a yearly basis for surplus or deficit. In any event, in the present case such tariff for the financial year 2015-16 having been determined

(which will be applicable till the next Tariff Order) , the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied.

E. The petition has to be filed in accordance with RERC Regulations and not NTP, 2016 as NTP is not binding.

The petition has been filed in accordance with the Regulations of the Hon'ble Commission read with the National Tariff Policy, 2016. The Regulations incorporated the methodology provided under the said National Tariff Policy, 2006 as that was the prevalent Tariff Policy at the time of notification of the Tariff Regulations. Section 61 read with Section 86 (4) of the Electricity Act provides for the Hon'ble Commission to be guided by the National Tariff Policies that are notified by the Central Government in exercise of its statutory powers under Section 3 of the Electricity Act, 2003. Prior to NTP 2016, the Hon'ble Commission was being guided by the NTP, 2006. The Intention of the Regulations is clear namely incorporate what the Central Government has notified. The changes in the NTP brought about by NTP 2016 is to be read as a part of the Regulations in the context of the Hon'ble Commission having decided to be guided by the National Tariff Policy notified by the Central Government. It would lead to an anomalous and absurd result if the objections of the Objectors is to be accepted namely notwithstanding the NTP 2016 having come into force and notwithstanding that the Hon'ble Commission was being guided by the National Tariff Policy notified by the Central Government in exercise of the powers under Section 3, the Hon'ble Commission cannot be guided by NTP 2016. There is

nothing in the Regulations notified by the Hon'ble Commission that it would not be guided by NTP notified by the Central Government from time to time. The intention is to the contrary. The objections raised are misconceived and devoid of any merit.

F. As per the Electricity Act, 2003, Cross subsidy surcharge is to be progressively reduced while increase has been asked for

As per the NTP 2016 as well as NTP 2016 progressive reduction in the Cross Subsidy Surcharge is on the percentage basis and it should be brought down up to $\pm 20\%$ of the cost of supply. Accordingly, there is no restriction on the cross subsidy amount being determined subject to the above Guidelines that it may be progressively reduced to $\pm 20\%$. There is no requirement under the NTP that it is to be brought down immediately to the above level. The reduction of the cross subsidy amount is to be considered in the light of various aspects including the tariff shock to the category of consumers who cannot afford higher quantum of electricity tariff. This aspect has been recognised by the Hon'ble Supreme Court in SESA Sterlite Limited case. In exercise of the powers under Section 3 of the Electricity Act, the Central Government has considered the overall limit of cross subsidy amount to be not exceeding 20% of the tariff of the subsidising consumers. This has become the dominant consideration. Accordingly, so long the cross subsidy amount does not exceed the ceiling of 20% of the tariff of the relevant category of consumers determined by the Hon'ble Commission, there cannot be any objection to the amount so determined. The allegations to the contrary are wrong and are denied.

- G. Computation cannot be based on old figures. Value of D, L is used as per orders of 2006 and value of carrying cost of regulatory asset has been used as per the tariff order of FY 2014-15.**

The Petitioners have given the value of the loss as per the available computation. The Hon'ble Commission can, however, adopt the value as per the recent tariff order. The value of D, L, etc. used, if it is lower, the cross subsidy amount will be higher as the adjustment to the HT Tariff will be lower and the difference between the pooled power purchase cost and the HT tariff will be higher. Accordingly, the Objectors cannot have any reason or justification to complain that the computation of the cross subsidy amount taking the value of D, L, etc. at a higher amount.

- H. Discoms have retained same value of system losses as approved in 2006 which means no improvements have taken place.**

As in the case of answer to Para G above, if the system losses are considered at a lower amount, the cross subsidy amount would be higher. The Objectors/Industries cannot, therefore, have an objection to the above. The Hon'ble Commission may, however, consider the adjustment for the value of D, L, etc. at a lower amount so as to compute the Cross Subsidy Surcharge amount if considered appropriate.

- I. As per NTP, 2016, Losses should include transmission as well as commercial loss**

The determination of cross subsidy amount need to follow the methodology provided under NTP 2016. It is essentially the difference between the pooled power purchase cost and the cross subsidisation in retail supply after providing for adjustment to the transmission and

distribution charges and losses as applicable. The same has been recalculated and is attached hereby as **Annexure-I**.

J. Computation is based on assumption/fictitious data as nothing was approved for FY 2015-16

The objections raised are without any merit. The Petitioners have given data as applicable and as per the actuals available for FY 2015-16. The Hon'ble Commission can take data as determined by the Hon'ble Commission in the tariff determination process for FY 2015-16 in order dated 22nd September'16. The allegations to the contrary are wrong and are denied.

K. Discoms have not provided details of voltage wise losses, proper computation of wheeling charges and does not maintain voltage wise asset register despite repeated instructions

As mentioned herein above, the losses have been considered as per the available data and the same has been provided for by the Petitioners. The actual voltage wise losses and actual wheeling charges to be determined on voltage wise basis or consumer category-wise basis would, in fact, increase the quantum of Cross Subsidy Surcharge amount. There is, therefore, no prejudice whatsoever to the Objectors/Industries for the computation on Cross Subsidy Surcharge based on the value of the wheeling charges, losses etc. given by the Petitioner.

L. Power purchase cost should not include UI charges. Power purchase cost should be reduced to the extent of recovery from additional surcharge. Transmission charges should not be a part of C but of D.

The Power Purchase Cost should include all cost of power purchase other than those specifically excluded in the methodology provided in NTP 2016. There is no reason to exclude the power purchase through the Unscheduled Interchange. The Unscheduled Interchange is a mechanism adopted by the Procurers based on the expediency, necessity etc. to procure/draw the electricity requirements. The subsidising consumer category pay for the same as a part of the tariff settled by the Hon'ble Commission. The electricity procured through UI is used for the supply to the consumers at large. There is, therefore, no basis for excluding the same. The transmission charges has been adjusted in accordance with the formula provided in NTP 2016.

M. No tariff was approved for FY 2015-16. Tariff "T" should include only energy charges. Voltage wise tariff should reflect various subsidies like voltage subsidy.

It is reiterated that the cross subsidy being computed by the Hon'ble Commission in accordance with NTP 2016. The Hon'ble Commission has already determined the tariff for various categories of consumers for FY 2015-16. The financials so determined can be taken into account for the purpose of determination of Cross Subsidy Surcharge. Also the Petitioner has submitted the revised computation of CSS based on the Tariff approved for the relevant categories vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**.

N. Demand charges paid by open access consumers should be considered towards recovery of cross subsidy

The demand charges are paid by the persons having contract demand with the distribution licensees. These are part of the cost which are recovered as retail supply tariff. It is reiterated that the Cross Subsidy Surcharge need to be determined on the basis of the methodology provided in NTP 2016. There is no basis for asking demand charges to be excluded in such methodology. The Objectors are asking for the adjustment of various charges which are otherwise no admissible in terms of the provisions of Section 42 (2) - proviso, NTP 2016 and the law as laid down by the Hon'ble Supreme Court in SESA Sterlite case (supra).

O. Levy of cross subsidy surcharge will lead to denial of facility of open access

The objections raised has no merit whatsoever. The contention raised is contrary to the principles laid down by the Hon'ble Supreme Court in SESA Sterlite case (supra) interpreting the provisions of the Electricity Act, 2003. The Cross Subsidy Surcharge being a compensatory amount, which is a condition for grant of Open Access. There cannot be any reduction in the Cross Subsidy Surcharge amount calculated on the purported ground of the ability of getting electricity through Open Access being affected. The Cross Subsidy Surcharge amount is utilised to reduce the tariff for the public being served by the distribution licensees. The Objectors/Industries are considering the Open Access to be a facility to them without being subjected to payment of the Cross Subsidy Surcharge. This is completely contrary to the concept of allowing Open Access subject to due payment of the Cross Subsidy Surcharge amount.

**Reply to the objections raised by The Rajasthan Textile Mills Association,
Jindal Saw Ltd. and Sunil Health Care Ltd.**

P. Cross Subsidy Surcharge cannot be increased as under provisions of Section 38 (2) (d) of EA, 2003, cross subsidy once determined by the State Commission has to be progressively reduced.

As per provisions of Section 42 (2) of EA, 2003, the cross subsidy surcharge is to be utilized to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee. However the current levels of cross subsidy surcharge are insufficient to meet the current level of cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010, whereas over the years the cost of supply has increased significantly. Therefore the Petitioners have filed the Petition seeking revision in cross subsidy surcharge. As mentioned herein above, the Cross Subsidy Surcharge amount need to be computed in a manner that it provides effective compensation to the distribution licensee for the loss of cross subsidisation prevalent in the tariff structure. In other words, the payment of such compensatory amount to the distribution licensees to recover the current level of cross subsidy prevalent in the tariff structure is the condition for allowing Open Access and the ability of the Objectors/Industries to get power from third party sources. As held in SESA Sterlite case, the above is the clear mandate of law. The NTP 2016 has also provided for the same. It is, therefore, wrong on the part of the Objectors to raise any issue on the amount of cross subsidy getting increased by virtue of the determination to be done following the NTP 2016 and the law laid down by the Hon'ble Supreme Court.

Q. Cross Subsidy Surcharge Petition to be filed along with petition for determination of ARR. As tariff and cross subsidy surcharge are inter-related, both needs to be considered together. Discoms should submit details of cross subsidy surcharge received from OA consumers at present rates during FY 2015-16 and expected during FY 2016-17.

This aspect has been dealt herein above in the common reply to the various objections. As mentioned therein, no prejudice whatsoever has been caused to the Objectors/Industries by virtue of the determination of the cross subsidy amount by a separate petition after the finalization of the tariff for FY 2015-16. The Cross Subsidy Surcharge amount needs to be determined by the Hon'ble Commission in the present proceeding.

R. The Discoms have calculated Cross Subsidy Surcharge as per provisions of NTP, 2016. However the Commission is bound by its own regulations and cannot override the EA or the regulations which are subordinate legislation and have the force of law. As such the Commission may first amend its regulations by following proper procedure and should consider this petition subsequently.

As mentioned above the Central Government has notified NTP in January 2016 and has amended the formula previously given for computation of Cross Subsidy Surcharge. The computation formula provided in the earlier National Tariff Policy, 2006 was not considered to be an effective compensatory charge for the distribution licensees and, therefore, the Central Government has provided for the methodology and computation as contained in the National Tariff Policy, 2016. As the RERC Tariff Regulations, 2014 were guided by the formula prescribed in NTP, the changes made need to be considered, The Objectors/Industries are proceeding on an erroneous basis that the RERC Regulations need to be amended for implementing the NTP

2016. There is nothing in the RERC Regulations which prohibits the application of NTP 2016 or the determination of the Cross Subsidy Surcharge in accordance with the methodology provided in NTP 2016. The RERC Regulations, 2014 clearly shows that this Hon'ble Commission has adopted the NTP formula by reference and accordingly when the NTP formula changes by coming into force NTP 2016, the same need to be applied. The allegations made by the Objectors are hyper-technical and without any merit.

- S. The Tariff payable by the relevant category of consumers mentioned in the Petition for FY 2015-16 has not been approved by the Commission so far and thus cannot be accepted.**

The Petitioner submit that as FY 2015-16 is already over and as no new tariff was notified for FY 2015-16, the tariff made applicable vide order dated 20.02.2015 was effective and approved for FY 2015-16. The Petitioners have used the same while computing the tariff payable by the relevant category of consumers. To compute the tariff payable by relevant category of consumers, the Petitioners have taken the revenue assessed at the applicable tariff for FY 2015-16 and actual sales to that category for the year. Since the Hon'ble Commission has now notified the tariff for FY 2015-16 (which will be applicable till the next Tariff Order), the relevant financials as provided in the Tariff Order for FY 2015-16 can be considered. Also the Petitioner has submitted the revised computation of CSS based on the Tariff approved for the relevant categories vide Tariff Order dated 22nd Sep'16. The same is hereby attached as Annexure-I.

- T. Similarly "C" which is the weighted average cost of power purchase for FY 2015-16 has also not been approved by the Commission so far. Also, the cost of power purchase should be of top 5% power at the margin, as provided in RERC Regulation 2014.**

The Petitioner submits that no cost of power purchase was approved for FY 2015-16 and as the year is already over, the Petitioner has considered the actual cost of power purchase for determination of C and computation of Cross Subsidy Surcharge. The Petitioner also submits that the weighted average cost of power purchase has been used which is in line with the provisions of National Tariff Policy, 2016. The computation formula provided in the National Tariff Policy, 2006 was not considered to be an effective compensatory charge for the distribution licensees and, therefore, the Central Government has provided for the methodology and computation as contained in the National Tariff Policy, 2016. As the RERC Tariff Regulations, 2014 were in line with the formula prescribed in NTP, 2006, the Petitioners while providing computation based on methodology specified in NTP, 2016. The Petitioners crave reference to the submissions made herein above.

- U. “D” should be the aggregate of transmission, distribution & wheeling charges while charges mentioned in the Petition are only wheeling charges. Even the wheeling charges approved by the Commission are old and should first be revised.**

The Petitioner submits that while submitting the reply to data gaps raised by the Commission, the computation of D has been revised to include transmission charges. The Petitioner also submits that the cross subsidy surcharge is to be levied on the open access consumers who also pay the wheeling charges. Therefore the Petitioner has considered the wheeling charges presently being levied on open access consumers while computing cross subsidy surcharge. The revised computation is hereby attached as **Annexure-I**.

- V. **“L” is the aggregate of transmission, distribution and commercial losses whereas the losses mentioned in the Petition are only the network losses of distribution system. There is no mention of transmission losses of PGCIL and RVPN or of commercial losses in the petition. Both these transmission and commercial losses should be included so as to become total losses expressed as “L” in the formula. These losses should also be first approved by the Commission.**

The Petitioner submits that the cross subsidy surcharge is to be levied only on consumers opting for open access. Such consumers are only in the HT category. For these categories, the collection efficiency is 100% and as such there is no commercial loss. The Petitioner also submits that while submitting the reply to data gaps raised by the Commission, the computation of L has been revised to include transmission losses of PGCIL and RVPN. The revised computation is attached as **Annexure-I**. The submissions made in the preliminary paragraphs are reiterated

- W. **CSS is compensatory in nature which means it is to meet the current level of cross subsidy and as such has to be determined based on current data. It cannot be based on wheeling charges and losses determined in FY 2006-07.**

The Petitioner submits that the cross subsidy surcharge is to be levied on the open access consumers only. Such consumers also pay the wheeling charges. Therefore the Petitioner has considered the wheeling charges presently being levied on open access consumers while computing cross subsidy surcharge. Also, the energy adjustment for open access consumers takes place based on the losses approved by the Hon’ble Commission. The revenue from tariff for such consumers is assessed on the adjusted energy only. This implies that the losses determined by the Hon’ble Commission are applicable

currently and the Discoms are to be compensated for the cross subsidy which would have been recovered from the adjusted units. Thus for determination of cross subsidy surcharge, the prevalent level of losses i.e. approved by the Commission in FY 2006-07, have been used. The submissions made in the preliminary paragraphs are reiterated

- X. As a substantial loan liability of Discoms has been taken over by the state Govt. under UDAY, ARR and cross subsidy based on FY 2015-16 is no more valid.**

Cross subsidy is an inherent part of the tariff structure. In the presently applicable tariff, there is no impact of loans being taken over by the state Govt. under UDAY. Also, the Commission determines ARR on normative levels which does not include the additional interest cost which the Discoms had to bear earlier. Only this additional interest cost burden will reduce due to loans being taken over by the State Govt. Therefore, the computation of cross subsidy surcharge provided in the Petition is still valid.

Reply to the objections raised by the following Objectors:

1. Inani Marble and Granite
2. Synergy Steels
3. Shivam Syncotex Pvt. Ltd.
4. Prime Rolling Mills Pvt. Ltd.
5. Open Access users Association
6. Sunbeam Auto Pvt. Ltd.
7. Fashion Suitings Pvt. Ltd.
8. Silverline Synthetics Pvt. Ltd.
9. Shiv Om Sulz Fab (P) Ltd.
10. Star Cotspin Ltd.

11. Independent Power Producers Association of India
12. Sarvodaya Suiting Ltd.

Y. Calculation of component 'T'

The Objectors have voiced concern over the calculation of the component 'T' which is the tariff payable by the relevant category of consumers. It has been submitted by the Objectors that the value for 'T' in the calculation for Cross Subsidy Surcharge is not valid as per law as the sales and revenue assessed which has been used to compute 'T' are not approved by the Commission for FY 2015-16. It is contended by the Objectors that as per the last Tariff Order issued by the Hon'ble Commission it shall remain in force until the next tariff order and the approved data from the Tariff Order for FY 2014-15 should be used for computation.

It is submitted that the Petitioners have used the actual sales and revenue assessed for FY 2015-16 to compute the component 'T'. The revenue assessed for FY 2015-16 is as per the tariff approved vide Tariff Order dated 20th February 2015. As no tariff order has been issued post that the same is applicable for FY 2015-16 also. The sale approved in the tariff order was based on projection basis. Now the actual sales for the year are available and the same have been used for computation. Also the accounts for FY 2015-16 has been finalized and duly audited. The same has also been submitted to the Hon'ble Commission along with the reply to data gaps observed by the Commission. Further the tariff has been determined for financial year 2015-16 (which will be applicable till the next Tariff Order) and the financials of the said year can now be taken into consideration.

Also the Petitioner has submitted the revised computation of CSS based on the Tariff approved for the relevant categories vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**.

Z. Calculation of component 'C'

The Objectors have urged the Commission to again consider the weighted average cost of power purchase on the basis of retail tariff order for FY 2015-16. The actual power purchase quantum and cost incurred has been used to compute the component 'C' as the FY 2015-16 is already over. The audited figures for the same have also been submitted. Further the tariff has been determined for financial year 2015-16 and the financials of the said year can now be taken into consideration.

AA. Computation of component 'D'

The Objectors have submitted that the actual data for FY 2015-16 approved by the Commission for computation of the component 'D'. It is submitted that the voltage wise wheeling charges as approved by the Commission in 2006 have been considered as the cross subsidy surcharge is levied on the Open Access consumers who bear the wheeling charges also. The wheeling charges applicable are the same that were determined by the Commission in the order dated 19th September 2006. The Commission in its data gaps had also observed to take the transmission charges in the component 'D'. The same has been included to compute 'D' and the recalculated figures have been submitted to Hon'ble Commission. The revised calculations for cross subsidy surcharge computation has been attached hereby as **Annexure-I**. The Petitioners crave reference to the preliminary submissions herein above.

BB. Computation of component 'L'

The Objectors has objected on the system losses considered by the Petitioner as per the Commission order dated 19th September 2006. The Objectors has also drawn reference of the Commission's direction regarding the segregation of T&D and AT&C losses in the Tariff Order and directed the Petitioner to come out with an action plan for the same along with methodology and time frame. It is submitted that the cross subsidy surcharge is levied on the open access consumers. The system losses applicable for these consumers are the same which have been approved by the Hon'ble Commission in FY 2006-07. Hence for computation of cross subsidy surcharge the same loss levels have been used. Also the transmission losses for FY 2015-16 have been included and the revised computation has been submitted to the Hon'ble Commission. For these categories, the collection efficiency is 100% and as such there is no commercial loss. The revised calculations for cross subsidy surcharge computation has been attached hereby as **Annexure-I**. Also the issue regarding segregation of technical and commercial losses, is not relevant to the cross subsidy surcharge and was taken up during the admittance of the tariff petition. The Petitioners crave reference to the preliminary submissions herein above.

CC. Computation of component 'R'

The Objectors have raised objection on the computation of "R" as there is no approved regulatory asset for the year FY 2015-16. It is submitted that the per unit cost of carrying regulatory assets has been computed on the basis of carrying cost approved on the regulatory assets up to FY 2013-14 in the Tariff order dated 20th February 2015.

The actual sales for FY 2015-16 have been considered which have been duly audited also. The National Tariff Policy, 2016 clearly states that R is per unit cost of carrying regulatory assets. As all components are based on per unit of sales, it is understood that R is to be computed as done in the Petition ($R = \text{total carrying cost of regulatory asset} / \text{total sales}$). Further the tariff has been determined for financial year 2015-16. Accordingly the Petitioner has submitted the revised computation of CSS based on the carrying cost for regulatory assets as approved vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**. The Petitioners crave reference to the preliminary submissions herein above.

DD. Negation of limitation by the Petitioner on not to exceed 20% of the tariff applicable to the category of the consumers seeking open access.

The Petitioners submit that the 20% limit of the tariff applicable to the applicable open access availing consumer category has not been negated in any way. The calculation depicting the 20% limit has been submitted to the Hon'ble Commission. It is also prayed in the Petition to pass an interim order authorizing the Petitioners to levy and collect the Cross Subsidy Surcharge at 20% of the tariff applicable to the relevant categories i.e. maximum amount provided in the National Tariff Policy, 2016 or the cross subsidy surcharge computed on the basis of methodology specified herein above, whichever is lower

EE. Imposition of Cross Subsidy Surcharge would hamper the competition in power market.

The Objectors have raised concerns over the levy of cross subsidy surcharge stating the National Tariff Policy which mentions that the

cross subsidy surcharge should not be so onerous that it does not constrain the introduction of competition through open access.

The Petitioners crave reference to the preliminary submissions hereinabove. The Petitioner submits that it understands the concern of the Objectors but at the same time would like to lay emphasis on the fact that the National Tariff Policy also says that the cross subsidy surcharge should be in a way that it compensates the distribution licensee also. The interest of the consumer at large also needs to be protected. The current levels of cross subsidy surcharge are insufficient to meet the current level of cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010 whereas over the years the cost of supply has increased significantly. Hence the cross subsidy surcharge calls for a revision and it prayed to the Hon'ble Commission to consider the revised Cross Subsidy surcharge as submitted by the Petitioner. The Petitioners crave reference to the preliminary submissions hereinabove.

Reply to objections raised by DCM Shriram, Lord Chloro Alkali Ltd., Rajasthan Steel of Chambers and RSWM Ltd & Others

FF. Cross Subsidy Surcharge (CSS) is a derivative figure and is based on Retail Supply Tariff, Cost of Supply, wheeling charges and loss levels. Therefore the Petition for determination of CSS should necessarily be filed along with the Petition for determination of retail tariff.

The Petitioners reiterate the submissions contained in the preliminary general submissions here in above. In any event, in the present case

such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

GG. Cross subsidy surcharge is levied on the open access consumers to counterpart the current level of cross subsidy in the retail tariff. Therefore CSS should be determined in accordance to the tariff approved by the commission and not on the bases of historical data.

The Petitioners crave reference to the preliminary submissions herein above. The CSS formula prescribed in the NTP, 2016 takes into consideration the applicable tariff and the various parameters constituting the cost of supply. As such the formula prescribed leads to computation of difference between both parameters which in other words is cross subsidy built into the applicable tariff. The equivalent amount has to be charged as cross subsidy surcharge from consumers opting for open access limited to the extent of 20% of the applicable tariff. The computation submitted in the Petition also takes into account the applicable tariff and the actual costs and other applicable parameters. As such, it can be said that the computation is based on current data and not on any historical parameters and gives a fair representation of the cross subsidy in the tariff. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied.

HH. Distribution licensee haven't provided appropriate data for approval of ARR and determination of tariff, subsequently the determination of CSS has been done on the basis of data which is surmise and conjecture. Therefore, in limine stage the Petition for determination of CSS shall be dismissed.

Computation of Cross Subsidy Surcharge have been done on the basis revenue assessed, energy sales to the different consumer categories, power purchase, applicable loss level and Commission approved regulatory assets. Audited data for the same have been submitted to the Hon'ble commission at the time of filing of ARR and Tariff Petition. Thus the contention of objector have no merits and surcharge have be determine on petition of determination of cross sub surcharge should be given judicious treatment. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

II. The contention that the formula for determination of cross subsidy surcharge given in National Tariff Policy, 2016 is binding, has been misconceived. However the formula recognized by the Hon'ble Commission in MYT Tariff Regulations is binding for the determination of cross subsidy surcharge and shall be followed for computation of same.

The Central Government has notified NTP in January 2016 and has amended the formula previously given for computation of Cross Subsidy Surcharge. The computation formula provided in the National Tariff Policy, 2006 was not considered to be an effective compensatory charge for the distribution licensees and, therefore, the Central Government has provided for the methodology and

computation as contained in the National Tariff Policy, 2016. The RERC Tariff Regulations, 2014 was guided by NTP Policy 2006 and when there is a change in the Policy with NTP 2016 the methodology provided therein should be followed. The Petitioners crave reference to the preliminary submissions herein above.

JJ. Cross subsidy surcharge required be compensatory in nature and should not be penal in nature. Surcharge should be reasonable enough so that it can promote competition and should be determined along with the ARR and Retails Supply Tariff. The approved level of cross subsidy in retail tariff should be the base to determine the cross subsidy surcharge.

Cross subsidy surcharge is computed according to the formula contained in the National Tariff Policy, 2016 which takes into consideration the applicable tariff and the various parameters constituting the cost of supply. The prescribed formula leads to computation of difference between both parameters which in other words is cross subsidy built into the applicable tariff. The equivalent amount has to be charged as cross subsidy surcharge from consumers opting for open access limited to the extent of 20% of the applicable tariff. The computation submitted in the Petition also takes into account the applicable tariff and the actual costs and other applicable parameters and gives a fair representation of the cross subsidy in the tariff. In the circumstances there cannot be any question of the cross subsidy claimed being penal.

The Petitioner further submits that as per provisions of Section 42 (2) of Electricity Act 2003, the cross subsidy surcharge is to be utilized to meet the requirement of current level of cross subsidy within the area of supply of the distribution licensee. However the current levels of cross subsidy surcharge are insufficient to meet the current level of

cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010 whereas over the years the cost of supply has increased significantly. Therefore the Petitioners have filed the Petition seeking revision in cross subsidy surcharge were in line with the formula prescribed in NTP, 2006,

In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied.

KK. Petitioners have not given the appropriated data along with the Petition for determination of ARR and Retail Tariff Supply. Moreover the tariff for the FY 2016-17 is yet not approved by the Commission. Therefore, in absence of such figures the fixation of surcharge is questionable.

Petitioners submit that the requisite data and the audited accounts have been submitted to Hon'ble Commission at the time of filing of Petition for ARR and Retail Tariff. However, at present the open access consumers have been charged with approved applicable retail tariff and other open access charges and subsequently the computation of surcharge has been done on the basis of the applicable tariff and other prevailing open access charges. Therefore the objection of the Objectors is not valid. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy

Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

- LL. Petitioner have considered the historical tariff approved by the Commission and have used assessed revenue and sales to compute the “T” while determining the Cross Subsidy Surcharge which is not the valid approach for computation of surcharge.**

The Petitioner submits that “T” has been computed based on the applicable tariff for the FY 2015-16 and the sales assessed for the year. It is important to note that extent of cross subsidy has been computed as per the formula prescribed under NTP, 2016 and equivalent amount has been considered as cross subsidy surcharge limited to 20% of applicable tariff. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon’ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied.

- MM. Petitioner have calculated “C” on the basis of the formula given in National Tariff Policy, 2016 which is been misconceived and is the violation of the prevailing regulations.**

The Petitioners reiterate the submissions made here in above

- NN. Petitioner have sought the voltage wise losses “D” levels on the basis of assumptions. Even after the serious direction issued by the Hon’ble commission, Petitioner have sought to relied upon the historical data, assumptions and presumptions. Petitioner have not provided the authenticated data and duly audited accounts to support their calculations.**

The requisite details in regard with the determination of various parameters of Cross Subsidy Surcharge have submitted to the Hon’ble

Commission at the time of Petition for determination of the ARR and Retail Tariff. However, the energy adjustment for open access consumers takes place according to the losses levels approved by the Hon'ble Commission at different voltage levels. The revenue from tariff for such consumers is assessed on the adjusted energy only. This implies that the losses determined by the Hon'ble Commission are applicable currently and the Petitioners are to be compensated for the cross subsidy which would have been recovered from the adjusted units. Thus for determination of cross subsidy surcharge, the prevalent level of losses i.e. approved by the Commission in FY 2006-07, have been used. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied.

OO. The contention to pass the carrying cost of regulatory assets "R" in Cross Subsidy Surcharge have been misconceived and is contrary to the formula of the surcharge specified by the Hon'ble Commission. Further for the calculation purpose, Petitioner have taken an inconsistent stand and have considered the regulatory asset approved in tariff order of FY 2014-15. Moreover the mode and the quantum of recovery of regulatory asset are to be decided by the Commission in the ARR Tariff Petition.

As mentioned above the NTP Regulations, 2016 need to be followed. The Petitioner submits that the formula for determination of cross subsidy surcharge in RERC Tariff Regulations, 2014 were guided by the NTP, 2006. However, the computation formula provided in the National Tariff Policy, 2006 was not considered to be an effective

compensatory charge for the distribution licensees and, therefore, the Central Government has provided for the methodology and computation as contained in the National Tariff Policy, 2016. In the circumstances the Hon'ble Commission need to be guided by NTP 2016. The formulae provided in the NTP 2016 need to be followed and all the elements provided need to be considered in the computation of cross subsidiary.

PP. Unscheduled Interchange of power is never a source of power purchase and same shall not be included in the power purchase cost while computing the cross subsidy surcharge.

The computation of Cross Subsidy Surcharge has been done in accordance to the National Tariff Policy, 2016 which reinstated that for computation of cost of supply weighted average power purchase have to be considered. It further submitted that the Unscheduled Interchange charges are an integral part of power purchase and thus have to be included while determining cross subsidy surcharge to truly reflect the cost of supply. Moreover, if the same is excluded while computing "C", it will only lead to increase in cross-subsidization and cross subsidy surcharge. The Petitioners crave reference to the preliminary submissions made herein above.

QQ. In past the open access consumers were forced to purchase power from open access due to inability of Petitioner to cater to their load. Under such circumstance concept of levying Cross Subsidy Surcharge is incompatible in nature. And the surcharge shall not be levied on the consumers when load restriction and power cut were imposed by the Petitioner.

The objections raised have no merits. The concept of cross subsidy surcharge, the purpose sought to be achieved and the methodology to

be adopted is clear and unambiguous. The allegations made by the objectors are not relevant.

Reply to the objections by Shri Shanti Prasad

RR. The cross subsidy surcharge petition should be considered only after the relevant regulation in the RERC Tariff regulations are amended as per the National Tariff Policy 2016. Also the data and cost of supply should be as per the Regulations

As regards the amendment to Tariff Regulations are concerned the petitioners crave reference to the submissions made herein above and it is stated that the NTP 2016 formulae need to be read into the Regulations. However to avoid any confusion it is respectfully submitted that the Hon'ble Commission may also be pleased to amend the Regulations as suggested by the Objector.

The Petitioner has submitted the computation of cross subsidy surcharge as per the formula specified in the National Tariff Policy 2016. The data used for computation of component like tariff applicable to relevant category, weight average power purchase cost are based on the actuals for FY 2015-16. The same have now been audited. The copy of the audited accounts has also been furnished to the Commission. The wheeling charges and system losses approved by Commission in FY 2006-07 have been used.

SS. Cross subsidy surcharge is to meet the current level of cross subsidy and the as such it should be based on current data and wheeling charges and losses approved in FY 2006-07 should not be used.

The Petitioners reiterate the submissions made herein above The Petitioners submit that currently the same wheeling charge approved

in FY 2006-07 is being levied on the open access consumers. Also the losses considered are the same as were approved then. As presently the same charges and losses are applicable so the same should be used for computation of cross subsidy surcharge as has been by the Petitioner. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

TT. The tariff, ARR, cross subsidy, additional surcharge etc are interrelated to each other. As such the ARR figures and additional revenue expected from revision in the cross subsidy surcharge should also be furnished along with. It also has to be established the revision in cross subsidy surcharge shall not exceed the revenue gap determined in ARR of FY 2016-17 with tariff increase.

It is submitted that the the cross subsidy need to be computed as per the NTP 2016. The revision in cross subsidy surcharge is not the only factor that governs the covering up of revenue gap. There will be a definite improvement in the revenue of the Licensee and the revenue gap will be covered to an extent compared to the scenario of non-revision of charges. Also the cross subsidy per unit is built into the tariff. It is based on the applicable tariff and actual cost incurred by the Petitioner during the year. The cross subsidy surcharge has been computed to recover this in case of consumers availing open access.

UU. There has been significant increase in the distribution system after FY 2006-07 and the operating cost of the system has undergone considerable enhancement with the sales not increasing

in the same proportion. As such the wheeling charges for FY 2016-17 has to be determined.

The Petitioner submits that the wheeling charges that are currently being levied on the open access consumers have been used for the computation of cross subsidy surcharge. The surcharge should be computed on the basis of existing wheeling charges only. The allegations to the contrary are wrong and are denied

VV. Calculation of component 'C'. The power purchase cost needs to be considered up to the interface of Discom's system with grid after accounting for inter-state and intra-state transmission losses. It should also take into account the fuel surcharge, late payment surcharge etc.

The Petitioner would like to submit that the formula for computation of cross subsidy surcharge has the component of losses. The component 'L' takes care of the transmission losses as mentioned by the Objectors. The revised calculations considering the impact of transmission losses in component 'L' and the transmission charges in component 'D' instead of component 'C' has been submitted to the Hon'ble Commission. The same is hereby attached as **Annexure-I**. Also the component 'C' includes the total power purchase cost which accounts for any fuel surcharge of late payment surcharge.

WW. Calculation of component 'T' has not been provided. It should be for relevant voltage class and consumer category considering average LF of consumers of that category, voltage supply rebate, etc. as applicable.

It is submitted that the Petitioner has used the actual sales and revenue assessed for FY 2015-16 to compute the component 'T' and the same is shown in the petition also. The revenue assessed for FY

2015-16 is as per the tariff approved vide Tariff Order dated 20th February 2015. As no tariff order had been issued post that the same was applicable for FY 2015-16 also. The sales approved in the tariff order were based on projection basis. Now the actual sales for the year are available and the same have been used for computation. Also the accounts for FY 2015-16 has been finalized and duly audited. The same has also been submitted to the Hon'ble Commission along with the reply to data gaps observed by the Commission. The revenue assessed accounts for the total rebate applicable for that consumer category. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. Also the Petitioner has submitted the revised computation of CSS based on the Tariff approved for the relevant categories vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**. The allegations to the contrary are wrong and are denied

XX. Carrying cost of Regulatory Assets 'R' is considered based on that for FY 2014-15 as per the RERC order dated 20.02.15. It should also be updated to FY 2016-17.

It is submitted that the per unit cost of carrying regulatory assets has been computed on the basis of carrying cost approved on the regulatory assets up to FY 2013-14 in the Tariff order dated 20th February 2015. The regulatory assets have to be as approved by per the Commission's order. The actual sales for FY 2015-16 have been considered which have been duly audited also. Hence no question of any discrepancy arises in the computation of the component 'R'. In

any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The Petitioner has submitted the revised computation of CSS based on the carrying cost for regulatory assets as approved vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**. The allegations to the contrary are wrong and are denied

YY. For calculating 'L', voltage wise commercial losses have not been considered. Discoms need supply data and consider voltage wise commercial losses.

It is submitted that the cross subsidy surcharge is levied on the open access consumers. The system losses applicable for the category consumers are the same which have been approved by the Hon'ble Commission in FY 2006-07. Hence for computation of cross subsidy surcharge the same loss levels have been used. Also the transmission losses for FY 2015-16 have been included and the revised computation has been submitted to the Hon'ble Commission. It is further submitted that the collection efficiency at relevant voltage level in the mentioned categories for which the Cross Subsidy Surcharge has been computed is 100%. Hence the losses as considered for computation, covers the commercial losses as well. The revised calculations for cross subsidy surcharge computation has been attached hereby as Annexure-I. The allegations to the contrary are wrong and are denied.

Reply to the objections raised by M/s PHD Chamber

ZZ. Rajasthan government/RERC has to clarify whether they want to stop the Open Access facility in Rajasthan. All Regulations being

framed are biased towards the benefit of Discoms only and putting additional load on the industry consumers. Rules are being modified for accountability of consumers and no rules for accountability of supplier.

The allegations made have no relevance at all. The cross subsidy computation and the liability of the open access consumers to pay the same are duly provided in the Electricity Act, 2003 as interpreted and laid down by the Hon'ble Supreme Court.

AAA. The Government Discoms instead of improving their efficiency and flexibility wants to load all their losses on the industries which are their biggest disciplined customers. Discoms are just like erstwhile BSNL, which milked the customers at the cost of their own inefficiencies.

It is submitted that the Discoms are very much inclined and determined to provide the best of services to its customers. They have always been vigorously working towards the betterment of power supply scenario in the state and satisfaction of all the consumer categories. It is always working out ways and implementing schemes for improving its efficiency and working. The allegations made have no relevance at all. The cross subsidy computation and the liability of the open access consumers to pay the same are duly provided in the Electricity Act, 2003 as interpreted and laid down by the Hon'ble Supreme Court.

BBB. When the Discoms are not in a position to supply power to all the consumers, how could be there any question of stranded cost. In fact, by covering the power deficit, the Open Access consumers are helping the Discoms, therefore no Cross Subsidy Surcharge should be levied. This is against the Section 42(2) of the Electricity

Act 2003 which mandated provision of open access to all generators and utilities in a bid to promote competition and open market for electricity trade.

It is submitted that the cross subsidy computation and the liability of the open access consumers to pay the same are duly provided in the Electricity Act, 2003 as interpreted and laid down by the Hon'ble Supreme Court.

It is submitted that the issue of stranded cost does not pertain to the Cross Subsidy Surcharge computation. Also as per provisions of Section 42 (2) of EA, 2003, the cross subsidy surcharge is to be utilized to meet the requirement of current level of cross subsidy within the area of supply of the distribution licensee. However the current levels of cross subsidy surcharge are insufficient to meet the current level of cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010 whereas over the years the cost of supply has increased significantly. Therefore the Petitioners have filed the Petition seeking revision in cross subsidy surcharge. The Hon'ble Commission has determined the tariff for FY 2015-16 (which will be applicable till the next Tariff Order) and the financials can be taken as per the said tariff order.

Reply to Objections raised by Industrial Consumers of Bhiwadi, Rajasthan.

CCC. A mere reading of the extracts of Tariff Policy and the Electricity Act makes it clear that the Union Government's attempt to introduce open access was to create competition in the market and in the larger interest of the consumers. Also, the policy clearly lays down that the impact of cross subsidy surcharge should not be so onerous that it eliminates competition. However the cross subsidy surcharge if levied will directly amount to total denial of the very facility of open access.

It is submitted that the cross subsidy computation and the liability of the open access consumers to pay the same are duly provided in the Electricity Act, 2003 as interpreted and laid down by the Hon'ble Supreme Court. The NTP 206 has prescribed the methodology for determination. As per provisions of Section 42 (2) of the Electricity Act, 2003, the cross subsidy surcharge is to be utilized to meet the requirement of current level of cross subsidy within the area of supply of the distribution licensee. However the current levels of cross subsidy surcharge are insufficient to meet the current level of cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010 whereas over the years the cost of supply has increased significantly. Therefore the Petitioners have filed the Petition seeking revision in cross subsidy surcharge.

DDD. Wheeling charges have to be worked out as per the procedure laid down in the RERC Regulations. The allocation has to be based on the voltage wise fixed assets and the losses at different levels.

The Petitioner submits that the petition filed pertains to computation of cross subsidy surcharge and not wheeling charges. For computation

of cross subsidy surcharge, the Petitioner has considered the wheeling charges currently being levied on consumers opting for open access.

EEE. Discoms have submitted computation of cross subsidy surcharge on the basis of the energy sales and revenue at existing tariffs applicable to FY 2015-16, which are yet to be approved by the Hon'ble Commission. Thus the very basis of computation of cross subsidy surcharge is based on assumptions and needs to be rejected. Any computation which is not based on approved data is bound to give distorted/erroneous results and hence the present proposal is pre-mature and liable to be rejected.

The Petitioners submit that as FY 2015-16 is already over and as no new tariff was notified for FY 2015-16, the tariff made applicable vide order dated 20.02.2015 was effective and approved for FY 2015-16. The Petitioners had used the same while computing the tariff payable by the relevant category of consumers. Similarly, as the FY 2015-16 is already over and the Discoms have already sold power for the year, requirement of approval of sales is no more relevant. To compute the tariff payable by relevant category of consumers, the Petitioners had taken the revenue assessed at the applicable tariff for FY 2015-16 and actual sales to that category for the year. In any event, in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. Also the Petitioner has submitted the revised computation of CSS based on the Tariff approved for the relevant categories vide Tariff Order dated 22nd Sep'16. The same is hereby attached as **Annexure-I**. The allegations to the contrary are wrong and are denied.

FFF. The Discoms are required to prepare voltage wise gross fixed asset data but inspite of repeated directions from the Commission, the required data has not been compiled. The Discoms should have furnished the GFA at different voltage levels so as to compute cross subsidy surcharge for various categories of consumers. The unapproved figures of average tariff, cost of power purchase, system losses, wheeling charges, carrying cost of regulatory assets, etc. should not be allowed as these relate to recovery of charges from the consumers.

The Petitioners have used the methodology prescribed under National Tariff Policy, 2016 to compute cross subsidy surcharge. The details of all the relevant parameters prescribed under the formula has been submitted to the Hon'ble Commission along with audited accounts for the FY 2015-16. Nowhere in the prescribed formula, mention of voltage wise assets has been made and as such the claim of the Objectors is not valid. The allegations to the contrary are wrong and are denied.

GGG. Discoms have to submit details of addition in the GFA and the corresponding increase in the overall power wheeled over the system and volume of sales to each category of consumers.

The Petitioner submits that the volume of sales to the relevant categories has been provided in Table 1 of the Petition. Also, the details regarding additions in the GFA or the overall increase in the power wheeled are not relevant to the computation of cross subsidy surcharge. Cross Subsidy Surcharge has been calculated per unit of sales and as per the formula prescribed under National Tariff Policy, 2016.

HHH. Discoms have proposed to retain the same level of system losses as approved by the Hon'ble Commission for the FY 2006-07. The

proposal cannot be accepted in light of the targeted performance standards as prescribed under the Act and the Regulations.

The Petitioner submits that the cross subsidy surcharge is to be levied on the open access consumers only. The energy adjustment for open access consumers takes place based on the losses approved by the Hon'ble Commission vide order dated 19.09.2006. The revenue from tariff for such consumers is assessed on the adjusted energy only. This implies that the losses determined by the Hon'ble Commission are applicable currently and the Discoms are to be compensated for the cross subsidy which would have been recovered from the adjusted units. Thus for determination of cross subsidy surcharge, the prevalent level of losses i.e. approved by the Commission in FY 2006-07, have been used. The allegations to the contrary are wrong and are denied

III. The average tariff calculations, as given in Table 1 of the Petition should be based on actual of the year FY 2015-16 instead of assessed values. Moreover the average tariff has been assumed same for all voltage levels, which is patently wrong. The tariffs are determined for different voltages and as such the average tariff should have been indicated separately for various voltage levels and as such it cannot be based on assumptions.

The Petitioners submit that the details given in Table 1 are as per actuals only. The Objectors has misunderstood the term assessed. Assessed here refers to the amount billed instead of amount actually collected or realized. Also the assessment of revenue includes all components of tariff including various rebates offered.

JJJ. While working out the weighted average cost of power purchase, the impact of recovery from additional surcharge should

be deducted as this is over and above the average cost of power purchase.

The Petitioner submits that cross subsidy surcharge is towards recovery of cross subsidization amount which remains unrecovered due to consumers shifting to open access while the additional surcharge is claimed towards recovery of cost of stranded power due to consumers shifting to open access. Both of these charges are different and cannot be clubbed together as suggested by the Objectors. The claim of the Objectors that the same charge will be recovered under two heads is invalid as in computation of cross subsidy surcharge, the total cost of power purchase has been considered only to reflect the actual amount of cross subsidy in the tariff structure. In no ways does it reflect how the recovery of costs will take place. Part of the power purchase cost will be recovered through tariff and the cost to the extent of cost of stranded power due to open access will be recovered through additional surcharge.

KKK. The network losses have been assumed as approved by the Hon'ble Commission vide its order dated 19.09.2006 is irrelevant as on date. The very assumption of the system losses being zero for system voltage 132 kV and above is in principle wrong and far from reality. Thus the computation is incorrect.

The Petitioner submits that the cross subsidy surcharge is to be levied on the open access consumers only. The energy adjustment for open access consumers takes place based on the losses approved by the Hon'ble Commission vide order dated 19.09.2006. The revenue from tariff for such consumers is assessed on the adjusted energy only. This implies that the losses determined by the Hon'ble Commission are applicable currently and the Discoms are to be compensated for the cross subsidy which would have been recovered from the adjusted

units. Thus for determination of cross subsidy surcharge, the prevalent level of losses i.e. approved by the Commission in FY 2006-07, have been used. Also, the system losses for 132 kV have been considered as zero as any loss up to that voltage level gets accounted in the transmission losses itself. To account for transmission losses, the Petitioners have revised their submission while responding to data gaps and discrepancies raised by the Commission. The revised submission is attached as **Annexure-I**.

Further in the present case such tariff for the financial year 2015-16 (which will be applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

LLL. The computation of wheeling charges has been done erroneously and not in line with the National Tariff Policy. The Petitioners have simply assumed the wheeling charges in the computation which is totally wrong.

The Petitioner submits that the cross subsidy surcharge is to be levied on the open access consumers only. Such consumers also pay the wheeling charges. Therefore the Petitioner has considered the wheeling charges presently being levied on open access consumers while computing cross subsidy surcharge.

MMM. The open access consumer continues to pay fixed demand charges to the licensee. Therefore the licensee is to be compensated for the loss of revenue only and not that portion of the revenue, which the open access consumer is paying as demand charges.

The Petitioner submits cross subsidy surcharge is levied not to compensate for loss of revenue but to continue cross subsidizing the subsidized consumers. The fixed charges are paid for the Petitioners being ready to supply electricity on demand and the purpose is different. Moreover, fixed charges do not even lead to recovery of fixed charges incurred by the Discom to maintain the network. Majority portion of the expenses incurred by the Discoms which can be called as fixed charges is also done through energy charge of the tariff.

NNN. As per Section 42 (2) of the EA, 2003, Cross Subsidy Surcharge has to be progressively reduced, however the Discoms have asked to increase the same.

The Petitioners crave reference to the preliminary submissions hereinabove. As per provisions of Section 42 (2) of EA, 2003, the cross subsidy surcharge is to be utilized to meet the requirement of current level of cross subsidy within the area of supply of the distribution licensee. However the current levels of cross subsidy surcharge are insufficient to meet the current level of cross subsidy. The cross subsidy surcharge currently being levied was notified by the Hon'ble Commission vide order dated 19.09.2006 and subsequently reduced in years 2007, 2009 and 2010 whereas over the years the cost of supply has increased significantly. Therefore the Petitioners have filed the Petition seeking revision in cross subsidy surcharge. Further in the present case such tariff for the financial year 2015-16 (which will be

applicable till the next Tariff Order) having been determined, the Hon'ble Commission can consider determination of the Cross Subsidy Surcharge amount as per the tariff so determined. The allegations to the contrary are wrong and are denied

000. The Petition has to be filed in accordance with the provisions of the Regulations and the Electricity Act.

The Central Government has notified NTP in January 2016 and has amended the formula previously given for computation of Cross Subsidy Surcharge. The computation formula provided in the National Tariff Policy, 2006 was not considered to be an effective compensatory charge for the distribution licensees and, therefore, the Central Government has provided for the methodology and computation as contained in the National Tariff Policy, 2016. As mentioned above NTP 2016 need to be read into the Regulations.

Annexure-I

Revised computation submitted to the Hon'ble Commission in response to the data gaps observed

Category	Voltage Level	Average Tariff (T) [#] Rs./kWh	Cost of Power Purchase (C) [^] Rs./kWh	Transmission Distribution and Comml Losses (L) ^{^^}	Transmission Distribution and wheeling Charges (D) [*] Rs./kWh	Per unit cost of carrying regulatory asset (R) [§] Rs/kWh	Cross Subsidy Surcharge (as per NTP formula) Rs./kWh	20% of Avg. Tariff Rs/kWh	Cross Subsidy Surcharge to be Levied
A	B	C	D	E	F	G	H	I	Min (H,I)
NDS	11 KV	8.91	3.60	17.80%	1.07	1.10	2.37	1.78	1.78
	33 KV	8.91	3.60	9.00%	0.85	1.10	3.01	1.78	1.78
	132 KV	8.91	3.60	5.20%	0.75	1.10	3.27	1.78	1.78
ML	11 KV	7.64	3.60	17.80%	1.07	1.10	1.09	1.53	1.09
	33 KV	7.64	3.60	9.00%	0.85	1.10	1.74	1.53	1.53
	132 KV	7.64	3.60	5.20%	0.75	1.10	2.00	1.53	1.53
LIP	11 KV	8.72	3.60	17.80%	1.07	1.10	2.18	1.74	1.74
	33 KV	8.72	3.60	9.00%	0.85	1.10	2.82	1.74	1.74
	132 KV	8.72	3.60	5.20%	0.75	1.10	3.08	1.74	1.74

Tariff has been considered as per the revised tariff approved for relevant categories vide Tariff Order dated 22nd Sep'16.

[^] Transmission charges per unit have been excluded from 'C' and included in 'D'

^{^^} Losses include transmission loss of 5.2% (As per audited accounts). As collection efficiency is 100% of relevant categories, there is no commercial loss

^{*}Transmission charges per unit sales (Rs 0.74/unit) included in "D"

[§] Based on carrying cost for regulatory assets as approved vide Tariff Order dated 22nd Sep'16 and actual sales for FY 2015-16.

Appendix-A

List of Objectors

S.No.	Name	S.No.	Name
1.	The Rajasthan Textile Mills Association	2.	Jindal Saw Ltd.
3.	Shree Cement Ltd.	4.	RSWM Ltd. & Ors.
5.	Sunil Healthcare Ltd.	6.	Rajasthan Steel Chambers
7.	Synergy Steels	8.	Shivam Syncotex Pvt. Ltd.
9.	Prime Rolling Mills Pvt. Ltd.	10.	Sh. Y.K Bolia
11.	Open Access Users Association	12.	Aggarwal Metal Works Pvt. Ltd. & Ors.
13.	Lord Chloro Alkali ltd.	14.	DCM Shriram
15.	Sh. Shanti Prasad	16.	PHD Chamber
17.	Sunbeam Auto Pvt. Ltd.	18.	Fashion Suitings Pvt. Ltd.
19.	Siverline Synthetics Pvt. Ltd.	20.	Inani Marble and Granite
21.	Shiv Om Suliz Feb Pvt. Ltd.	22.	Star Cotspin Ltd.
23.	Independent Power Producers Association of India	24.	Sarvodaya Suiting Ltd.