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IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI
APPELLATE JURISDICTION

APPEAL NO OF 2013

IN THE MATTER OF:

Appeal against the order dated 25.03.2013 passed by the Joint Electricity Regulatory Commission in Petition No. 92 of 2012

AND

IN THE MATTER OF:

DNH Power Distribution Company Limited
(Formerly Electricity Department, Dadra and Nagar Haveli)
Opposite Secretariat,
Silvassa - 396230
Union Territory of Dadra & Nagar Haveli

....Appellant

VERSUS

Joint Electricity Regulatory Commission
2nd Floor, HSIDC Office Complex,
VanijyaNikunj Complex, UdyogVihar Phase - V,
Gurgaon - 122016 Haryana

.....Respondent

APPEAL UNDER SECTION 111(1) OF THE ELECTRICITY ACT, 2003

MOST RESPECTFULLY SHOWETH:

1. DETAILS OF APPEAL

The present Appeal is being filed under Section 111 of the Electricity Act, 2003 against order dated 25.03.2013 passed by the Joint Electricity Regulatory Commission (hereinafter called the 'Joint Commission') passed in Petition No. 92 of 2012 whereby the Joint Commission has review the Annual Revenue Requirements of the Appellant for the year 2012-13 and approved the Annual Revenue Requirements and determined the tariff for the year 2013-14.

2. The impugned order was communicated to the Appellant on 09.04.2013.

3. THE ADDRESS OF THE APPELLANT FOR SERVICE IS SET OUT HEREUNDER:

- i) DNH Power Distribution Company Limited
Opposite Secretariat,
Silvassa - 396230
Union Territory of Dadra & Nagar Haveli

- ii) Name and Address of the Counsel,
Anand K. Ganesan & Swapna Seshadri, Advocates,
162 - Supreme Enclave, Mayur Vihar Phase - 1,
Delhi - 110091.
Phone: 9810941482/9818735544
Email: anand.kganesan@gmail.com, swapnaseshadri@gmail.com

4. THE ADDRESS OF THE RESPONDENTS FOR SERVICE OF ALL NOTICES IN THE APPEAL ARE AS SET OUT HEREUNDER:

Joint Electricity Regulatory Commission
2nd Floor, HSIDC Office Complex,
VanijyaNikunj Complex,
(UdyogVihar Phase - V,
Gurgoan - 122016
Haryana

5. JURISDICTION OF THE APPELLATE TRIBUNAL

The Appellant declares that the subject matter of the appeal is within the jurisdiction of this Tribunal.

6. LIMITATION.

The impugned order dated 25.03.2013 was communicated to the Appellant on 09.04.2013. The present appeal is filed within the prescribed period of limitation under Section 111 (2) of the Electricity Act, 2003.

7. FACTS OF THE CASE

- A. The Appellant, DNH Power Distribution Company Limited is a company incorporated under the provisions of the Companies Act, 1956. The Appellant is an unbundled utility of the Electricity Department, Dadra & Nagar Haveli and has been vested with the function of distribution of electricity in the Union Territory of Dadra & Nagar Haveli.
- B. The Respondent, Joint Commission is the Electricity Regulatory Commission for the Union Territories and the State of Goa exercising jurisdiction and discharging functions under Section 61, 62, 86 and other applicable provisions of the Electricity Act, 2003.
- C. The distribution and retail supply functions of the Appellant are regulated by the Joint Commission under the provisions of the Electricity Act, 2003 including the determination of the retail supply tariff chargeable from the consumers in the union territory.

- D. The answering respondent is the distribution licensee for the Union Territory of Dadra & Nagar Haveli. The total demand in the union territory presently of the consumer is approximately 600 MW. Out of the above, about 97 % of the total demand is from the industrial consumers in the union territory. The consumption by domestic and agricultural consumers is very negligible and in the region of 2-3% of the total electricity demanded the union territory.
- E. The Appellant does not have any source of generation of its own, but cases electricity from generating companies and others to make the demand of electricity from the consumers in the union territory. The primary demand of electricity by the Appellant is met out of allocations by the Government of India from central sector generating stations such as NTPC Ltd., NTPC-SAIL Joint Venture at Bhilai and Ratnagiri Gas and Power Private Limited.
- F. The power purchase cost is an uncontrollable cost for the Appellant. The purchase of power by the Appellant is primarily from the central sector generating station as mentioned above for which the tariff is as determined and regulated by the Central Electricity Regulatory Commission (hereinafter called **Central Commission**). The balance quantum of electricity to meet the demand of the consumers is purchased by the answering respondent from traders, bilateral purchases and other sources.
- G. Out of the total revenue requirements of the Appellant as approved by the Joint Commission for the year 2012-13 of Rs. 1820.83 crores, Rs. 1764.93 crores is only on account of power purchase cost, which constitutes about 97% of the total revenue requirements of the Appellant. Similarly, for the year 2013-14, out of the total net Annual Revenue Requirements of Rs. 2133.21 crores, Rs. 2057.71 crores is only on account of power purchase cost, which constitutes about 97% of the total revenue requirements of the Appellant. In other words, the above the total expenditure of the answering respondent, about 97% of the expenditure is only on account of power purchase, which is uncontrollable in nature and over which tariff and expenditure the answering respondent is not have control. Only the balance 3% is incurred by the Appellant for other purposes including employees cost, administrative and general expenses command repair and maintenance expenses, depreciation, interest and finance charges, interest on working capital, provision for bad and doubtful debts etc. This is as against other licensees and states where the power purchase cost does

not even constitute 80% of the total revenue requirements of the distribution licensees.

- H. The Joint Commission had, for the year 2011-12, by order dated 13.09.2011 determined the Annual Revenue Requirements and the retail supply tariff applicable to the Appellant. In the said order, the Joint Commission had stipulated a formula for Power Purchase Cost Adjustment. The Joint Commission had also sought to apply principle of reduction in cross subsidy in the Union Territory, wherein actual consumption by domestic and agricultural consumers were miniscule and in the region of 2 - 3 %.
- I. The above order of the Joint Commission was challenged by consumers before the Hon'ble Tribunal in Appeals No. 159 of 2011 and 175 of 2011. By judgment and order dated 28.02.2012 passed in Appeal No. 159 of 2011 and dated 15.3.2012 passed in Appeal No. 175 of 2011, the above appeals were partly allowed with Hon'ble Tribunal and the matter was remanded to the Joint Commission. The Hon'ble Tribunal had, inter-alia, decided as under:
 - (a) The Power Purchase Cost Adjustment formula was only for the purposes of adjustment in fuel costs and the recovery of the power purchase cost increases apart from fuel costs needs to be considered in the truing up proceedings and not in the Power Purchase Cost Adjustment formula.
 - (b) The principle of applying $\pm 20\%$ for the purposes of reduction in cross subsidy surcharge cannot be applied to the case of the consumers of the Appellant as the proportion of industrial consumers to domestic and agricultural consumers is extremely skewed.
- J. On the issue of the power purchase cost adjustment formula directed to be implemented by the Joint Commission which was challenged before the Hon'ble Tribunal, during the pendency of the appeal, the Appellant had duly collected the amounts in terms of the directions of the Joint Commission and as per the terms of the tariff order passed. The Hon'ble Tribunal while allowing the appeal had directed the Joint Commission to rework the formula for Power Purchase Cost Adjustment. The Appellant craves leave to refer and rely on the decisions of the Hon'ble Tribunal during the course of hearing.

- K. Pursuant to the above, the Joint Commission took up the exercise of implementation of the directions of the Hon'ble Tribunal along with the tariff determination exercise for the year 2012-13.
- L. By order dated 31.7.2012, the Joint Commission disposed of the petitions for provisional true up of the Annual Revenue Requirements for the year 2010-11, review of the Annual Revenue Requirements for the year 2011-12, determination of Annual Revenue Requirements and retail supply tariff for the year 2012-13 and also implementation of the directions of the Hon'ble Tribunal in the above mentioned appeals.
- M. In the above order, the Joint Commission had while reworking the formula for power purchase cost adjustment, directed that the Appellant refund an amount of Rs. 81.11 crores to the consumers towards power purchase cost adjustment along with interest for the period from April, 2012 to August, 2012. A copy of the relevant extracts of the order dated 31.7.2012 passed by the Joint Commission is attached hereto and marked as Annexure A.
- N. The Appellant was aggrieved by the above order dated 31.7.2012 on various aspects including the computation of the alleged surplus in the hands of the Appellant and also the direction of the Joint Commission for the interest to be paid to the consumers. In the circumstances and as there were other errors apparent on the face of record in the order dated 31.7.2012, the Appellant filed a petition for review of the above order before the Joint Commission. Additional submissions were also filed by the Appellant before the Joint Commission including the details as required by the Joint Commission.
- O. By order dated 24.01.2013, the Joint Commission had disposed of the review petition filed by the Appellant. While the Joint Commission has agreed on certain aspects of the review petition and has agreed to relook the issues and thereby has modified the tariff order dated 31.7.2012, on the question of interest the Joint Commission has held that in terms of Section 62(6) of the Electricity Act, 2003 the interest is payable to the consumers and thereby it is not open to the Appellant to claim that interest should not be allowed. A copy of the order dated 24.1.2013 passed by the Joint Commission is attached hereto and marked as Annexure B.
- P. Aggrieved by the order dated 24.01.2013, the Appellant has filed an Appeal before the Hon'ble Tribunal, which is pending adjudication. In

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the above order dated 24.01.2013, the Joint Commission while holding that interest is payable by the Appellant to the consumers for the refund of the amounts, however also held that the amount to be refunded by the Appellant to the consumers will be finally decided in the tariff order to be passed by the Joint Commission for the year 2013-14 along with the truing up exercise for the year 2011-12. The proceedings for the truing up of the financials of the Appellant for the year 2011-12 and approval of the Annual Revenue Requirements for the year 2013-14 was pending before the Joint Commission.

- Q. It is submitted that there ought not to be any refund of alleged surplus amounts arrived at by the Joint Commission to the consumers and the Annual Revenue Requirements of the Appellant needed to be adjusted on an annual basis with any deficit or surplus to be carried forward in the Annual Revenue Requirements for the subsequent year. This is particularly so when prior to 1.4.2013, the Appellant was working as a Department of the Government and all funds available with the Appellant was deposited in the consolidated fund of India and not retained in the electricity business.
- R. By order dated 25.03.2013, the Joint Commission has trued up the financials of the Appellant for the year 2011-12 and also approved the Annual Revenue Requirements of the Appellant and determined the retail supply tariff for the year 2013-14. A copy of the order dated 25.3.2013 passed by the Joint Commission is attached hereto and marked as Annexure C.
- S. In the said order, the Joint Commission has accepted the fact that the amount of Rs. 81.11 crores arrived at earlier as alleged surplus was not correct and the amount was Rs. 41.86 Crores. The Joint Commission has held that the said amount of Rs. 41.86 crores is to be refunded to the consumers with interest from April, 2012.
- T. The Joint Commission has further provided for the power factor surcharge and rebate on a skewed basis wherein the amount of rebate payable to the consumers is much higher than the correspondent surcharge to be collected from the consumers for not maintaining the power factor at an optimum level. In addition, the Joint Commission has directed that the consumers have to furnish security deposit to the Appellant on which the Appellant has to pay the interest at the rate of 9.5% when the Appellant is not in a position to invest the security

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deposit at 9.5% and is therefore put to a loss on account of the security deposit furnished by the consumers.

- U. In the circumstances and aggrieved by the order dated 25.3.2013 passed by the Joint Commission, the Appellant has preferred the present appeal before the Hon'ble Tribunal.

8. (i) **FACTS IN ISSUE**

- (1) Whether in the facts and circumstances of the present case, the Joint Commission has correctly determined the alleged surplus in the hands of the Appellant and consequently the interest to be paid to the consumers?
- (2) Whether the Joint Commission has considered the materials and submissions filed by the Appellant during the course of proceedings while passing the impugned order?
- (3) Whether the Joint Commission is correct in directing refund of amounts to the consumers and not providing for such deficit/surplus in the Annual Revenue Requirements of the Appellant?
- (4) Whether the Joint Commission has correctly determined the Power Factor rebate and surcharge to the consumers in the tariff?
- (5) Whether the Joint Commission has correctly determined the interest rate on the security deposit furnished by the consumers?

(ii) **QUESTIONS OF LAW**

The following questions of law arise in the present appeal:

- A. Whether in the facts and circumstances of the case the Joint Commission is justified in arriving at a surplus of Rs. 41.86 crores in the hands of the Appellant and directing refund of the said amount to the consumers in the Union Territory of Dadra & Nagar Haveli?
- B. Whether the methodology adopted by the Joint Commission for treating the alleged surplus is justified?
- C. Whether the Joint Commission is justified in the determination made on the power factor surcharge and rebate in the tariff?

- D. Whether the Joint Commission is justified in determining the rebate on power factor at a much higher level than the surcharge on the power factor?
- E. Whether the Joint Commission is, in the facts of the case, justified in determining the interest rate of 9.5% on the security deposit furnished by the consumers?

9. **GROUND'S RAISED WITH LEGAL PROVISIONS**

- A. The Joint Commission has erred in holding that the Appellant is liable to refund an amount of Rs. 41.86 crores to the consumers together with interest as per Section 62(6) of the Electricity Act, 2003. The Joint Commission has failed to appreciate that the aspects of excess or deficit in the Annual Revenue Requirements cannot be refunded separately to the consumers but needs to be adjusted in the Annual Revenue Requirements of the Appellant.
- B. The Joint Commission has failed to appreciate that the very process of approving the Annual Revenue Requirements on a yearly basis involves the truing up of the financials of the licensee for the past period and any excess or deficit in the revenue requirements is adjusted in the Annual Revenue Requirements for the subsequent years. The cash refund directed to be given to the consumers is not in terms of the regulatory tariff determination exercise and ought not to be done.
- C. The Joint Commission has failed to appreciate that directing such cash refund would create cash flow problems to the Appellant. This is particularly on account of the fact that the Appellant was a Department of the Government of India prior to 1.4.2013 and all deposits received by the Appellant from the consumers were deposited in the Consolidated Fund of India. With effect from 1.4.2013 the Appellant has been unbundled into a separate legal entity and the accounts are to be maintained as a corporate legal entity. In the circumstances, the burden on cash refund to the consumers would create complications and ought not to have been directed by the Joint Commission.
- D. The Joint Commission has failed to appreciate that the alleged surplus as determined is not correct and the same ought not to be payable with the Appellant to its consumers. The Joint Commission failed to appreciate that in the process of tariff determination from year to year, any surplus or deficit in one year is to be adjusted in the revenue requirements for

the subsequent years and not to be provided separately as refund to the consumers thereto with interest on such refunds. The Joint Commission has erred in finding a surplus in the hands of the Appellant and directing the same to be refunded to the consumers, particularly with the interest on such refunds to be given to the consumers.

- E. The Joint Commission has erred in holding that interest is payable to the consumers on the refund to be given to the consumers as per the application of Section 62(6) of the Electricity Act, 2003. The Joint Commission has failed to appreciate that the application of Section 62 (6) arises only when the licensee consciously levies and collects a charge of the consumers in excess of the tariff as determined by the Joint Commission. In such circumstances where the licensee acts in defiance of the orders passed by the Joint Commission, the law provides for interest to be paid while refunding the excess amounts collected by the licensee. The above however does not have any application where the tariff itself is being re-determined by the Joint Commission and the licensee has collected tariff in terms of the prevailing orders of the Joint Commission from time to time.
- F. The Joint Commission has failed to appreciate that the principle on the application of Section 62(6) has been settled by the Hon'ble Supreme Court in the case of NTPC Limited v. M.P. State Electricity Board & Others, Civil Appeal No. 2451 of 2007, dated 28.09.2011 wherein the Hon'ble Supreme Court has analysed the entire provision with regard to payment of interest both in terms of Section 62(6) of the Electricity Act, 2003 and also otherwise and has held as under:

"14. If we look to this Section 62, sub-section (1) thereof lays down the authority of the Appropriate Commission to determine the tariff in accordance with the provisions of the Act for supply of electricity by a generating company to a distribution licensee. It also permits the appropriate commission to fix the minimum and maximum ceiling of tariff in certain situations. Sub-section (2) lays down that the Appropriate Commission in its process of determining the tariff may call upon the licensee or a generating company to furnish particulars with respect to generation, transmission and distribution of power. Sub-section (5) permits the commission to require the licensee or the generating company to comply with the procedure to be specified by the commission for calculating the expected revenue from the tariff which it is permitted to recover. Sub-section (3) lays down that while determining the tariff the commission will take into consideration consumer's load factor, power factor, voltage, total consumption of electricity during any specified period, the geographical position of any area, the nature of supply and the purpose for which it is sought. It may differentiate in the matter of determining the tariff on such basis, though ofcourse it is not

expected to show any undue preference to any consumer of electricity. Subsection (4) lays down that the tariff once fixed will normally operate for a financial year, and will not be amended more frequently than once in a financial year.

15. On this background sub-section (6) lays down that if a licensee or a generating company recovers a price or charge exceeding the tariff which is determined under this section, the excess amount shall be recoverable by the person who has paid such excess price or charge alongwith interest at bank rate. We have noted that the earlier five sub-sections lay down the manner in which the tariff is to be determined, and thereafter sub-section (6) lays down that the licensee or a generating company shall not recover a price or charge exceeding the tariff that is determined. The words 'tariff determined under this section' indicate that the prohibition from charging excess price is dependent on the determination of the price under the preceding five sub-sections. The counsel for the Electricity Boards submitted that this sub-section should be applied even during the period when the tariff was being determined (as in the present case), and if in the final determination the price fixed is lesser than what was charged during the intervening period, then interest should be read as recoverable for the excess amount collected during the intervening period. In this connection, we must note that this sub-section does not refer to the period during which the tariff is being determined. It also does not state that if the finally determined tariff is less than the provisional tariff or an existing tariff continued by a statutory notification, then interest shall be payable on the differential amount. This sub-section further states that this right to claim interest is without prejudice to any other liability incurred by the licensee. Besides what is prohibited is recovery of price or charge exceeding the tariff determined under this section and then only, the generating company will have to pay the interest on the difference. That is why the Appellate Tribunal has observed that it is only when a licensee or generating company deliberately recovers or extracts from a person a price or charge in excess of the price determined under section 62 (6), that such person can claim the excess price or charge paid by him alongwith interest. For the reasons stated above we are unable to accept the submission on behalf of the Electricity Boards, and are in agreement with the view taken by the Appellate Tribunal that Section 62 (6) cannot be pressed into service to claim interest on the differential amounts in the present case.

.....

30. In the facts of the present case, however, this controversy as to whether tariff fixation is legislative or quasi-judicial need not detain us any further. As held by the Constitution Bench, price fixation is really legislative in character, but since an appeal is provided under Section 111 of the Act, it takes a quasi-judicial colour. That by itself cannot justify the claim for interest during the period when the proceedings were pending for the tariff fixation. The tariff that was being charged at the relevant time was as per the previous notifications. Once the tariff was finalized subsequently, NTPC has adjusted the excess amount which it has received. It cannot be said that during this period the NTPC was claiming the charges in an unjust way, to make a case in equity. Our attention has been drawn to the industry

practice which also shows that on all such occasions interest has never been either demanded or paid when the price fixation takes place. As held by us hereinabove, claim for interest could not be covered under Section 62 (6). The provision for interest has been introduced by regulations subsequent to the period which was under consideration before the Commission. If we apply the propositions in Rallia Ram (supra) and Watkins Mayor (supra), we find that the terms of the supply agreement, the governing regulation and notifications did not contain any provision for interest. The industry practice did not provide for it as well. In view thereof, interest could not be claimed either on the basis of equity or on the basis of restitution."

In terms of the above, the impugned order of the Joint Commission is bad in law and is liable to be set aside. The Joint Commission has failed to even refer to the above decision or consider its application even though the same was cited and placed on record by the Appellant during the course of proceedings before the Joint Commission.

- G. The Joint Commission has failed to appreciate that the Appellant as a licensee collects charges and is entitled to be revenue requirements only as determined by the Joint Commission from time to time. It is not open to the Appellant to collect tariff on its own. In the circumstances, when the revenue requirements of the Appellant are regulated by the Joint Commission, the question of payment of interest ought not to arise, especially when the same is not separately provided in the Annual Revenue Requirements of the Appellant.
- H. The Joint Commission has erred in the determination of the power factor surcharge and rebate applicable on the consumers in the Union Territory. The Joint Commission has failed to appreciate that the concept of power factor surcharge and rebate ought to be commensurate with each other and the incidence of rebate on higher power factor ought not to be too high as compared to the surcharge on lower power factor. The Power factor surcharge of 1 % of the billed demand and energy charges for each fall in power factor of 0.01 below 0.9 is very less as compared to the rebate of 0.5 % for power factor of every 0.01 above 0.95.
- I. The Joint Commission has failed to appreciate that by virtue of the above determination, the level of rebate given to the consumers would be much higher than the surcharge. This is in view of the nature of supply taken by the consumers in the Union Territory, wherein the average power factor maintained by the major consumers is much higher than 0.95. This is also evident from the figures as was available for the

previous year wherein the amount of rebate calculated to the consumers was much higher at Rs. 40.47 crore as against the surcharge at Rs. 0.82 Crore. The Appellant had in the previous year represented to the Joint Commission for correction of the power factor surcharge and rebate calculations the Joint Commission had agreed to review the same for the subsequent year. It is stated that the present formula would also result in the surcharge of approximately Rs. 1.38 crore as against the rebate of approximately Rs. 21.4 crore as per the consumption pattern for the previous year.

- J. The Joint Commission has erred in determining the interest on the security deposit payable by the Appellant at 9.5% to the consumers. The Joint Commission failed to appreciate that the Appellant would be put to loss on account of the interest rate determined by the Joint Commission, which is much higher than the interest that the Appellant would get on the amounts deposited with the bank. The Appellant ought not to be put to loss on account of the security deposit being given by the consumers.
 - K. The Joint Commission failed to appreciate that in the past many of the consumers had given security deposit in the form of bank guarantee which was sufficient for the Appellant to secure the dues if any payable by the consumers and satisfied the reasonable security in terms of Section 47 of the Electricity Act, 2003. When the Joint Commission decided to change the security deposit from bank guarantee to cash deposit to be given by the consumers, the Appellant cannot be put to loss or prejudice on account of the above. In any event, the higher interest rate loss would be added to the Annual Revenue Requirements and passed on to the consumers, which would not serve the purpose.
 - L. The Hon'ble Tribunal has, by the order dated 10.5.2013 passed in Appeal No. 40 of 2013 remanded a petition filed by the Industries Association on whether the Regulations needed to be relaxed considering the facts of the present case and also considering the difficulties faced by the Appellant. The said decision would also be applicable to the present case.
 - M. The Appellant crave leave to add to the grounds mentioned above and submits that the contentions are in the alternate and without prejudice to one another.
10. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH A COURT.

The Appellant has not filed any other suit, appeal or has initiated any other legal proceeding against the impugned order dated 25.03.2013 passed by the Joint Commission.

11. GROUNDS FOR SUCH RELIEF (S) AND THE LEGAL PROVISIONS, IF ANY, RELIED UPON

N.A.

12. DETAILS OF INTERIM APPLICATION, IF ANY, PREFERRED ALONG WITH APPEAL.

N.A.

13. DETAILS OF APPEAL/S, IF ANY PREFERRED BEFORE THIS APPELLATE TRIUBNAL AGAINST THE SAME IMPUGNED ORDER/DIRECTION, BY RESPONDENTS WITH NUMBERS, DATES AND INTERIM ORDER, IF ANY PASSED IN THAT APPEAL.

N.A.

14. DETAILS OF INDEX

An index containing the details of the documents to be relied upon is enclosed.

15. PARTICULARS OF FEE PAYABLE AND DETAILS OF BANK DRAFT IN FAVOUR OF PAY AND ACCOUNTS OFFICER, MINISTRY OF POWER, NEW DELHI.

In respect of the fee of appeal.

Name of the Bank. DENA BANK Branch SILVASSA payable at Delhi.

DD No. 427370 Date 15.05.2013.

16. LIST OF ENCLOSURES.

Annexure A: A copy of the relevant extracts of the order dated 31.7.2012 passed by the Joint Commission.

Annexure B: A copy of the order dated 24.1.2013 passed by the Joint Commission.

Annexure C: A copy of the order dated 25.3.2013 passed by the Joint Commission.

17. WHETHER THE ORDER APPEALED AS COMMUNICATED IN ORIGINAL IS FILED.

Yes

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18. WHETHER THE APPELLANT IS READY TO FILE WRITTEN SUBMISSIONS/ARGUMENTS BEFORE THE FIRST HEARING AFTER SERVING THE COPY OF THE SAME ON RESPONDENTS.

Yes

19. WHETHER THE COPY OR MEMORANDUM OF APPEAL WITH ALL ENCLOSURES HAS BEEN FORWARDED TO ALL RESPONDENTS AND ALL INTERESTED PARTIES, IF SO, ENCLOSE POSTAL RECEIPT/COURIER RECEIPT IN ADDITION TO PAYMENT OF PRESCRIBED PROCESS FEE.

No

20. ANY OTHER RELEVANT OR MATERIAL PARTICULARS/DETAILS WHICH THE APPELLANT DEEMS NECESSARY TO SET OUT:

N.A.

21. RELIEFS SOUGHT.

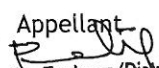
In view of the facts mentioned in para 7 above, points in dispute and questions of law set out in para 8 and the grounds of appeal stated in para 9, the Appellant prays for the following reliefs:

- (a) Allow the appeal and set aside the order dated 25.3.2013 passed by the Joint Commission to the extent challenged in the present appeal.
- (b) Pass such other Order(s) and this Hon'ble Tribunal may deem just and proper.

Dated at Silvassa this 13th day of May, 2013

Counsel for Appellant

DECLARATION BY APPELLANT

Appellant

Executive Engineer (Distribution)
DNH Power Distribution Corporation Limited,
Silvassa

The Appellant above named hereby solemnly declare(s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original.

Verified at Silvassa on this 13th day of May, 2013.

Counsel for Appellant

APPELLANT

Executive Engineer (Distribution)
DNH Power Distribution Corporation Limited,
Silvassa

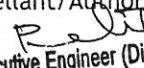
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VERIFICATION

I, Shri. Harshad Patel S/o Shri. Mohanbhai Patel aged about 50 years, working as Executive Engineer in the office of DNH Power Distribution Corporation Ltd, resident of Silvassa do hereby verify that the contents of paras 1 to 7 and 10 to 20 are based on the records of the Appellant maintained in the ordinary course of business and believed by me to be true and paras 8, 9 and 21 are believed to be true on legal advice and that I have not suppressed any material facts.

Date: 13.05.2013

Place: Silvassa.

Appellant/Authorized Officer

Executive Engineer (Distribution)
DNH Power Distribution Corporation Limited,
Silvassa

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO OF 2013

Book No.:.....
Page No.:.....
Serial No.:.....
Date.:
Certificate of Practice
Valid till : 23 / 7 / 2017

IN THE MATTER OF:

DNH Power Distribution Company.Limited
(Formerly Electricity Department, Dadra and Nagar Haveli)

.....Appellant

VERSUS

Joint Electricity Regulatory Commission

....Respondents

AFFIDAVIT

I, Shri. Harshad Patel , son of Shri Mohanbhai Patel, aged about 50 years, resident of Silvassa, do hereby solemnly affirm and state as under:

1. I say that I am Executive Engineer in the Appellant and am competent to swear the present affidavit.
2. I say that I have read the contents of the above appeal filed by the Appellant against the order dated 25.03.2013 passed by the Joint Commission and I have understood the contents of the same.
3. I say that the contents of the above appeal filed by the Appellant are based on the information available with the Appellant in the normal course of business and believed by me to be true.
4. I say that the Annexures to the Memorandum of appeal are the true and correct copies of their original.

NOTARIAL

NOTARIAL

NOTARIAL

NOTARIAL

S. T. Chauhan
S. T. Chauhan
Notary Valsad District,
Yogi Smruti, Mullawadi
Valsad-396 001
Gujarat - INDIA

VERIFICATION

I, the deponent above-named, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Silvassa on this 13... day of May, 2013

DEPONENT

Rajiv
कार्यपालक अभियंता(वितरण)
Executive Engineer(Dist.)
दा.न.ह.उर्जा वितरण निगम लिमिटेड
DNH Power Distribution Corporation Ltd
संघप्रदेस दादरा एवं नगर हवेली
U.T. of Dadra & Nagar Haveli
सिलवसा/ Silvassa

Rajiv
कार्यपालक अभियंता(वितरण)
Executive Engineer(Dist.)
दा.न.ह.उर्जा वितरण निगम लिमिटेड
DNH Power Distribution Corporation Ltd.

who has been identified by an
whom I know Personally

2702

DETAILS OF PF CHARGE / INCENTIVES INCLUDED IN HT BILLS DURING JULY-2012 TO APRIL-2013.									
Sr.No	Month.	AS PER OLD TARIFF (BILLED).		AS PER NEW TARIFF.		DIFFERENCE			
		PF Charge	PF Incentive	PF Charge	PF Incentive	PF Charge	PF Incentive		
1	Jul-12	1009175	33147495	1711946	17578571	-702771	15568924		
2	Aug-12	990485	32829003	1698349	17389806	-707864	15439197		
3	Sep-12	935270	40504897	1576882	21413376	-641612	19091521		
4	Oct-12	1004780	46289127	1687267	24441134	-682487	21847993		
5	Nov-12	1084070	45711352	1794524	24150452	-710454	21560900		
6	Dec-12	972405	52048886	1543463	27432714	-571058	24616172		
7	Jan-13	826180	52672284	1332028	27795573	-505848	24876711		
8	Feb-13	704705	48629694	1233841	25827038	-529136	22802656		
9	Mar-13	695055	52874311	1236168	27944328	-541113	24929983		
	TOTAL.	8222125	404707049	13814466.77	213972993	-5592341.77	190734056.4		
Sr.No	Month.	AS PER OLD TARIFF.		AS PER NEW TARIFF (BILLED).		DIFFERENCE			
1	Apr-13	1288820	52848904	1647630	27948464	358811	-24900440		