CENTRAL POWER DISTRIBUTION COMPANY OF A.P. LIMITED

RESPONSES TO OBJECTIONS / SUGGESTIONS

On

FSA PROPOSALS of the 3rd Quarter of FY 2012-13

25	Banda Surender Reddy, General SecretaryAll India Forward Bloc-AP	
26	Konda DayanandAll India Forward Bloc	
27	Sulumula KrishnaAll India Forward Bloc	
28	J.Janaki Ramulu, State SecretaryRevolutionary Socialist Party (RSP)	
29	Jupalli Arun Kumar, State SecretaryAll India Progressive Students Union (AIPSU)	
30	Jalapu Ram Reddy, State PresidentAll India Samuykta Kisan Sabha	
31	Chinumulla Lenin, State PresidentAll India Revolutionary Youth Front (AIRY)	
32	Mamilla Ramanjneyulu, Dist. Joint SecretaryRevolutionary Socialist Party (RSP)	
33	Putluru Pullaiah, Dist. SecretaryRevolutionary Socialist Party (RSP)	
34	Jwvari Ramesh Nayak, State Vice PresidentAll India Progressive Students Union (AIPSU)	48
35	Vallam Das Kumar, Dist. SecretaryRevolutionary Socialist Party (RSP)	
36	P.PrahaladaUnited Trade Union Congress (UTUC)	
37	Gurram Vijay Kumar, State CommitteeML Party	
38	Bootham Veeraiah	
39	Ch.Murahari, State Committee Member,SUCI (C)	
40	Dr. K.Narayana, SecretaryCommunist Party of India	
41	T.Harish RaoMLA, TRS	
42	M.Thimma Reddy, ConvenorPeople's Monitoring Group on Electricity Regulation	
43	Karankote NarenderAnn India Forward Bloc	

1	**M/s. JEROME INIGO JEGAM, PLANT HEAD, MRF, P.B.No. 2, Sadasivapet, medak Dist- 502 21, tele : 08455-252601 to 252609 fax : 08455-252614**	
S.No.	**Summary of Suggestions**	**Response of the Licensee**
1.	**The proposed FSA is very high.** Present tariff is already high ie., Rs. 3.97/- per unit & Rs. 4.97/- per unit during peak hours. The present proposal indicates FSA of Rs. 0.96/- and is very high. The impact for the quarter is Rs. 1.92 crores which is very difficult to absorb. Due to the prevailing R&C measures, we are purchasing the open access power at very high cost and the impact is Rs. 5.5 crores per month.	The fuel surcharge amount and rate per unit was arrived at as per the FSA formula in vogue.
2.	**Request to minimize the overall unit cost.** We request the Honourable commission to implement the necessary measures to minimize the overall unit cost.	The overall exercise carried out by Hon'ble Commission is to ensure that expenditure of licensee is examined on prudent and transparent manner to make it viable and more importantly to protect the interests of the consumers.

2	**M. V. Rajeshwara Rao, Secretary General, FAPCCI**	
S.No.	**Summary of Suggestions**	**Response of the Licensee**
1.	The Electricity Act envisages and permits variation only on account of fuel cost adjustment by way of a formula. Variation in power purchase cost, other than those arising directly out of variation in fuel cost, or the costs of transmission and SLDC charges relating thereto are not adjustable under a fuel surcharge formula. Levy of fuel surcharge is permitted by Sec 26(9) of the Reforms Act and Sec 62 (4) of the Indian Electricity Act 2003 which stipulate that no tariffs are 'Part of Tariffs' may be amended more than once in a financial year. Therefore, any surcharge fixed by taking into consideration fixed costs is not valid and if it is done it is void abinito. ***Therefore, it is necessary to determine the FSA only in respect of fuel cost variation only.***	Hon'ble Commission made the regulation incorporating the existing FSA formula exercising the powers conferred by sub section (2) of Section 9 and Section 54 of the Andhra Pradesh Electricity Reforms Act, 1998 and applicable provisions of the said Act. The formula provides for recovery/return of short/excess fixed cost.
2.	The agricultural consumption in excess of the tariffs order quantities has to be seen month wise and Discom wise. The excess purchases for each month and for each Discom on account of agricultural consumption have to be disallowed from the energy purchases. The Hon'ble commission imposed the R & C measures on industry since September 2012 under which industry is allowed to consume only 60% of its CMD. This has resulted in short fall of supply to industry and also resulted in huge losses to the Discoms. **Therefore we request the Hon'ble Commission to segregate the amount of FSA on various categories of consumers and see that the burden of one category is not passed on to another category.**	Existing regulation provides for levy of uniform FSA on all categories except agriculture.
3	The DISCOMs in their filings for the years of 2010-11 and 2011-12 information on GCV of fuels used by different stations and	

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<td>corresponding variable cost was provided. But this time this crucial information is missing. The GCV of local and imported coal was not provided separately. The Commission's Order dated 20th September, 2012 on FSA claims for 2012 (para 35) shows that the Commission was also provided with only combined GCV and not separate GCV for local and imported coal. During the public process on tariff proposals for the year 2013-14 the DISCOMs provided some information on GCV of GENCO plants. This information only mentioned the GCV according to the fuel supply agreements but the actual GCV according to the fuel supply agreements but not the actual GCV achieved at these plants. There appears to be a deliberate attempt to suppress information on these crucial issues. We request the Commission to direct GENCO and NTPC to provide GCV and heat rate figures separately for local and imported coal.</td>
<td>The details of imported and Domestic coal consumed during the quarter for AP Genco and NTPC plants are enclosed as Annexure-I, Annexure-II

M/s NTPC is providing combined GCV of imported and domestic coal due to their technical constraints.

APGENCO provided information and details of Domestic GCV and its price, Imported GCV and its price separately including the quantity of coal used.</td>
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<td>The variable costs of various thermal plants are given below:
<table>
<tr><th rowspan="2">Plant</th><th rowspan="2">Variable cost according to ARR 2012-13 (Rs/U)</th><th colspan="3">Variable cost according to FSA Proposals for Q2 of 2012-13 (Rs/U)</th></tr>
<tr><th>October 12</th><th>November 12</th><th>December 12</th></tr>
<tr><td>Coal based plants</td><td></td><td></td><td></td><td></td></tr>
<tr><td>NTPC (SR)</td><td>1.74</td><td>1.73</td><td>1.62</td><td>1.69</td></tr>
<tr><td>Simhadri I</td><td>2.10</td><td>1.75</td><td>1.77</td><td>1.94</td></tr>
<tr><td>KTPS – A, B, C</td><td>1.35</td><td>2.05</td><td>1.97</td><td>1.97</td></tr>
<tr><td>VTPS – I,</td><td>1.94</td><td>2.55</td><td>2.62</td><td>2.49</td></tr>
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<td>Firstly NTPC SR is the pit head station and cost estimate at time of determining tariff is almost in line with the actual.

The variable cost of gas plants is increased due the foreign exchange rate variance now that the gas bills are paid as per the prevailing dollar rate.

The variance in variable cost with reference to Tariff Order is on account of proportionate usage of imported coal, location of plant etc.,</td>
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II, III				
VTPS – IV	2.65	3.44	3.46	2.71
RTPP	2.18	3.54	3.45	3.23
KTPS VI	1.76	2.93	3.04	2.61
Kakatiya I	1.75	2.52	2.58	2.57
Gas based plants				
APGPCL – St. 1	1.89	2.33	2.33	2.33
Reliance	1.72	2.00	1.99	2.03
Konaseema	1.80	2.02	2.10	2.11
Vemagiri	1.80	2.05	2.08	2.10
GVK	2.07	2.14	2.12	2.15
GVK Extn	1.80	2.04	2.08	2.10
Gautami	1.80	2.04	2.08	2.09
Spectrum	1.77	2.30	2.12	2.15
Lanco	2.04	2.22	2.15	2.20

From the above Table it is clear that while in the case of coal based plants of central generating stations (NTPC (SR) and Simhadri) variable costs reported under FSA proposals were lower than those mentioned in the Tariff Order for the year 2012-13 but in the case of GENCO plants variable costs reported under FSA proposals were higher than those mentioned in the Tariff Order. In the case of GENCO plants variable costs increased by Rs. 1.30 per unit. There is no explanation for this hike in variable costs of GENCO coal based plants. Both the CGS as well as GENCO plants obtain coal from the same sources. Even then when variable costs of CGS have declined, why the variable costs of GENCO plants increased? It is not that

	only GENCO plants use imported coal even CGS also use imported coal but their costs have not increased. In the case of GENCO pit head plants like KTPS and Kakatiya Power plant also variable costs increased considerably. Their variable costs are higher than CGS plants. There appears to be something seriously wrong with the GENCO plants. When the increase in coal prices did not affect CGS much how is it that variable costs of GENCO plants increased by nearly 50%? It is the responsibility of APERC to see that this abnormal anomaly is removed in a transparent manner, to the satisfaction of all stakeholders. We request APERC to direct DISCOMs and GENCO to make all facts public.	
5	DISCOMs backed their proposal to consider escalation of variable cost as a part of tariff proposals for the year 2013-14 by 10% in order to take into account the quantum of imported coal that is expected to be used. The additional information provided by DISCOMs show that the higher price for imported coal is in commensurate with its higher GCV. For example, while cost of imported coal is Rs. 5,390 per MT and its GCV is 6,199 Kcal.kg, in the case of domestic coal price is Rs. 2, 602 per MT and its GCV is 3,116 Kcal/kg. These price relations show that imported coal shall not lead to increase in power generation cost.	Based on the past experience to bring realistic cost 10% escalation was estimated during 2013-14 ARR when compared with 2012-13 first Half year
6	The state Government, as part of its policy, is supplying power to Agricultural sector- free of cost. Thus the State Government has to pay the distribution licensee the cost of power supplied to the agricultural sector. While passing the ARR for the control period or tariff for the financial year agricultural sector is not exempt from tariffs, only the cost is not collected. In the calculation of FSA 'Q'	FSA is being levied as per the regulation in vogue.

	(total quantity of sales) represents the actual energy sold to all the categories of consumers in the quarter. This connotes that the total of FSA shall have to be divided by the entire quantity of energy sold so as to arrive at the rate of surcharge per KwH. Condition No. 1 to the formula stipulates that the FSA worked out will be distributed among all categories of consumers that existed. However the consumption by the agricultural sector is excluded by the commission stating the reason that the metering of agricultural sector is not complete. This implies the levy of FSA is not exempted for agricultural sector but its collection is exempted and discoms have to work out their remedies with the government. The provisions of Sec 65 of the Electricity Act states that if the State Govt requires the grant of the any subsidy to any consumer or class of consumers in the tariffs determined by the commission U/S 62 the state Govt shall pay in advance the amount to the licensee. This provision is equally applicable to the FSA also. **Any charge on agricultural sector has to be borne by the State Govt but should not be passed on to other non – subsidised categories of consumers**	
7	The distribution licensee are collecting penal charges from the industrial consumers who have exceeded the consumption limit of 60% of their CMD as per R & C regulations imposed by APERC by Hon'ble Commission since September 2012. We suggest that this amount collected by Discoms by way of penalty should be used for setting of FSA on industrial consumers only the balance of FSA	In Tariff Order for FY 2012-13 vide Clause 213.6(8) and Clause 213.3(4) (iv) it was specified that penal charges are to be paid by a consumer for exceeding the contracted demand. Penal charges are contemplated to maintain grid discipline and equitable distribution of available power among different

	should be collected from industry of consumers. **Penal charges collected by the distribution licensee should be used for setting of FSA on industrial category**.	categories in power shortage scenario. It is intended to bring discipline but not tariff for drawl of power above contracted demand and cannot be related to FSA.
8	The Discoms are called upon to explain precisely how they have arrived at the allowable power purchase quantities that are to be taken into account for the purpose of FSA calculations. The Discoms are called upon to furnish the data of the PP Quantities with sales being grossed up as per the method in the Tariff Order.	Power Purchase quantities during the month are tabulated in merit order limiting the quantity to least of quantity mentioned in tariff order or actual quantity procured to arrive at the actual weighted average cost/ kwh.
9	We request the Commission not to approve present FSA proposals of the DISCOMs.	DISCOMs have filed FSA as per the regulation and mandate provide in the Electricity 2003 and approval of FSA is essentially required for the financial viability and strengthening of the sector for better service to consumers . Such request of representative of industrialist had resulted in bunching of FSA collection as witnessed now. The Discoms are receiving representations from various industrial consumers to defer FSA collection which can be avoided by deciding the FSA in right time.

3	**AP FERRO ALLOYS PRODUCERS ASSOCIATION, represented by M.R. PRASAD, secretary General**	
S.No.	**Summary of Suggestions**	**Response of the Licensee**
2	**ON THE MAINTAINABILITY** The Petitioners have filed a Writ Petition in WP No. 22086 of 2012 before the Hon'ble Andhra Pradesh High Court challenging the validity of the Condition No.4 of Clause 45-B of Regulation 2 of 1999. This being the case, the Petitioners have no authority to file the FSA Claims as the Petitioner cannot be allowed to blow hot and cold by simultaneously challenging the very Regulations enabling them to file the FSA Claims and on the other hand filing the Claims before this Hon'ble Commission.	
3	This challenge by the Petitioner attains importance as none of the impugned Petitions are signed by the Directors of the Petitioner companies and no material is produced to evidence that the Board of Directors of these companies have authorized the filing of the Petitions. Hence, the Petitions are contrary to the law declared by the Hon'ble Delhi High Court in **NIBRO LTD. *v.* NATIONAL INSURANCE CO LTD (**AIR 1991 Del 25: *(1991) 70 Comp Cas 388*.	The DISCOMs are registered under Companies Act but are wholly owned by the Govt. of A.P. The respective DISCOMs have already authorized the concerned the Chief General Managers to sign the pleadings and file the same in the Commission in respect of all the proceedings including the FSA proceeding time to time before the Hon'ble Commission. Therefore, the objection is unsustainable. The judgments of the Delhi High Court, AP High Court and Supreme Court are not related to the present context. As far as FSA proceedings are concerned the same has been filed as per the proceedings.
4	In AHMEDABAD ELECTRICITY CO. LTD. v. SANGHI SPINNERS (INDIA) LTD. [(2007) 74 SCL 95 (AP): Decided on 06.06.2006] Hon'ble Andhra Pradesh High Court, relying upon the decision of the Hon'ble Delhi High Court in NIBRO LTD. v. NATIONAL INSURANCE CO. LTD. AIR 1991 Del 25: (1991) 70 Comp Cas 388, held that winding up Petition filed by the company	

	secretary, without authorization from the company was not maintainable, in view of the fact that no document showing that there was any board resolution of the Petitioner company authorizing the company secretary to file the company petition was filed. Except stating that he was having the authorization, the company secretary did not produce any document showing that he had the authority to institute the company petition, as well as to depose.	
5	The impugned Petitions filed by the Petitioners are also opposed to the law declared by the Hon'ble Supreme Court of India in **DALE AND CARRINGTON INVESTMENT (P) LTD Vs. P K PRATAPAN [**AIR 2005 SC 1624 @ page 1631],	
6	From the above, it is very clear that even an individual Director has no authority to represent the Petitioner. In such case, an officer of the Petitioner, without filing a duly executed power of attorney to file the impugned Petitions, as provided under the provisions of its Articles of Association of the Petitioner Companies, cannot maintain the impugned Petitions. It is submitted that the Board of the Petitioners have not delegated any authority to the Managers under a duly executed Power of Attorney. The Petitioners have not produced any document showing grant of any authority to sign and file the impugned Petitions, by merely claiming to be so. On this count also the impugned Petitions are defective and liable to be rejected, *in limine.*	
7	**Re: Regulations containing the FSA are *non est*** At the outset, it is submitted that the fundamental edifice and	As per the power endowed by the Electricity 2003 , The Hon'ble APERC has power to make rules and regulation for the conduct of Business

	enabling provision for filing of the Fuel Surcharge Adjustment Claims (the "Claims") by the Petitioners is Regulation 45-B of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulation 2 of 1999 (the "CBR), brought into the CBR vide Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Amendment Regulation 1 of 2003 ("CBR 2003") published in the Gazette of Andhra Pradesh dated 17th July, 2003.	
8	This Hon'ble Commission, after its constitution under the Andhra Pradesh Electricity Reform Act, 1998 ("**APR Act**"), and in exercise of its regulation making power under Section 54, issued the CBR, inter alia, providing for the manner in which it would conduct its business generally, including the manner in which, it would consult and hear persons likely to be affected by its decisions, as mandated by Section 10(7) of the APR Act. Thereafter, on 28th August, 2000, this Hon'ble Commission, made amendment to the Business Regulations, by issuing A.P. Electricity Regulatory Commission (Conduct of Business) Amendment Regulations, 2000 (Regulation No. 8/2000), introducing inter alia Regulation 45-B in Chapter IV-A with respect to tariffs and providing for a FSA formula. Thereafter, again on 23rd June, 2003, this Hon'ble Commission issued the CBR, 2003, whereby substituting Fuel Surcharge Adjustment formula contained in Regulation 45-B.	The DISCOMs submitted that the objections are misconceived the effect of Section 181, Clause (3) of Electricity Act, 2003 and the ROD dt. 09.06.2005. The objector has wrongly assumed that the regulations i.e. CBR together with amendment made in the year 2000 and 2003 have been passed under the Electricity Act 2003. The Section 181 Clause (3) says that all regulations made by the State Commission **under this Act** shall be subjected to the conditions of previous publications. As a matter of fact, the CBR 1999 together with said amendment have been passed under the AP Electricity Reforms Act which was in-force at that time. Further, Section 185 (3) saved the said Reforms Act. That a part, the CBR 1999 together with said amendment was issued with prior publication of drafts inviting objections. Therefore, the objections raised in this regard are factually incorrect, evidently false and legally unsustainable. Therefore, the FSA regulations are very much backed by statutory force.
9	Consequent to the coming into force of the Electricity Act, 2003, (the **Act**), the Hon'ble Commission on 10th June, 2004, issued the A.P. Electricity Regulatory Commission (Transitory Provisions for Determination of Tariff) Regulation, 2004 (Regulation No. 9/2004) ("**2004 Regulations")**, whereby the existing Regulations notified by	

	the Commission, including the CBR, as amended from time to time, made under the provisions of the APR Act were to continue to apply as Regulations under the Act.	
10	Thereafter, the MoP, in exercise of powers conferred by sub-section (1) and clause (z) of sub-section (2) of section 176 of the Act notified the Electricity (Procedure for Previous Publication) Rules, 2005 (the "**PP Rules**").	
11	Pursuant thereto, on 08th June, 2005, the Union of India, Ministry of Power (the "MoP") made Electricity [Removal of Difficulties] (Ninth) Order, 2005 (the "RoD Order"). the RoD Order inter alia provided thus: "*Regulations made by the State Commissions, before the commencement of this order, without meeting the requirement of the previous publication under sub-section (3) of section 181 of the Act shall again be published as draft regulations for the information of persons likely to be affected thereby for inviting the objections or suggestions following the procedure prescribed under the Electricity (Procedure for Previous Publication) Rules 2005, and shall be finalised after considering such objections or suggestions received.*	
12	It is pertinent to state that the RoD Order was passed specifically under the then prevailing circumstances where the Regulations made under the previous legislation did not contain pervious publication norms, and more particularly, the State Commission were making transitory regulations such as the 2004 Regulations, giving deeming	

	effect to the erstwhile regulations as though these regulations were under specified under the Act. Hence, the RoD Order specifically mandated that the Regulations made by the State Commissions, before the commencement of this order, without meeting the requirement of the previous publication under sub-section (3) of section 181 of the Act shall again be published as draft regulations for the information of persons likely to be affected thereby.	
13	This Hon'ble Commission has fixed the Fuel Surcharge Adjustment under Regulation 45-B of the CBR 2003. Regulation 45-B of the Business Regulations, prescribes a formula for determination of FSA. The data for the Petition of the formula is based upon the information forwarded by the licensees. The Commission shall make the determination as per the formula, 'unless otherwise agreed by the Commission'. In addition to the formula, Regulation 45-B imposes certain conditions	
14	However, the CBR 2003 is a regulation made before the RoD Order and after the coming into force of the RoD, the CBR 2003 ought to have been published as draft regulations, as required under the RoD Order. This was not done admittedly. Therefore, CBR 2003 is *ultra vires* the Act, PP Rules and particularly, the RoD Order.	
15	Therefore, no aspect contained in the CBR 2003 much less the FSA formulation contained can be relied upon by the Petitioners to file the present FSA Claims.	
16	Moreover, the Hon'ble Appellate Tribunal for Electricity in its *Suo Motu Order* passed in O.P. 1 of 2011 has held thus:	The directions issued at Para No.65 of the OP No.1 of 2011 on the file of Appellate Tribunal, primarily focused on the aspect

	"*64. We also notice that most of the State Commissions have not provided in their Regulations Fuel & Power Purchase Cost Adjustment Formula for allowing the increase in fuel and power purchase cost during the tariff year. The fuel and power purchase cost adjustment mechanism provided in most of the states is after completion of the financial year through a separate proceeding which takes a long time. The power purchase cost is a major expenditure in the ARR of the distribution licensee. The fuel and power purchase cost is also uncontrollable and it has to be allowed as quickly as possible according to the Tariff Policy. The Electricity Act, 2003 under Section 62(4) has specific provision for amendment of the tariff more frequently than once in any financial year in terms of Fuel Surcharge Formula specified by the Regulations. A major part of power procured by the distribution company comes from the Central Sector Generating Companies whose tariff is regulated by the Central Commission and the State owned Generation Companies whose tariff is regulated by the State Commissions. The Central Commission in its Tariff Regulations has already provided a formula for fuel price adjustment and the charges of the generation companies are increased as and when the fuel prices are increased. In view of the present precarious financial conditions of the distribution companies, it would be necessary that the State Commissions also to provide for Power Purchase Cost Adjustment Formula as intended in the section 62(4) of the Act to compensate the distribution companies for the increase in cost of power procurement during the financial year. In the above situation, as indicated above*	that every State Commission must have in place a mechanism for fuel and power purchase cost in terms of Section 62(4) of the Act. In our case, we have a mechanism evolved through the amendment of CBR made in the year 2000 and 2003. The said regulations were made to achieve the object of Section 62 Clause (4) which is corresponding to Section 26 of AP Electricity Reforms Act, 1998. The mechanism / formula brought out through the aforesaid regulation. Therefore, the said mechanism / formula provided in Clause 45-B of CBR has sufficient statutory force. In fact the order passed in O.P. No. 1 of 2011 supports the case of Discoms on the aspect that even assuming without admitting that the allegation of no authorization is considered in favor of respondents as mandated by the Appellate Tribunal which is in consonance with clause 12.4 of APERC Regulation 4 of 2005 where at the Hon'ble Commission is obligated to issue sue Moto proceedings even in the event of Discoms fails to submit such filings. Further in clause 12.4 of the said regulation the Hon'ble Commissions obligated to recover or shall refund as the case may be the charges on account of FSA as approved by the Commission from time to time. Indisputably, by operation of law the FSA formula provided at clause 45-B of CBR has been approved by the Hon'ble Commission. Therefore the

	it has become necessary for this Tribunal to give appropriate directions, to correct this situation by invoking the powers under Section 121 of the Act which is permissible under law." *XXX* *65 (vi) "…Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably be on monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/ mechanism."*	mechanism applied by the Discom or has been adopted by the Commission in the preceding quarters is absolutely in accordance with law.
17	At any rate, the claims of the Petitioners spring and derive force from 45 -B of the CBR 2003. When the CBR 2003 is not in conformity with the Act and Rules made there under, the Petitions in the present form, under the present provisions are not sustainable.	
18	Looking at this from another perspective, if this Hon'ble Commission desired to keep the CBR 2003 in force, after the RoD Order, this Hon'ble Commission would have published the draft thereby. Having not done so, the Commission, consciously elected not to keep the CBR 2003 in force. Hence, by Hon'ble Commission's	

	own action, the CBR 2003 have lost force of law and are not rendered *non est* in law. Hence, CBR 2003, as claimed by the Petitioners cannot be the basis for the FSA claims.	
19	Further, it is submitted that the 62 (4) Act specifically provides thus: *"No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes* ***expressly permitted under the terms of any fuel surcharge formula as may be specified****."* ******** The term "*specified*" is defined under sub section 62 of section 62 of the Act to mean, *"Specified by the Regulations made by the Appropriate Commission or the Authority, as the case may be, under this Act;*	
20		
21	This contemplates that the FSA has to be specified by the way of formula and such formula has to be specified by the way of Regulations by the Hon'ble Commission. Therefore, the FSA cannot be determined without there being any Regulation. Admittedly, there is no Regulation in force specifying the FSA formula.	

22 23	**ON MERITS** Without prejudice to the above, presuming that the FSA claims can be raised by the Petitioner, the Objector prays to submit the following on the merits of the claims: Re: **TRUING UP vs. FSA CLAIMS – NUMBERING CONFUSION** It is submitted that the FSA relates to the claims limited to the fuel surcharge escalation/s, if any being paid by the Petitioners pursuant to the regulatory approvals. Variance in the fixed charges, prior period expenses, all such other allied and incidental charges are outside the scope of the FSA Petitions.	The existing FSA formula provides for recovery/return of short/excess fixed cost, prior period expenses. APDICSOMs have claimed for variance in fixed cost and prior period expenses in line with the regulation in vogue.
24 25	It appears that the Petitioners had filed the present applications as a sort of Truing Up Petitions as Interlocutory Applications to their Tariff Petitions. However, this Hon'ble Commission numbered them differently and thus, the present FSA claims are being taken up for adjudication. In the name of FSA, this Hon'ble Commission allowing a sort of quasi "Truing Up" by passing on the burden without passing on the benefits during the control period. As per the regulations governing, the truing up exercise is due after the end of the control period. However, in the name of FSA Petitions, the Petitioners are forcing this Hon'ble Commission to conduct the truing up exercise.	Clause 45(B) of Conduct of Business Regulations, Licensees are entitled to recover amount eligible towards fuel surcharge adjustment for the price and mix variations in the quantity of energy purchased during the quarter.

26	An illustration in this regard is the increase in the Fixed Charges paid by APEPDCL to APGENCO for the Month of October, 2012. EPDCL claims to have paid NIL variable charges and then is claiming a sum of Rs. 97,70,00,000/- (Rupees Ninety Seven Crores Seventy Lakh Only) as per the Petition (ref: page 5 of the APEPDCL Petition. Same amount is shown as having been paid by all Petitioners. Be that as it may. This gives rise to following queries: a. Whether there is two-part tariff structure for the hydro plants and if so, is there a variable cost to be paid for fuel less generation? b. Whether the such so called 'increase' in the variable charges to a hydro unit can be termed as fuel surcharge adjustment and be passed on in the present petition? c. What prevented the Petitioners from projecting the same in the recently concluded tariff hearings?	Fixed cost is admitted in respect of Hydel Stations as per Tariff Order of FY 2012-13 and as per regulation 1 of 2008 and the cost is considered for the purpose of computing FSA.
27	Hence, the present Petitions are not FSA Petitions and therefore are not maintainable in the eye of law.	
28	Re: **REGULATORY APPROVAL** The FSA Claims made by the Petitioners do not have the approval of the appropriate regulatory commission that the generating companies can pass it on to the respective distribution licensee	In reply to Para Nos. 28 to 37, it is incorrect to state that the incremental cost of fuel that is incurred by generator has to be first get approved from the concern ERC and then claim with DISCOM and that based on the said approval the DISCOMs should pay, and claim the same as part of the FSA. The

29	A substantial quantum of the FSA claims of the Petitioner relate to the Central Generating Station **(CGS)**. While it is true that the Terms and Conditions of Tariff Regulations of Hon'ble Central Electricity Regulation Commission **(CERC)** has in place fuel cost recovery mechanism in its Regulations, enabling the generators to pass on the variable cost component of power cost. However, the Petitioners have not placed any material on record before this Hon'ble Commission to show that the claims of the CGS which the Petitioners claim to have settled pursuant to an approval granted by the Hon'ble CERC to the generator/s permitting them to pass on the costs of generation on to the distribution companies.	objector misconceived the FSA of tariff. The Hon'ble Commission as part of its order held that FSA applicable shall be in addition to the tariff. Aside of the same, either the Electricity Act or the regulations made there under specifies the said condition precedent for the generators to claim or for the DISCOMs to claim the FSA. In fact, the present proceedings are to achieve the object of correctness or otherwise of the FSA claims that are made by the DISCOMs. If the claims are found to be excessive / incorrect the same would be appropriate corrected to the entitled quantum by APERC. Therefore, there is no possibility of unapproved claims passed on to the consumers. Clause 45-B of CBR not only provides the incremental cost of fuel incurred by the generators / DISCOMs , also provided prior period expenses and some part of fixed costs. Therefore, the claims made by the DISCOMs subject to the correction of quantum, are made in accordance with the law in force.
30	Analogous to the present exercise, wherein distribution companies are seeking approval to pass on their FSA exposure onto the consumers, the generator/s too ought to have sought specific approval from the appropriate Commission/s, to pass on their variable costs / other legitimate claims.	
31	This becomes increasingly important in the wake of the fact that some of the PPAs may not contemplate for pass-through of incremental costs by the generators on to the distribution companies. In some cases, the Fuel Cost Adjustments and other claims, which Petitioners want to load onto the consumers, may stand the regulatory scrutiny and may be directed to be absorbed by the generators.	
32	As per the Act, the appropriate Commission has to specifically approve the tariff to be paid by a distribution Licensee to a generating company. Even if there is a formula the charges levied by	

	the generating companies have to be tested on anvil of the Act and the formula in the regulations made under the Act.	
33	In other words, the Petitioners ought to have satisfied themselves and then satisfied this Hon'ble Commission in their present petitions that each unit of energy for which they are making payments for generators has got the approval of the appropriate commission/s. No material much less any credible material has been placed on record that generators claims are genuine and most importantly have the regulatory approval.	
34	At least in respect of the generating companies of our own State, the Petitioner have not placed any material to show that this Hon'ble Commission has approved the fuel costs and variable costs to be passed on by generating companies to the Petitioners	
35	In the wake of the above, the Petitioners may like go ahead and settle the generators unapproved claims, if the Petitioners chose to do so. However, they have no right to pass it on to the consumers much less to the members of the Objector herein.	
36	It is quite evident that what the Petitioner's endeavouring through the present exercise is to get the generators unapproved claims passed on to the consumers, under the garb of passing on its own FSA claims.	
37	The FSA should primarily consist of the change in the uncontrollable component of the variable cost and the incremental cost of the Power Purchased as per the terms of the Tariff Orders. The inclusion of substantial fixed costs of all hues and shades apart from tall prior period expenses are seemingly disproportionate and have to be	

	subjected to thorough Scrutiny for compliance including their nexus to the relevant quarter.	
38	Re: **AGRICULTURAL CONSUMPTION** It is not clear from the information furnished as to how the power for agricultural consumption in excess of the tariff order approved quantities has been purchased and how the additional costs have been dealt with. The requirement in the tariff order is that the State Government is required to bear the entire cost of all such additional purchases. Therefore, the entire fixed and variable costs for such additional purchases have to be excluded from the FSA exercises and/or in computing the weighted average cost of purchase	In the previous FSA orders, Commission has restricted agriculture sales to the least of actual sales or sales approved by the Commission in Tariff Order. The power purchase quantity is limited considering above factor.
39	Re: **PURCHASES ABOVE CEILING PRICE** The Petitioners have stated as follows: "*Due to increase in demand and non availability of energy from hydel stations, APDISCOMs were constrained to procure the power from short term sources through transparent tender procedure. The effort was to lessen the demand supply gap to the extent possible. In the process the price offered by certain traders from outside sources was higher than the ceiling price prescribed by APERC.* *XXX* *Hon'ble Commission is humbly requested to consider the*	Licensee has prayed the Hon'ble Commission to consider the market discovered price as it is the actual cost incurred by the Licensees. Initially the ceiling price is fixed by the Hon'ble APERC based on the market conditions at the time of filing. But in the real time situation, price may change due to multiple factors.

	market discovered price over the Hon'ble APERC determined ceiling price for certain traders and allow the actual cost proposed in the FSA"	
40	In the wake of the vent available to the Petitioners in the form of R&C Measures, it is highly untenable on the part of the Petitioners to have opted for higher purchases despite this. Be that as it may, the limited scope of the FSA Claims to claim the permitted claims and not to pray for even disallowed or unallowable claims. If the Petitioners want to seek modification of the ceiling price, the appropriate form of doing so would be by way of a separate petition before this Hon'ble Commission.	The factual position of additional power procured by licensees within the limit permitted in tariff order at prevailing market rates is appraised to Hon'ble Commission.
41	Hence, purchases beyond the ceiling price should not be allowed at any cost. More importantly, if claims above the ceiling price are allowed, then the very purpose of ceiling price would be rendered futile as also the R&C Order also would be rendered futile.	
42	Re: **HOW CAN COST VARY MONTHLY in LONG TERM PPAS?** It is pertinent to state that Petitioners, like all other Distribution Companies have long term contract with the generating companies. Many such PPAs executed with the generating companies may not contain any provision or enabling clause for pass through of even certain legitimate costs as per the terms and conditions of the PPAs executed. Even presuming such PPAs do have clauses for pass through, such pass through has to be after the due approval of the appropriate commission/s and not automatically, as envisaged herein by the Petitioner. It is upon the conclusion of an analogous exercise	The fixed and variable costs will vary from month to month depending upon foreign exchange rate, quantum of generation.

	in case of generator/s, the question of approval of pass through of the FSA claims of the Petitioners arises.	
43	There is no exercise akin to a Truing Up exercise undertaken to the generators to ascertain whether the generator was entitled to recover the costs over and above one agreed under the PPA. However, Truing Up exercise is contemplated to be conducted for the Petitioner DISCOMs. Therefore, if the generators claims should be strictly scrutinised.	For enabling Commission staff to have a prudent scrutiny, copy of invoices along with other relevant material is submitted to Hon'ble Commission.
44	Re: "**EQUALITY" AMIDST DIVERSITY** It is amazing that all Distribution Companies have made the same quantum of FSA claims at 0.9559/ kWh, irrespective of their load patterns, consumer mix, and voltage regimes.	In the Tariff Order one merit order for entire state is approved and further the monthly variable cost/Kwh is approved for entire state for the purpose of calculating FSA. Licensees have therefore claimed FSA for the entire state by merging sales and power purchase of all the licensees. Source-wise purchases were already placed in website.
45	The provisions of the Act, as stated above, require that the FSA can be claimed by way of a formula specified. And if the Petitioners are claiming the FSA through a formula, then, it is virtually impossible that power purchase cost of all the Petitioners would be surprisingly equal.	
46	This is possible only if : a. All Petitioners must be claiming the same amounts for the same quantum of energy originating from the same Account Head. b. All Petitioners may be concocting the numbers and would have lodged false and fictitious figures.	

	In both cases, the Petitions are liable to be rejected.	
47	**INEQUITABLE DISTRIBUTION OF FSA** Presuming for argument sake that the FSA Formula exists in law, the same provided that agricultural consumers cannot be loaded on with the FSA until agricultural consumption is metered	FSA is being levied as per the regulations in vogue.
48	It is submitted that section 55 (1) of the Act provides that no licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Central Electricity Authority (**CEA**).	
49	Hence, the Regulation 45 – B read with section 55 of the Act, will give rise to an irrefutable conclusion that after 09th June, 2005, the Petitioner's have no choice but to meter the sales to all categories	Estimation of agriculture consumption is being done as per the approved methodology by the Hon'ble Commission.
50	Once the law makes it mandatory to meter all sales, there is no option left with the Licensees but to meter the agricultural sales. Once the agricultural sales are to be metered. Thus, agricultural consumption too has to be included for loading on the FSA	
51	In fact, the agricultural consumption is being subsidized by the State Government. The ordinary farmer will not be burdened with any additional exposure. When the Government has voluntarily shouldered the onus of providing for the tariff to the Agricultural consumption, there is no reason why, even for social reasons, the FSA Claims should not be equitably distributed across the categories.	FSA will be levied as per the regulation in vogue.
52	Further, this Hon'ble Commission, to exclude the agricultural consumption has relied upon a decision rendered by the Hon'ble APTEL. The relevant extract from this Hon'ble Commission's order	Discoms have submitted FSA proposal in accordance with regulation in vogue.

53	is as follows: "*Vide its Order dated: 07-02-2008, Hon'ble Appellate Tribunal for Electricity, in Appeal No: 250 of 2006 (5 Nos of Distribution Licensees of Karnataka Vs Karnataka ERC & KPTCL), in the matter of power supplied to the agricultural consumers, has held that 'Once a decision has been taken by the Government, it may not be proper to designate the existing connections as unauthorized' (Para-32 of the ATE's Order).* This decision does not say that agricultural consumption should not be metered. Moreover, the Hon'ble APTEL, in many subsequent judgements, including the latest case of **FARIDABAD INDUSTRIES ASSOCIATION AND OTHERS *v.* HARYANA ELECTRICITY REGULATORY COMMISSION AND OTHERS** in Appeal No. 204 of 2010 dated: 11th August, 2011 held thus: *"We notice that about 20% of the total sale of the second and the third respondents is through unmetered agriculture consumers. Even the energy data from accounting and audit meters on the segregated 11 kW agriculture feeders has not been provided. Further, a large number of meters installed on agriculture tubewell are either not read or are defective. This is in contravention of Section 55(1) of the Act which specifies that no licensee shall supply electricity after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the Regulations of the Central Electricity Authority (CEA). According to Section 55(2), meters have to be provided for the purpose of accounting and audit*	

	at the locations specified by the CEA. According to Section 8.2.1 (2) of the Tariff Policy, the State Commission has to undertake independent assessment of baseline data for various parameters for every distribution circle of the licensee and the exercise has to be completed by March, 2007. It is evident from the impugned order that the respondents 2 and 3 have not taken any extension for maintaining power supply without the meters, as specified in the second proviso to Section 55(1), which is reproduced below: *"Provided further that the State Commission may, by notification, extend the said period of two years for a class or class of persons or for such area as may be specified in that notification".* *7.16. Thus the second and the third respondents have violated the provisions of the Act regarding metering. The respondent distribution licensees have also failed to provide the energy data from the segregated 11 KV agriculture feeders and AT&C losses to the State Commission and other relevant data required to be furnished to the State Commission for deciding ARR and tariff as per the Regulations and the directions of the State Commission.* *7.17. In our opinion, the State Commission cannot be a silent spectator to the violation of the provisions of the Act and its Regulations and directions by the distribution licensees. The State Commission should immediately take appropriate action in this matter according to the provisions of the Act. The State Commission should also give directions to the second and the third respondents giving a time bound schedule for installation of consumer and energy*	

	accounting and audit meters, including replacement of the defective energy meters with the correct meters within a reasonable time to be decided by the State Commission"	
54	**Re: STOA CHARGES?** The Petitioners, in the name of the FSA Claims, are claiming a sum of Rs.17,12,93,667 /-(Rupees Seventeen Crore Twelve Lakh Ninety Three Thousand Six Hundred Sixty Seven Only) as Short Term Open Access charges.	Short term power purchases are allowed by Hon'ble Commission with a ceiling limit. The open access charges associated with short power purchases was submitted to Commission along with FSA computations.
55	Firstly, the Petitioners have to satisfy whether Short Term Open Access Charges can be termed as Fuel Surcharge Adjustment. While the variable charges may have varied resulting in FSA Claims, however, the charges to be recovered on account of STOA Charges, which are settled at weekly or quarterly intervals cannot vary drastically. At any rate, these charges cannot be called as FSA Charges by any stretch of imagination	
56	Re**: PRIOR PERIOD CLAIMS** Huge amount of charges viz., Rs. 1,22,91,76,034/- (Rupees One Hundred Twenty Two Crore Ninety One Lakh Seventy Six Thousand Thirty Four Only), as prior period claims, are being claimed as FSA. The CBR 2003 is clear on whether the prior period claims can be termed as FSA and within what is the period within which the FSA claims have to be lodged.	As per the FSA Regulation under the heading of Z i.e. the changes in the cost in Rupees as allowed by the commission for a period extending in the past beyond the relevant quarter is being claimed as prior period expenditure.
57	The Petitioners have be explain why such claims were not included as part of the ARR or Revised ARR for the relevant years or filed as part of the Review to be filed every year or as Truing Up Petitions	Power purchase variance after the issue of Tariff Order can only addressed through FSA mechanism as per clause 45(B)

	after end of the control period. Having not filed as any of the above-stated, the Petitioners have relinquished their claims to the said amounts and the same cannot be allowed to be passed on as the FSA Claim.	of APERC Conduct of Business Regulations.
58	This aspect of retrospective claims was duly considered by the Hon'ble High Court and has held that there are no powers vested with the Petitioners to recover back dated claims.	The FSA regulation in vogue mandates the claim of prior period expenditure either credit/debit to pass on to the consumers. There is no such judgment prohibiting including the component of prior period expenses. The so claimed Hon'ble High Court Judgment is not on the aspect of prior period expenses which is permitted in the formula.
59	Re: **EQUITIES - PLIGHT OF CONSUMERS** After an unprecedented steep hike in Tariff structure in this financial year itself, the third quarter Fuel Surcharge Adjustment (**FSA)** claims by the Petitioners at Rs. **0.9559** / kWh is brutal, insensitive and a display of unabashed cruelty towards the helpless consumers who are already subjected to severe distress owing to the long, harrowing, unending and ever increasing spate of Power Cuts regardless of their working process sensitivity for about an year now.	The proposed FSA claim is in accordance with regulations. Discoms need to recover the expenses incurred.
60	**PRAYER** **WHEREFORE**, it is most respectfully prayed that the petitions filed by the petitioners fuel surcharge adjustment claims filled by the Petitioners for third quarter of 2012-13 may be rejected with costs, in the interest of justice and equity	

4	**Andhra Pradesh Spinning Mills Association, and 99 others** **Regd. No. 39201, 1st Floor, 105 Surya Towers,** **Sardar Patel Road, Secunderabad 500 003,**	
Sl.No	**Objection/Suggestion**	**Reply**
1	DIFFICULTY FOR CONSUMERS IN READING THE GIVEN DATA BY THE DISCOMS 3. At the last 2 hearings for Q-1 & Q-21, the Chairman of the Hon'ble Commission had specifically instructed the staff of the Commission to ensure consumer friendly, neat and readable copies and material on the Commission's web site. Despite that the quality continues to be horrendous and the print quality specifically is very difficult for consumers to study the data and make informed observations/objections. 4. Inconsistencies and errors pointed out hereunder are therefore not to be considered as exhaustive. Further, an objection with regard to a particular DISCOM hereunder may be taken to apply also to other DISCOMS wherever applicable.	
2	FSA PROPOSAL,S ARE VAGUE WITH INCONSISTENT INFORMATION AND NO EXPLANATION 5. We have pointed out during the hearings of Q-1 & Q-2 that in a matter of public hearing, it is expected and it is necessary that the Commission enables a meaningful public participation. This can happen only if the participating	Hon'ble Commission in respect of all the FSA claims is issuing orders after thorough scrutiny and prudent check of licensee's claims with reference to invoices raised by generators, regulations in vogue, orders of

	consumers feel assured that the Hon'ble Commission has done its own due diligence of all the proposals of the DISCOMS, since the Hon'ble Commission and its staff are in any case better informed than we consumers and also hopefully have access to the required data for verification. And thus, in the first place the Hon'ble Commission itself can decide on the given proposals after hearing from the applicant and the consumers. This is specifically in the matter of data like power purchase of each of the DISCOM separately, applicability of variance expenses claimed etc. We regret that we are yet to feel re-assured that such expected due diligence has, in fact, been carried out by the Hon'ble Commission's office. In fact, we as consumers would expect that only after such due diligence stated above, are made good that the Hon'ble Commission would proceed to a public notice and conduct a public hearing.	competent authority giving utmost importance to the interests of consumers and viability of licensees.
	6. Fundamentally in a matter of FSA claim, as was pointed out in the earlier hearings that unless each of the DISCOMS totally clarify their respective energy balance i.e., the quantum of purchase, their specific costs, losses of T&D, the entire exercise of FSA, we regrettably have to state, would be a sham and charade'. However, it appears and we regrettably have to state that the entire purchases and allocation has become a 'CARTEL' amongst the DISCOMS. It is totally un-understandable as to how every DISCOM's FSA is identical in claim in terms of Rs/KWH. What can we call this, other than a well researched mathematical exercise to ensure that the figures are identical? It leaves us consumers to wonder how each of	In the Tariff Order one merit order for entire state is approved and further the monthly variable cost/Kwh is approved for entire state for the purpose of calculating FSA. APDISCOMs will be procuring power based on state merit order as no separate merit order is available. Therefore, only one rate of FSA can be calculated and claimed.

	the DISCOMS has the same FSA, specifically when each of the DSICOMS has a different consumer mix in terms of consumption. This cartelization is totally against the very intention of the Electricity Act to promote efficiency and competitiveness in performance and delivery to us consumers. In fact, we, as consumers are beginning to wonder if this very exercise of creating the DISCOMS as separate entities is 'beneficial'. If 'YES' for whom?	
	7. In a FSA claim, the single largest expenditure is with respect to variance in energy purchase cost. In fact, the contention is that this should be the only one cost that can be included in FSA claim irrespective of what DISCOMS have now chosen to add, which is even otherwise contentious. If this basic energy variance cost in itself has been cartelized what is that we power consumers are deliberating in a public hearing?.	Variance in fixed and variable cost along with prior period expenditure is claimed as fuel surcharge as per formula envisaged vide Clause 45(B) of APERC Conduct of Business Regulations.
	8. Once again we wish to state that the Hon'ble Commission ought to have laid down the formats in which information has to be given and study/follow the explanations and notes before the same are put to public hearing.	
	<u>REFUND FOR 2006-07 and 2007-08</u> 9. We have stated during the Q-2 hearing that the Hon'ble Commission has not determined the refund due to the consumers for 2006-07 and 2007-08 and caused the amounts to be refunded. In fact, our submission is that FSA for any subsequent period including Q-2 & Q-3 for 2012-13 cannot be proceeded with without considering and allowing these refunds.	

	<u>OBJECTIONS ON THE CONTENT OF THE FSA PROPOSALS</u> 10. Statement of month-wise, category-wise sales for the quarter do not show the corresponding power purchase quantities by properly grossing up the sale for the losses as per the methodology specified in the Tariff Order. The methodology appears to be different from that in the applications for previous orders of the Hon'ble Commission	FSA was computed as per the formula given in regulation and grossing up of sales to arrive at power purchase quantity is not contemplate in the regulation.
	11. The excess purchases for each month and for each DISCOM on account of Agricultural consumption has to be disallowed from the energy purchases. The data given by the DISCOMS regrettably is opaque as to the application of this methodology.	Hon'ble Commission has been taking into account agricultural sales least of actual sales or tariff approved sales.
	12. As has already been stated in point No. 7 we are disputing the claim of any fixed cost variance in calculating FSA. We are not clear if LVS can be allowed a claim on fixed cost when in fact there is no dispatch of energy. In fact, we notice this claim in the fixed cost for October, 2012, November, 2012 and December, 2012 when in fact during these months LVS has not made any dispatch - **is this allowable?**	Dispatches are done duly following the merit order. Variance in fixed cost is arrived at taking difference of actual fixed cost and fixed cost approved in tariff.
	<u>Provision for prior period expenses in the Formula</u> 13. We continue to maintain as in Q-1 & Q-2 submissions that the provision for prior period expenses in the formula, is being grossly abused to mulct a section of the consumers in an arbitrary, irrational and un-reasonable manner. The basic fundamental underline principle in the FSA formula is to distribute the	FSA formula provides for recovery/refund of variance in power purchase cost on quarterly basis. The FSAs for present quarter was claimed as per the regulation.

		variances in costs upon the energy consumed during the quarter. There must, therefore, be a nexus between the energy consumed in the quarter (in the denominator of the formula) and the variation in the costs considered (in the numerator of the formula), otherwise the entire formula becomes irrational, inconsistent, unreasonable and arbitrary.	
	14.	There is totally insufficient information with regard to the observance of merit order, the effects of violation of which are also to be adjusted under the formula in the Regulation. Reference here is made to the observations of the Hon'ble Commission in paragraph 69 of the Tariff Order for the year 2012-13. With regard to the backing down of the low cost approved stations to accommodate short term purchases in the light of the observations with respect to 2010-11 and 2011-12. The licensee must be directed to provide the information with regard to such back down during the quarter.	The monthly FSA statement itself is prepared on the merit order and in a deficit scenario the question of violation doesn't arise.
	15.	We have stated this in Q-1 as well as Q-2 that is not clear as to the basis of the methodology adopted where the wheeling is being done on KVAH basis to be related to the cost of purchase which in KWAH – **how is KWH being converted into KWH ?**	The energy meters are capable of recording both KWH and KVAH, the same has been capturing every month and accordingly readings are considered for the purpose billing and FSA.

	16. It is not explained as to how short term purchase price over and above the stipulated limits is being claimed, contrary to the specific limitations in the Tariff Order. As per the License conditions of the DISCOMS, the DISCOMS are required to follow the guidelines/instructions given by the Hon'ble Commission in respect of any short term or urgent purchases. The Hon'ble Commission has issued the guidelines. It appears that the guidelines have been abused and the approval has been completely breached. The DISCOMS must explain as to how the purchases made in breach of the license conditions are allowable. In the absence of any explanation that we can see in their given FSA proposals, we are forced to conclude that we consumers are being improperly prejudiced and this is certainly not in the public interest. We request the Hon'ble Commission to direct the DISCOMS to explain the above.	Power is being procured on short term basis for the quantity permitted in the tariff order to the extent possible in a transparent bidding mechanism.
	<u>METHODOLOGY OF COMPUTATION OF FSA IS CONTRARY TO REGULATIONS</u> 17. From the statements appended to the proposal by DISCOM, it appears that FSA is being computed on a State Level Basis. The purchase quantities and expenditure on the basis of entire State (combing/pooling/cartelizing all DISCOMS) taken together. Such methodology is not authorized or contemplated by the regulations and therefore contrary to LAW. The claim of an individual DISCOM for FSA rate determined on the basis of all DISCOMS taken together is illegal and contrary to the regulations and LAW.	Hon'ble APERC has been issuing only one Merit Order state as a whole. APDISCOMs will be procuring power based on state merit order as no separate merit order is available. Therefore, only one rate of FSA can be

	18.	The regulations clearly and unambiguously require each licensee to give the particulars of its own purchase and expenditure. This requires that each DISCOM must specifically give its own calculation for its own power purchase quantities, source of supply, costs and claims with respect to the tariff order, quantity as approved for that particular DISCOM and the merit order dispatches that are required to be made to meet that DISCOM's energy sales. For this purpose, each DISCOM must provide its own energy balance which is a sine qua non of the determination of FSA of that DISCOM. The main Tariff order itself deals with the requirement of each DISCOM separately and with the power purchase quantity required by each DISCOM separately and with the approved power purchase quantities of each DISCOM separately and with the share of power from various Stations for each DISCOM (with respect to third transfer scheme) and with the approved distribution losses of each DISCOM separately, and with the approved agricultural consumption, quantity limitations for each DISCOM separately and for D-D sales at specific transfer rates. The FSA has therefore to be determined separately in accordance with these parameters separately for each DISCOM. We are certain that all the above data will be and have to be known by each DISCOM and therefore the same can be provided to the consumers for making these public hearings a meaningful deliberation.	calculated and claimed. The sales of each licensee were submitted along with FSA filing. The FSA of each month is computed based on the incremental cost and the same is apportioned in accordance with the sales made by each licensee. Since entire power purchase quantity is taken for the computation of FSA the effect of D-D for the state has no relevance.
	19.	Because each DISCOM can sell different quantities of energy out of a given quantity of power purchase, due to different levels of distribution losses that are	

		actually there in each DISCOM, there cannot be a uniform effect of any variation in power purchase cost/and/or fuel cost across all DISCOMS. The methodology adopted in the FSA proposals would enable one or more DISCOMS to realize additional revenue from their consumers in excess of their actual difference in power purchase and/or fuel costs. We can only hazard a guess that APEPDCL should in fact be enjoying additional revenue due to FSA methodology that is being followed. This is certainly not permissible.	
	20.	The details of source-wise purchase by each DISCOMS is also relevant to ascertain the sources from which excess power has been purchased and at what cost and also whether the merit order dispatch has been followed and also whether there was any necessity to back down of any of the lower purchase cost sources. Such a possibility has in fact been cited by the Hon'ble Commission in paragraph 69 of the Tariff order of 2012-13.	Power purchase by all the Discoms is submitted which is sufficient to calculate the FSA for 3rd Qtr of 2012-13.
	<u>FSA TO BE ON FUEL COST VARIATIONS ONLY</u> 22	The ACT envisages and permits variation only on account of fuel cost adjustment by way of a formula. It is therefore necessary to determine the FSA only in respect of the fuel cost variations alone.	FSA was computed and claimed as per the formula envisaged vide Section 45(B) of APERC Conduct of Business Regulations.
	23.	Regulation 4 of 2005 provides the manner for claiming variations in uncontrollable power purchase cost. The regulations cannot be rendered in effective and thus of no use.	

	TREATMENT OF AGRICULTURAL CONSUMPTION 24. Agricultural consumption cannot be excluded from the denominator of the formula for the computation of the FSA. The Electricity Act specifically requires that the licensee shall not supply any electricity except through a meter at any time after June 2005. If this mandatory requirement of law has not been complied with by the licensee, the Commission cannot simply exclude the agricultural consumption on the ground that the metering of the same is not complete and thereby penalize the other consumers for the neglect and default of the licensee. 25. It is not that the agricultural consumption has not been, or cannot be, quantified by the DISCOMS. They have published their actual losses which can only be done after quantifying the agricultural consumption and they have also reported -the agricultural consumption in their respective areas of supply in their Annual Reports and also in the other filings before the Commission. There can therefore be no justifiable reason to exclude the same. 26. The FSA must be distributed over the entire consumption including agriculture, otherwise the consumption would be unjust, arbitrary, unreasonable, irrational and contrary to the provisions of the Act, legislative policy and the National Tariff Policy, and also tantamount to undue preference prohibited by law.	APDISCOMs have submitted FSA proposal in accordance with regulation in vogue.

5	**Mogali cherla Sudhrshan , Vice president, State Consumer Coordination council**	
S.No.	**Summary of Suggestions**	**Response of the Licensee**
	వినియోగదారుల సంక్షేమము , రక్షణ దృష్ట్యా మనవి చేయునది ఏమనగా, ఆంధ్రప్రదేశ్ రాష్ట్రం లో విద్యుత్ పంపిణి సంస్థలు (డిస్కం లు) వినియోగదారుల నుండి సర్చార్జిలు, ఎఫ్. ఎస్. ఏ. ల వసూలు మరియు పెంపుదల పై మీరు తేది 18.03.2013 రోజు న నిర్వహిస్తున్న ప్రజబిప్రాయ సేకరణలో వినియోగదారుల మండలి అద్యక్షుడైన నన్ను " మొగలిచెర్ల సుదర్శన్ " అనుమతించగలరు. ఎఫ్. ఎస్. ఏ వసులుపై అబ్యంతరాలు తెలుపుతకుగాను మీకు మనవి చేయడమైనది	గౌరవ కమీషన్ పరిధిలో కలదు

6-19	**Salguti Industries,** **Leo Laminates,** **Abhedya Industries Ltd,** **Padmavati Ply Pvt Ltd,** **Deevyashakthi Paper Mills (P) Ltd,** **D.V.A.S. Ravi Prasad,** **M/s Vimta Labs,** **M/s Khair steel Re-rolling Mills& 8 others,** **M/s Meenakshi Paper Mills Pvt Ltd,** **M/s Arena Life sciences Ltd,** **M/s Sri Chaitanya Chlorides Pvt. Ltd.** **M/s S.R.Drugs & Intermediates (P) Ltd.** **M/s A.V.R.Organics Pvt. Ltd.** **Pashamylaram Notified Gram Panchayat Industrial Area Service Society**	
Sl.No	**Objection/Suggestion**	**Reply**
1	It is respectfully submitted that consumers had filed Writ Petition before the Hon'ble High Court of AP to issue an appropriate order for following reliefs: i) Declaring the Fuel Surcharge Adjustment Formula specified in Clause 45-B of The Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, being Regulation No. 2 of 1999 as substituted by Regulation No. 1 of 2003, insofar as it provides for any variations other than varations arising out of fuel costs alone, and insofar as it does not distribute all or any of the variation in costs on all the energy sold to all categories of consumers in the quarter by the exclusion of consumption by the	

	agriculture sector under condition No.1 or otherwise, as void being ultra vires of the provisions of the Act(s), unreasonable, irrational and / or otherwise contrary to law: and / or. ii. declaring Condition No. 1 of the said Clause 45-B of the said Regulation providing for exclusion of consumption by the agriculture sector until the Commission is satisfied that the metering of agriculture consumption is complete or otherwise, and in any case after the period of two years from 10.06.2003, is void being ultra vires of the provisions of the 2003 Act, unreasonable, irrational and / or otherwise contrary to law: and / or. iii. declaring Conditions 5,10 and 11 of the said Clause 45-B of the said Regulations providing for inclusion of consideration of fixed costs of any kind of determining the FSA are void being ultra vires of the provisions of the Act(2), unreasonable, irrational and / or otherwise contrary to law: and / or consequently or otherwise. iv. declaring Clause 45-B of The Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, being Regulation No.2 of 1999 as substituted by Regulation No.1 of 2003 as void being ultra vires of the provisions of the Act(s), unreasonable, irrational and / or otherwise contrary to law: and / or. v. declaring that Clause 45-B of Regulation 2 of 1999 as amended by Regulation 1 of 2003 has ceased to be in force and effect and is consequently inapplicable after 10.06.2004, and / or in any case after the coming into force of Regulation 4 of 2005.	There is no provision of law warranting to adjourn the approval or otherwise of FSA until final adjudication on the issue of validity or otherwise of the Regulation 45-B pending in the High Court.

	It is respectfully submitted that above Writ Petition is pending for adjudication before the Honorable High Court as such: it is just and necessary to adjourn the proceedings till the disposal of the above Writ Petition.	
2	It is respectfully submitted that except stating that they have authorized respective managers to file the application before the Commission they have not filed the resolution filed by their Board of Directors.	The DISCOMs are registered under Companies Act but are wholly owned by the Govt. of A.P. The respective DISCOMs have already authorized the concerned the Chief General Managers to sign the pleadings and file the same in the Commission in respect of all the proceedings including the FSA proceeding time to time before the Hon'ble Commission.

20 & 21	**M. Venugopala Rao, Convener, Centre for Power Studies** **B.V. Raghavulu, Secretry, Communist Party Of India (MARXIST)**	
1	The four Discoms have sought consent of the Commission for collecting a sum of Rs.1068.28 crore towards fuel surcharge adjustment (FSA) from non-agricultural consumers for the third quarter of 2012-13 - CPDCL Rs.471.91 crore, SPDCL Rs.245.94 crore, EPDCL Rs.221.41 crore and NPDCL Rs.129.01 crore. The amounts claimed by the Discoms consist of variance in variable and fixed costs exceeding the limits determined by the Commission in its tariff order and prior period expenditure.	The claim made by the DISCOMs is as per the regulation in vogue , the FSA is the variance of cost due to pre-determine rate in the tariff order at the time of fixing the tariff while issuing the order.
2	The Commission has already revised the ceiling price of short-term purchases. The Discoms have requested the Commission to consider the market discovered price over the ceiling price fixed by the Commission for power purchased from certain traders and allow actual cost in the proposed FSA. For the second quarter of 2012-13 also the Discoms made a similar request to the Commission. Though public hearing was held by the Commission on December 3, 2012, on the FSA claims of the Discoms for the second quarter of 2012-13, the order is not issued even after a gap of more than three months for the reasons best known to itself. The Discoms continue to defy the ceiling price for short-term purchases fixed by the Commission. This approach of the Discoms defeats the very purpose of the regulatory process of the Commission in several ways. The Commission has already permitted the Discoms to purchase 13,280 mu on short-term basis during 2012-13 in the open market and even enhanced the ceiling price from	

	Rs.4.17 to Rs.5.50 per unit, without considering alternatives and without even holding any public hearing. Such additional power purchases are always in view of shortage for power, but that does not justify purchasing at any rate all in the name of "prevailing market price." The very purpose of imposing ceiling price for such purchases is to see that the Discoms do not purchase power at any cost and impose heavy burdens on the consumers. Compared to the average price of power being purchased from different generators under power purchase agreements as determined by the Commission in the tariff order for 2012-13, the ceiling price of Rs.5.50 per unit itself is very high. In a situation of acute shortage for power in the State and the country, real competition in the open market is repeatedly being proved to be a myth, with forces of free trade gaming the market, despite bidding. Moreover, by purchasing additional power in the open market, exceeding the ceiling price fixed by the Commission, the Discoms are not in a position to avoid power cuts. Power cuts ranging from two to 12 hours a day to different areas in the State are being imposed by the Discoms, even after making possible additional power purchases in the open market, including power exchanges. Therefore, there is no justification in the Discoms blatantly defying the ceiling price, which is already high, fixed by the Commission and seeking ratification of such violation of the decision of the Commission. In its orders on FSA claims of the Discoms for the years 2010-11 and 2011-12, the Commission has made it clear that the "Commission, while scrutinizing the month-wise FSA amount in the merit order dispatch, proposes to limit the power purchase rate at Rs.5.50/unit if the short term power purchases are made	Hon'ble Commission has issued the orders of FSA for the 2nd quarter of FY 2012-13 on 12.03.2012. Since it is the cost actually incurred by the Licensee, and being the market discovered price, the licensee requested the Hon'ble Commission to approve the cost from short term power purchase. The market which the Hon'ble APERC fixed in the first instant does not reflect the prevailing market price and dynamic power market changes the price frequently depending upon multiple factors. The price discovery by the DISCOMs is done in a most transparent process.

	over & above the marginal ceiling price and also ascertain that such purchases are made through competitive bidding process" (para 30 and page 28 of FSA order for 2nd quarter of 2011-12). Despite such categorical assertion by the Commission, that the Discoms are seeking ratification of their blatant violation of the decision of the Commission is indicative of their contempt for the regulatory process of the Commission and their belief that they can get such post-purchase ratifications even at the cost of making a mockery of the regulatory process itself. In effect, the Discoms are seeking removal of ceiling on prices for purchasing power on short-term basis. Therefore, I request the Commission not to consider such additional power purchases in toto made by the Discoms exceeding the ceiling price fixed by it for the purpose of FSA claims and reject their request.	
3	The Commission had not permitted the Discoms to purchase power from Lanco stage II and GMR's barge mounted projects at higher prices. Despite that, the Discoms continue to purchase power from these two projects directly or through their power trading companies Lanco Electricity Utility Limited and GMR Energy Traders Ltd. I request the Commission not to permit the Discoms to collect the cost of power purchases made by them from these two projects.	
4	Out of the prior period expenditure of about Rs.162 crore claimed by the Discoms, the Discoms have not explained as to why they are claiming a huge sum of Rs.113.04 crore towards revision of FERV for 2004-05 to 2011-12 and orders of CERC dated 21.12.2011 fpr Simhadri I. The	M/s.NTPC filed a petition before Hon'ble CERC seeking clarification in regard to reimbursement of the liability on account of FERC and the cost of hedging with regard to the operation. With regard to recovery of difference between hedge rate and exchange rate as on 31.03.2004 it was opined that the difference between the hedge rate and exchange rate

	Discoms have not explained as to why such huge amounts are allowed to accumulate and are being claimed after a gap of several years.	as on 31.3.2004/date of commercial operation of the generating station or transmission system is recoverable from the beneficiaries along with clarifications/orders on the other issues. The claim of NTPC was admitted in line with the orders of CERC dt.21.12.2011.
5	The Discoms have also claimed a sum of Rs.39.19 crore towards MAT from 2006-07 onwards to be paid to Lanco project as per the order of the Commission dated 10.12.2012. Having contested the claim of Lanco for MAT, how are the Discoms paying that amount without going in for an appeal against the order of the Commission?	Hon'ble Supreme Court of India in CA No.6138/2012 directed Commission to assess the MAT amounts said to be due to developer. Further directed that on such assessment APDISCOMs shall secure 50% of the amount due by way of Bank Guarantee and the remaining amount shall be paid directly. In pursuant to the directions of Hon'ble Supreme Court, APERC issued orders dt.10.12.2012 determining the MAT claim as Rs.39.19 Crs. As such the MAT was admitted and accounted for in compliance to the directions of Hon'ble Supreme Court of India.
6	We have repeatedly pointed out the deficiencies in the methodology of FSA being adopted by the Commission and requested it to rectify the same by holding public hearing. Responding to the submissions on the need for amending the methodology of FSA to make it fair and rational, the Commission stated that "as regards amendment to the FSA Regulation, the Commission had earlier conducted a public hearing to solicit the views and suggestions from the stakeholders on certain proposed amendments. The matter is still under the consideration of the Commission. Meanwhile, the need for certain further amendments have been brought to the notice of the Commission and the Commission is in the process of taking a holistic look at the entire methodology of levy of FSA in order to bring about a suitable structural mechanism of FSA" (para 35 and page 40 of order of the Commission on FSA claims of the Discoms for the 2nd quarter of 2011-12). How long the matter continues to be under "consideration" of the Commission?	

22 - 43	**Dr. K.Narayana, SecretaryCommunist Party of India** **T.Harish RaoMLA, TRS** **M.Thimma Reddy, ConvenorPeople's Monitoring Group on Electricity Regulation** **K.Raghu, Certified Energy Manager and Auditor CoordinatorTelangana Electricity Employees Joint Action Committee** **DV Krishna, State secretariat member, Marxbhavan, B.Janak Prasad, Official SpokespersonYSR Congress Party** **Banda Surender Reddy, General SecretaryAll India Forward Bloc-AP, Konda Dayanand All India Forward Bloc** **Sulumula KrishnaAll India Forward Bloc** **J.Janaki Ramulu, State SecretaryRevolutionary Socialist Party (RSP)** **Jupalli Arun Kumar, State Secretary All India Progressive Students Union (AIPSU)** **Jalapu Ram Reddy, State PresidentAll India Samuykta Kisan Sabha** **Chinumulla Lenin, State PresidentAll India Revolutionary Youth Front (AIRY)** **Mamilla Ramanjneyulu, Dist. Joint SecretaryRevolutionary Socialist Party (RSP)** **Putluru Pullaiah, Dist. SecretaryRevolutionary Socialist Party (RSP)** **Jwvari Ramesh Nayak, State Vice President All India Progressive Students Union (AIPSU)** **Vallam Das Kumar, Dist. SecretaryRevolutionary Socialist Party (RSP)** **P.Prahalada United Trade Union Congress (UTUC)** **Gurram Vijay Kumar, State CommitteeML Party** **Bootham Veeraiah, Ch.Murahari, State Committee Member,SUCI (C)** **Karankote NarenderAnn India Forward Bloc**

S. No.	Summary of Suggestions/Objections	Response of the Licensee
	1.1 The present FSA proposals of DISCOMs for the third quarter of 2012-13 filed with the Commission do not contain important information to decide on their claims. Even the information made available in the earlier proposals is not made available this time. In the case of the FSA claims for the years of 2010-11 and 2011-12 information on GCV of fuels used by different stations and corresponding variable cost was provided. This time this crucial information is missing. Here also it is to be mentioned that in the past the information in GCV contained combined GCV of local and imported coal. The GCV of local and imported coal was not provided separately. The Commission's Order dated 20th September 2012 on FSA claims for 2012 (paragraph 35) shows that the Commission was also provided with only combined GCV but not separate GCV for local and imported coal. It appears that both GENCO and NTPC are not willing to part information on actual GCV of imported coal. During the public process on tariff proposals for the year 2013-14 the DISCOMs provided some information on GCV of GENCO plants. This information only mentioned the GCV according to the fuel supply agreements but not the actual GCV achieved at these plants. Along with the GCV information on heat rate (units of power generated per unit of kcal of heat on burning of fuels) is also required to examine the justifiability of FSA claimed by DISCOMs. We request the Commission to direct GENCO and NTPC to provide GCV and heat rate figures separately for local and imported coal.	The details of imported and Domestic coal consumed during the quarter for AP Genco and NTPC plants are enclosed as Annexure-I, Annexure-II M/s NTPC is providing combined GCV of imported and domestic coal due to their technical constraints. APGENCO provided information and details of Domestic GCV and its price, Imported GCV and its price separately including the quantity of coal used.
	2.2 APDISCOMs' FSA proposals show that while APERC approved procurement of 22,938 MU during the 3rd quarter of 2012-13 DISCOMs were able to procure only 19,259 MU, a decline of 3,679 MU (16.04%). DISCOMs in their submissions attributed the above deficit to non-availability of power from hydel	Firstly, the filing by DISCOMs and approval of Hon'ble APERC is usually based on the certain assumption and in real time situation; the actual happening may be totally different from the estimate.

	stations. But an examination of their submissions shows that the culprit is some one else. The deficit in power availability from hydel stations is only 592 MU. While APERC estimated availability of 1,485 MU of hydro power actual generation was 893 MU during this quarter. Deficit from gas based power plants owned by IPPs accounted for nearly 1,000 MU of deficit. During the month of December 2012 alone deficit from these plants stood at 305 MU. During this quarter while the Commission approved procurement of 3,609.75 MU from open market DISCOMs were able to procure only 2,535.92 MU, contributing a deficit of 1,073.83 MU. Decline in generation at gas based power plants in the state and failure of DISCOM contract estimated power from open market led to 16% deficit in power procurement during this quarter. DISCOMs in their filings on the present FSA proposals stated they are "constrained to procure power from short term sources through transparent tender procedures". While on the one hand they failed to procure the projected quantum of electricity from open market in spite of advanced knowledge of the deficit and on the other there are also doubts about the "transparency" of the procedures followed in procuring power from open market. 784.46 MU of accounting for 31% of the market procured power is sourced from single entity that is JSW at highest price of Rs. 5.65 per unit, even crossing the price limit set by the Commission for open market purchases. It may not be out of place to mention that this power company is closely associated with the ruling party at the centre, which at present is the de facto ruler of the state. The other important sources of power for open market purchases are GMR and Lanco. They together contributed 184.76 MU and the price went up to Rs. 5.60 per unit. And they used the gas allocated to the state to produce power and sell it at open market prices. In the context of deficit in power procurement it has also to be mentioned that coal based power plants in the state also contributed its might to the deficit due to secure adequate coal allotment.	The Gas from RIL has drastically come down over a period of time and the generation from gas station is not as estimated and there is deficit from these sources. The procurement from outside SR at Rs. 4.11/unit was not possible due to non availability of corridor. As mentioned by the objector the power purchased from JSW at Rs.5.65/unit is limited to a period of four months only. Infact the price of procurement varies from Rs 5.35/unit to Rs 5.65/unit The purchases from market also depend on the availability of corridor and expected power is not available, therefore, the procurement of power from the market is not as approved by the Hon'ble APERC. However, the rate of short term power purchase is not firm; it depends on multiple factors prevailing in the country.

Table: 1 Per Unit Variable Cost Burden

Plant	Variable cost according to ARR 2012-13 (Rs/U)	Variable cost according to FSA Proposals for Q2 of 2012-13 (Rs/U)		
		October 12	November 12	December 12
Coal based plants				
NTPC (SR)	1.74	1.73	1.62	1.69
Simhadri I	2.10	1.75	1.77	1.94
KTPS – A, B, C	1.35	2.05	1.97	1.97
VTPS – I, II, III	1.94	2.55	2.62	2.49
VTPS – IV	2.65	3.44	3.46	2.71
RTPP	2.18	3.54	3.45	3.23
KTPS VI	1.76	2.93	3.04	2.61
Kakatiya I	1.75	2.52	2.58	2.57
Gas based plants				
APGPCL – St. 1	1.89	2.33	2.33	2.33
Reliance	1.72	2.00	1.99	2.03
Konaseema	1.80	2.02	2.10	2.11
Vemagiri	1.80	2.05	2.08	2.10
GVK	2.07	2.14	2.12	2.15
GVK Extn	1.80	2.04	2.08	2.10
Gautami	1.80	2.04	2.08	2.09

Firstly NTPC SR is the pit head station and cost estimate at time of determining tariff is almost in line with the actual.

The variable cost of gas plants is increased due the foreign exchange rate variance now that the gas bills are paid as per the prevailing dollar rate.

Spectrum	1.77	2.30	2.12	2.15
Lanco	2.04	2.22	2.15	2.20

3.1 From the above Table it is clear that while in the case of coal based plants of central generating stations (NTPC (SR) and Simhadri) variable costs reported under FSA proposals were lower than those mentioned the Tariff Order for the year 2012-13 in the case of GENCO plants variable costs reported under FSA proposals were higher than those mentioned in the Tariff Order. In the case of GENCO plants variable costs increased by Rs. 1.30 per unit. There is no explanation for this hike in variable costs of GENCO coal based plants. Both the CGS as well as GENCO plants obtain coal from the same sources. Even then when variable costs of CGS declined that of GENCO plants increased. The use of imported coal may be one of the reasons! Even when local coal production is being neglected there is rush for imported coal. CGS also use imported coal. In the case of GENCO pit head plants like KTPS and Kakatiya Power plant also variable costs increased considerably. Their variable costs are higher than CGS plants. There appears to be some this seriously wrong with the GENCO plants. When the increase in coal prices did not affect CGS much how is it that variable costs of GENCO plants increase by nearly 50%? It is the responsibility of APERC to see that this puzzle is solved in a transparent manner, to the satisfaction of all stakeholders. We request APERC to direct DISCOMs and GENCO to make all facts public.

The variance in variable cost with reference to Tariff Order is on account of proportionate usage of imported coal, location of plant etc.,

3.2 Variable cost of gas based power plants also registered hike leading to the proposed FSA burden. The increase in variable cost of gas based power plants from Rs. 0.09 to Rs. 0.76 per unit. In this case of the DISCOMs' proposals do no throw any light on the reasons for this hike. It may be because of use of costly imported RLNG. Is there need to import this costly RLNG when gas produced in

The objector is well aware that there depletion of gas reserves and RIL is supplying only to generates 10% to 15% of the PLF.
The dollar payment of gas bill is having effect of FERV and the Dollar rate is hovering around Rs 55/- to 57/- at TT selling rate.

	the vicinity is more than the state's needs?	
	Coal Related Issues: **4.1** One of the important reasons for increase in variable costs is the rise in coal prices both Coal India Ltd (CIL) and its subsidiaries and SCCL. Coal prices are increased even when the coal mining companies were reaping enormous profits. The mining companies in the country raised the coal prices by 25 to 40% even when they were reaping enormous profits. During the second quarter of the financial year 2012-13 Coal India Ltd., registered a net profit to Rs 3,078 crore. During the same period last financial year it earned a profit of Rs 2,593 crore. During this period while production increased by 11 percent profit increased by 18.7 per cent. CIL is said to be sitting on accumulated profits of over Rs. 62,000 crore. Even then it is increasing coal prices. Similarly SCCL is also increased coal prices from Rs. 2050 per ton to Rs. 2,700 per ton. Already SCCL is earning profit of more than Rs. 300 crore every year. With this price increase its profits will increase further. Consumers in the state have to bear this burden from increased prices of coal.	The Coal policy is determined by GOI and DISCOMs does not have any option
	4.2 DISCOMs in response to earlier submissions replied, "The increase in variable cost is due to increase in landed cost of domestic coal on account of increase in VAT, central excise duty, royalty, fuel surcharge hike and railway freight". But they did not explain to what extent these factors caused increase in variable cost. According to their own submission state and central governments themselves are responsible for this FSA burden being imposed on electricity consumers in the state. We are appealing to both the governments to rethink on their taxation and revenue mobilization policies and see that burden on the consumers is reduced.	The Details of break up will be submitted to Hon'ble APERC at the time of verification.

4.3 Another important reason for the proposed FSA burden is the use of costly imported coal. The information provided by DISCOMs earlier on NTPC plants show that the reported higher GCV of imported coal compared to domestic coal is not visible while it is several times costlier than domestic coal. Imported coal is said to have 80% more GCV than domestic coal. 1.6 MT of imported coal is said to be equivalent to 2.88 MT of domestic coal. When compared to the cost of imported coal this difference in GCV do not hold any comparative advantage of depending on imported coal. This brings in to question the preference shown by some power developers to go in for imported coal. This shows that they are trying to benefit from the price differential at the cost of consumers in the country

APGENCO is taking all steps to minimize usage of imported coal by procurement of domestic coal at e auction prices, transporting domestic coal through rail cum sea cum rail.

The usage of imported coal is only 1.6 MMT in total consumption of 27 MMT which is 5.92%, which is inevitable.

Table: 2 NTPC Plants' Details

Month In 2012	RSTPS St. I & II		RSTPS St. III		Simhadri – I		Talcher St. II	
	% of Imported Coal	Weighted Average GCV (Kcal/Kg)	% of Imported Coal	Weighted Average GCV (Kcal/Kg)	% of Imported Coal	Weighted Average GCV (Kcal/Kg)	% of Imported Coal	Weighted Average GCV (Kcal/Kg)
April	0	3749	0	3673	12.92	3230	16.16	3151
May	01.55	3806	0	3592	20.21	3395	19.89	3095
June	02.65	3990	0	3662	13.92	3107	15.95	2810
July	03.34	4051	0	3535	13.53	3211	14.92	2812
August	00.45	4093	0	3659	00.35	3030	07.48	2643
Sept.	0	4086	0	3741	0	3297	08.06	2781

4.4 The above table shows that use of imported coal did not add significantly

Generally, the gross calorific value of indigenous coal and imported coal varies from time to time i.e. based on the grade of coal being received by respective thermal station from different mines.

In case of RSTPS-III, NTPC has been utilizing the washed coal for the purpose of generation, whereas in case RSTPS I &II, Simhadri – I & Talcher-II, generation is being done by blending meager quantum of imported coal with indigenous coal in every month. However, the actual generation from these stations viz., RSTPS I & II, RSTPS – III, Talcher-II & Simhadri Stage-I is almost tallying in every month the total calories burnt based on weighted average GCV of imported as well as indigenous multiplying with quantum of coal burnt during the respective month.

It is to submit that the variation in weighted average GCV of imported coal & indigenous coal only due to type of coal being received from respective months.

The details of imported and domestic coal consumed during the last three quarters are enclosed for your

	or make much difference to average GCV. The GCV of RSTPS which used no or almost insignificant amounts of imported coal reported higher GCV than Simhadri and Talcher plants which used significant portion of coal sourced from abroad. Within these two plants also imported coal did not seem to have made any difference. In the case of Simhadri – I plant in the month of September 2012 without use of imported coal GCV stood at 3297 Kcal/Kg. During June and July months when nearly 14 percent of coal was sourced from abroad GCV was below September level. In the case of Talcher Stage II also such experience could be found. During the month of September with 8% of coal from imported stock GCV stood at 2781 Kcal/Kg. During June with 15.95% imported coal GCV was 2810 Kcal/Kg only. Similarly during July with 14.92% of imported coal GCV was 2812 Kcal/Kg only. Imported coal is said to have 80% more GCV compared to domestic coal. There is need to examine the actual GCV of imported coal is in relation to the price paid to it.	reference as Annexure
	Table: 3 Cost of Coal NTPC Plant | Cost of Domestic Coal (Rs./MT) | Cost of Imported Coal (Rs./MT) | RSTPS St. I & II | 2234.83 | 4880.73 | 2.18 Simhadri – I | 1982.47 | 5480.45 | 2.76 Talcher St. II | 929.49 | 6118.82 | 6.58 **4.5** Imported coal is two to six times costlier than domestic coal while it is only 80% more efficient. While abundant coal reserves are in the country there is no logic in going in for imported coal. Indian companies are showing more interest in developing imported coal fields than coal blocks allotted to them in the country. There is wide variance in the stated efficiency of imported coal and its cost in	

	relation to domestic coal. It is more profitable to the power developers as well as consumers in the state to depend on domestic coal. But somehow all things "foreign" appears more attractive, including coal!	
	4.6 Coal India Limited produced 435 million tonnes of coal in 2011-12 from its reserves of 60 billion tones. At the same time public and private companies which are allotted coal blocks with aggregate reserves of 48 billion tonnes produced only 36 million tonnes of coal. The delay on the part of these companies may be deliberate as they planned to profit from import of costly coal.	
	4.7 DISCOMs in their earlier replies stated that under CEA directions 30% of the coal shall be imported. NTPC figures show that in some projects imported coal was not at all used. It implies that importing a 30% of the coal requirement is not binding. Power plants on their own can source coal supplies. It is in this context that captive coal mines allotted to the power plants gains significance.	
	4.8 DISCOMs backed their proposal to consider escalation of variable cost as a part of tariff proposals for the year 2013-14 by 10% in order to take into account the quantum of imported coal that is expected to be used. The additional information provided by DISCOMs show that the higher price for imported coal is in commensurate with its higher GCV. For example, while cost of imported coal is Rs. 5,390 per MT and its GCV is 6,199 Kcal.kg, in the case of domestic coal price is Rs. 2, 602 per MT and its GCV is 3,116 Kcal/kg. These price relations show that imported coal shall not lead to increase in power generation cost.	Based on the past experience to bring realistic cost 10% escalation was estimated during 2013-14 ARR when compared with 2012-13 first Half year
	4.9 Earlier the DISCOMs though provided information related to GCV and other details of NTPC plants did not provide information related to GENCO. In response to submissions on tariff proposals for the year 2013-14 DISCOMs provided some information related coal consumption of GENCO. But the	The details of information is provided to Hon,ble APERC and the same is enclosed as Annexures

	information seems to be derived from fuel supply agreements but not from actual operation of the power plants. **4.10** DISCOMs in response to our submissions on tariff proposals for the year 2013-14 stated "Since boilers are designed for indigenous coal, the specific consumption of coal is not coming down despite using higher calorific value of imported coal with higher prices". In other words the use of so-called high quality imported coal is not leading to increased power generation. This shows that importing costly coal is no answer to fuel shortage in the country. All efforts shall be directed towards increasing coal production within the country.	The cost variance is not only because of imported coal, but also due the increase domestic coal cost. Both the factors contribute to the increase in cost.
	4.11 It is being alleged that delay in issuing environmental clearance for coal mining projects is coming in the way of mining enough quantity of coal. Environmental clearance is not an issue in delay in coal production. There appears to be deliberate delaying in coal production. Delay in environmental clearance is being shown as an important reason for lower coal availability in the country. But contrary to this the central Environment Ministry has already given enough clearances for coal mining. But there appears to be deliberate delay in commencing coal mining in the country to force imported costly coal on consumers in the country. According to a report Down to Earth (dated 15th November 2012), "India is estimated to produce 575 million tonnes (MT) of coal in 2012-13. In the past five years, **clearance has been given to almost double the existing capacity.** This despite companies, including the Coal India Ltd, producing much less than their capacity. According to the Comptroller and Auditor General Report, of the **86 coal blocks slated to begin production** by 2010-11, only **28 have commenced.** Besides, these blocks produced only 34.64 MT against the target of 73 MT—**a shortfall by 52%".**	Not in the purview of licensee. Govt. of AP shall be requested for pursue with central Govt. for speedy clearances.

	4.12 Use imported coal was advocated on the ground that enough coal is not being produced within the country. But proper attempts are not made to increase coal mining within the country. APGENCO was allocated captive coal mines more than seven years back to mine coal for use in its power plants. But there was no initiative on the part of GENCO to use this for it's as well as state's advantage. This delay on its part led to dependence on costly imported coal. If the captive blocks allocated to it were operationalised as stipulated by the Ministry of Coal of GoI there would have been no need to depend on costly imported coal.	The coal from Tadicherla coal block is allotted to KTPP II which is under construction. APGENCO is taking all possible steps to complete the mining activity and commence production before completion of power project. APGENCO entrusted the mining activity to m/s SCCL and waiting for Environmental clearance to commence the mining activity.
	4.13 Tadicherla coal block was allocated by the Ministry of Coal, Government of India to APGENCO on 6th December, 2005 as a captive block for its power plants. Production of coal at this mine was expected to commence in December 2008. Similarly, Anisettypally, Punukula – Chilka and Pengadapa coal blocks were also allocated to APGENCO on 20th February, 2007 for captive consumption. But there was no movement on the part of APGENCO to start mining. According to the norms coal mining is expected to begin in three to four years from the date of allocation of coal blocks. As there was no progress either on paper or on ground the coal blocks of Anisettypally, Punukula – Chilka and Pengadapa were de-allocated by the Ministry of Coal. In the case of Tadicherla the Ministry of Coal issued a show cause Notice to APGENCO, dated 3rd May, 2012. According to this Notice, "In the review meeting held on 11/12.01.2012 it was noticed that no serious efforts have been made by the Company to develop the coal block, even after repeated assurances tendered by the Company during the period. It is also noted that all the important/critical milestones such as grant of previous approval, Forest clearance, EMP, Mining Lease and Land acquisition are pending for Tadicherla – I coal block. The Company has repeatedly failed to keep its promise made to the Ministry and is thus non-serious about timely development of the block". They did not even procure relevant maps from SCCL.	

	4.14 Even when there is apparent and serious coal/fuel shortage no urgency was shown to utilize the resources made available to the GENCO. Rather it was stated that 30% of the coal is being imported at the directions of CEA. Because of inefficiency of GENCO consumers in the state are forced to bear the present FSA burden. Why shall consumers in the state pay for inefficiency of GENCO?	
	4.15 We request the Commission to direct APGENCO to steps expeditiously to mine coal from Tadicherla-I block and also reclaim the three coal blocks de-allocated. This will go along way to reduce dependence of costly imported coal and in return reduce burden on electricity consumers in the state	
	4.16 GENCO is also using coal from its captive mines apart from supplies from SCCL and CIL. We would like to know how they price the coal from their captive coal blocks.	
	Gas related issues: **5.1** One of the reasons for increase in variable cost of gas based power plants is the use of costly imported RLNG in these plants. These plants have to use RLNG as they were not allocated very meager amount of gas form KG Basin gas fields. **5.2** Though AP has access to more than 2700 MW gas based power generation capacity less than 700 MW capacity is only being operated due to shortage in natural gas availability. It is being alleged that this shortage is artificially created. There are two parts in the issue: low gas production and low gas allocation to power plants in AP. Gas production from KG basin declined from 60 MMSCMD to 22 MMSCMD. The RIL has attributed this decline to unexpected geological developments. Both the Director General of Hydrocarbons and central Ministry of Petroleum and Natural gas did not buy the argument of RIL related to decline in	

	gas production from KG basin fields. Recently the Director General of Hydrocarbons demanded an explanation from RIL and its partners on various issues including not drilling the approved development wells and failing to adhere to the management committee approved plans. RIL attributed the decline in gas production to water and sand ingress in to the gas wells. The Director General of Hydrocarbons in its communication also pointed out that the work plan and budget submitted by RIL for the year 2012-13 did not contain any immediate firm plan for tackling issues of water and sand ingress. This clearly shows that increasing gas production is not the immediate concern of RIL. It is a clear case of hoarding on the part of RIL to benefit from hike in gas prices in future, and it is putting pressure on the central government to hike natural gas prices on the lines of RLNG. The power generation lost due to cut down on gas production from KG basin fields is nearly equal to peak power demand deficit (for e.g., on 11-11-2012 peak demand was 11,479 MW, peak demand met was 9,579 MW and peak deficit was 1,900 MW). Had there been no decline in gas production there would have been no need for use of RLNG and purchases from open market at steep prices. Shortly after the Rangarajan Committee Report on gas prices, which recommended price of $8 per MBTU of gas, was submitted Mr. Mukhesh Ambani, Chairman RIL and Mr. Bob Dudley, Chief Executive of BP Group met the Union Minister Petroleum and Natural Gas Mr. Veerappa Moily on 19th February, 2013 and expressed their readiness to invest $5 billion on KG Basin gas production. With this investment they plan to develop around 4 TCF of discovered natural gas resources from the D6 block of KG Basin fields. Here it is also to be mentioned that one of RIL partners Nicky as a part of putting pressure on the central government to hike natural gas prices downgraded the gas potential of this field from 10 TCF to 3.5 TCF. As already nearly 1.5 TCF is already used only 1.5 TCF should have been left for exploration and development. But now RIL and its partners talk about developing 4 TCF. This itself speaks volumes about the	Issue is not in the purview of APDISCOMs The Gas allocation is not under the control of DISCOMs and pricing of gas and approval of investment etc is under the control of the Central Govt and DISCOMs are only the end users purchasing gas based on the price fixed to GOI.

	artificial scarcity of gas created by RIL and its partners. In order to corner windfall RIL did not hesitate to subject people of Andhra Pradesh to serious power cuts as well as unprecedented tariff hike. Morgan Stanley in its latest report has upgraded investment status of RIL and raised its target price to Rs 961 from Rs 798 earlier. The stock has the potential to gain nearly 19 per cent from 1st March, 2013's closing price of Rs 809.50 on the Bombay stock Exchange. Morgan Stanley viewed RIL's planned $5 billion capital expenditure for domestic exploration and production and the Indian government's inclination to linking gas prices in the country to international prices as some of the key factors in the upturn of RIL's share price. What more evidence do we need to link decline in gas production in KG basin to RIL's greed? When all this is going on in broad day light the political leadership in the state did not move even a finger to protect the interests of people in the state. Even the state government of Maharashtra demanded the central government to nationalise KG basin gas fields. It is high time political as well as official circles in the state take up this artificial decline in gas production in RIL's KG basin gas fields seriously with the central government. There would have been no need for the present FSA proposals had the gas production at KG basin were maintained at earlier levels.	
	5.3 Even out of the total gas produced from RIL's KG basin fields power plants in AP were allocated a small portion. Out about 25 MMSCMD of gas produced from these fields gas based power plants in AP were allocated only about 2.8 MMSCMD of natural gas. That is only about 10% of the gas produced from these gas fields was allocated to power plants in AP. In 2003 the APERC approved PPAs with new gas based power plants with a total capacity of 1500 MW on the assurance that adequate gas would be available to these plants from KG basin fields. The Commission had given approval to the PPAs of gas based power plants on the basis of assurance given by GAIL that there would be no	

	difficulty in ensuring uninterrupted supply of gas from the KG basin. As an example here we take the Order issued by the Commission on 12-04-2003 in the case of PPA with Gautami Power Ltd (O.P. No. 5/2002). According to Para 102 (ii) of the order "The conditions on fuel are as detailed in Para 96 (b) on Fuel tie-up". According to Para 96 (b) (ii) "The gas supply agreement between GPPL and GAIL was due to expire by December 31, 2010 while PPA term is for a period of fifteen years from the project CoD. This implied that for the balance period of the PPA, GPPL had no fuel linkage from GIL. But GPPL has subsequently sought for extension of this date till December 31, 2018 based on assurance given by GAIL that they would enter into agreement with developers for supply of gas for the entire term of the PPA. APTRANSCO insists that the extension should take place before the singing of the PPA". Before this at Para 96 **(a)** (a) the Commission noted the clarification from GAIL, "GAIL does not envisage any difficulty in ensuring uninterrupted supply of gas to consumers in the KG Basin in the long-term". From this it is clear that the gas based power plants in AP are based on the availability of gas from KG Basin and the Commission had given approval to them on the basis of assurance given by GAIL and ONGC on availability of gas from KG Bain fields. This clearly implies that the gas based power plants in AP have come on the basis of availability of gas from KG basin. As such these power plants in AP shall have first right on gas available from these fields. But contrary to this, these power plants are getting less than 10% of the gas available from KG basin fields. But once gas production started the assurance given to these plants was forgotten. As these plants were approved on the assurance of availability of gas these plants should have first right on the gas produced from RIL's KG basin gas fields. If adequate quantity of gas was allocated to the gas based power plants in AP there would have been no need for RLNG purchases, no open market procurement at high rates and new FSA proposals. It is high time the assurance	Allocation and delivery of gas is not in the purview of APDISCOMs.

	given to these plants is delivered by the central government.	
	5.4 At the same time power plants outside AP like Ratnagiri Power Plant (erstwhile Dabhol/Enron plant) which are planned to be based on imported LNG are given preferential allocation of natural gas from KG basin. Though KG basin gas supply to Ratnagiri plant was stopped for a few days it was restored on 28th January, 2013 the day on which the whole state of AP was preoccupied with the Telangana issue. 1.9 MSCMD of KG basin gas is being supplied to this plant. The Commission as well as the Government of AP shall see to it that the gas from KG basin is transported outside AP only after meeting full requirement of gas based power plants in AP. It is a travesty of justice that while plants based on natural gas are being forced to import costly LNG the plants which are originally planned to run on imported LNG is being allocated natural gas from KG basin. The sooner this injustice ends it is better for the state as well as the country.	EGOM, GOI also allocated Natural Gas to an extent of 7.6 MMSCMD to M/s Ratnagiri Power plant (Dabhol/Enron), though the plant was originally contemplated with LNG. Now this plant is receiving D-6 gas on par with power plants across the country. Several times GoI was requested to divert the natural gas of Ratnagiri power plant to the AP IPPs. A series of correspondence at highest level from GOAP is regularly being made with GOI for augmentation of gas supplies to the IPPs in the State for restoration of at least 75% as per the gas allocation made by EGoM, GoI.
	5.5 Overall, steps shall be taken to see that adequate gas is allocated to AP gas based power plants to save electricity consumers in the state from frequent FSA burden. It is high time the rights of the AP plants were restored. Once this is done not only power generation cost will come down but also availability of power in the state will increase. The present FSA to a large extent is a result of shortage of power supply in the state.	
	Gas Allocation to Merchant Plants **5.6.1** Even when gas based power plants with approved PPAs with DISCOMs are running short of natural gas two merchant plants belonging to Lanco and GMR groups were provided gas linkage with the recommendation of the state government, against the clear direction of the central government's directive that this gas shall not be provided to the plants that sell power at market rate. Because	Allocation and delivery of gas is not in the purview of APDISCOMs.

	of this high cost of power has to be procured form these two plants. Up to Rs. 5.60 per unit was paid for power procured form these two merchant plants, even violating APERC's limit on price to be paid to open market purchases. If the same gas was made available to the plants with approved PPAs Rs. 1.85 per unit would have been enough to access the same power. During the third quarter of 2012-13 184.76 MU of power was purchased from these two plants at aggregate cost of Rs. 96.94 crore. If the same gas was made available to plants with long term PPAs it would have cost only Rs. 34.18 crore. This implies that Rs. 62.77 crore additional burden was imposed on electricity consumers in the state because of diversion of gas to merchant power plants. We request the Commission not to allow this additional burden.	
	5.6.2 During the first quarter of 2012-13 Rs. 155.72 crore additional burden was imposed on the consumers in the state by diverting gas from plants with PPAs to merchant plants of Lanco and GMR. During the second quarter of 2012-13 this amount stood at Rs. 97.33 crore. During the years 2010-11 and 2011-12 Rs. 865 crore burden was imposed on the consumers in the state due to allocation of gas to these two merchant plants. Since 2010-11 the electricity consumers in the state have to pay Rs. 1181 crore additionally. The same shall be recovered from the merchant power plants. If this amount is recovered there will be no need to impose the FSA proposed by the DISCOMs for the 2nd quarter of 2013. These payments made to merchant plants of Lanco and GMR can be recovered through retaining payments to be made to power produced from the older units of these plants.	MOP&NG, GOI during 2009 has allocated RIL D-6 gas to M/s GMR barge and M/s Lanco stage II as per the then policy of EGOM to allocate Natural Gas to projects ready to generate power with estimated KG D-6 production of 80 MMSCMD by 2011. Lanco Stage-II was recommended by the then Energy Minister, GoAP for allocation of gas. The aforesaid merchant plants were commissioned in 2010. Since then supplying part of the capacity to APDISCOMs intermittently under short term contract. Currently these two projects are supplying power to APDISCOMs to the extent of gas availability under short term contract. In view of the scarcity of the domestic gas, during May 2011 MOP&NG, GoI decided that the current and future
	5.6.3 Natural gas from RIL's KG Basin was allotted to merchant plants of Lanco and GMR on the recommendations of the GoAP. While allocating gas to these plants the EGOM laid down the condition that they should supply power produced from this gas to DISCOMs within the state at the rate determined by the Commission, through a long-term PPA. But for a considerable time they supplied	

	power outside the state in violation of conditions laid down by the EGOM. After a hue and cry in the state they started supplying power in the state but at the open market. This entailed huge burden on the consumers in the state.	allocations of domestic gas will be subject to the condition that "the entire electricity produced from its gas shall be sold under long term PPAs to the grid/ Distribution companies at regulated Tariffs approved by the regulator" During December 2011, both M/s GMR Barge and M/s Lanco Stage-II have agreed before MoP, GoI to participate in the medium term bidding to enable to continue their domestic gas allocation. During March 2012, MOP, GOI communicated the EGoM decision to not to suspended the RIL D-6 gas allocation to these two projects till 30.05.2012. Further, it was stated that after the said period the supply would be suspended if they fail to comply with the condition *that the entire electricity produced from the allocated gas shall only be sold to the Distribution Licensees at tariffs determined or adopted (in case of bidding) by the tariff regulator of the power plant*. The PPA should be for medium term or long term. As per the stipulation of MOP, GOI, the aforesaid projects are required to supply entire power to APDISCOMs either by entering long term PPAs at tariffs determined by APERC or at tariff adopted by APERC arrived through bidding process. Pending finalization of medium term bidding, the
	5.6.4 Even when the EGOM terms clearly state that these merchant plants shall enter in to long term PPAs to be eligible for gas allocation all these while they avoided entering in to long term PPAs and selling power at open market prices. There is reported to be a short term PPA with these merchant plants. As for as we know Commission has not approved these. There is no proceeding approving these short term PPAs. There were only mentions that DISCOMs approached the Commission to determine the price for these plants.	
	5.6.5 EGOM was reported to have decided on 24-02-2012 "that as M/s Lanco Kondapalli (Expansion) and GMR Tanir Bawi have signed the short term PPA till 30-05-2012 … after which the supply would be suspended if they fail to comply with the conditions specified by the EGOM for supply of domestic gas". This implies that gas supply to these plants should have been suspended from 01-06-2012. But these two plants continue to get gas and sell power at open market rates, of course in the garb of Case 1 Bidding.	
	5.6.6 In the case of Lanco's coal based thermal power plant at Amarkantak in Jharkhand coal linkage was cancelled as it does not have long term PPA with Chhattisgarh utilities. But in AP even after repeated reminders over the years nothing is being done. It is nothing but an open collusion among the Utilities, state and central governments. Commission also seems to have contributed to it by increasing the ceiling price to Rs. 5.50 per unit.	
	5.6.7 Even after all this, controversy there are doubts whether Lanco and GMR are selling all the power produced by their merchant power plants in AP only. If	

	we take in to account the quantum of power supplied by these two merchant plants outside the state the actual burden from allocation gas to these merchant plants would be more than Rs. 1181 crore!	aforesaid projects were selected in short term bidding for the period from 01.06.2012 to 30.05.2013. The LoIs were issued with a condition that, the tariff for these two projects would be determined by APERC in line with the GoI directive. M/s GMR barge and M/s Lanco have participated in case-I medium term bidding initiated by APCPDCL during December'2011. During the finalisation of bids, during July' 2012, the offer of M/s GMR bid was disqualified, being conditional, where as M/s Lanco bid was not accepted as they had quoted high rate of Rs 6.898/unit (L14) as against the L1 rate of Rs.4.29/unit. As per the directions of GOAP, APDISCOMs during November' 2012 requested these two projects to enter long term PPA in line with initialled PPAs of M/s Silkroad, M/s RVK and M/s Sriba, who have got similar EGoM allocation. However, both M/s GMR Barge and M/s Lanco Stage-II did not accept the draft PPAs communicated by APDISCOMs and desired to enter long term PPAs as per Regulation 1 of 2008. In response APDISCOMs informed M/s GMR Barge and M/s Lanco Stage-II that the DISCOMs are not in a position to enter into long term PPA based on Regulations 1 of 2008. APDISCOMS informed to GOAP that APDISCOMs have decided to enter long term PPAs with M/s.GMR Barge & M/s. Lanco Stage-II at the tariff i.e., fixed cost around Rs
	5.6.8 As far as Lanco II and GMR Barge mounted the ceiling price cannot be the standard, it is not the regulated price meant for these two plants specifically, is meant for short term power purchases from open market. These two plants are not green field projects, they got various facilities for their earlier projects and that is being used now. Gas was also allocated with the condition that power generated shall be made available to AP only at the price determined by the Commission. The Commission did not determine price for these two plants.	
	5.6.9 We have brought to the notice of the Commission as well as the Utilities in the state a provision in the National Electricity Tariff Policy which allows procurement of power from extension plants of existing plants with the approval of the Commission. The Commission had directed the DISCOMs submit their response on this. DISCOMs wrote to the state government. And we did not hear after wards either from the DISCOMs or the GoAP. But now everybody is after Lanco and GMR to sign long-term PPA, with questionable motives.	

		1.00 per unit as is being paid to existing new IPPs together with variable cost being pass through at the rate as is being determined by EGOM, GOI time to time. It was also informed that no negotiations in this regard will be done by APDISCOMs with M/s GMR Barge and M/s Lanco Stage-II. MOP&NG, GOI vide letter dt. 01.01.2013 communicated the guidelines on clubbing/diversion of gas between power plants, applicable to power plants of common owner ship. As per the above guide lines both M/s GMR barge and M/s Lanco stage II were requested vide letters dt. 24.01.2013 to communicate their concurrence for diversion of gas from for diversion of natural gas from Lanco stage II (supplying power under short term) to Lanco stage I (supplying power under long term) and GMR barge (supplying power under short term) to GMR Vemagiri (supplying power under long term). However, both the plants have not accepted APDISCOMs proposal for clubbing of gas. Several letters were addressed to APERC for fixation of Tariff to these two projects in view of the allocation of domestic gas by EGOM, GOI. So far APERC has not fixed the Tariff. APDISCOMs have made all the possible efforts to fulfil the directive of GOI for continuation of KG D-6 gas to Lanco Stage II and GMR Barge. However, the aforesaid

		projects have not accepted to any of the proposals made by APDISCOMs i.e; (i) Medium term bidding (ii) Long term PPA and (iii) Clubbing/diversion of Gas. In light of the above, notices were issued to GMR Barge & Lanco Stage-II to restrict the short term power purchase rate for these two projects on par with long term PPAs of New IPPs (M/s Gautami, M/s Konaseema & M/s Vemagiri) with immediate effect. Further it was also informed that pending tariff determination by APERC to these two projects, to recover the differential amount (Unit rate paid under short term – Unit rate paid to New IPP under long term so far paid for the power supplied under short term. After fixation of Tariff by APERC, necessary truing up would be made. After Truing up, if any benefit accrued to APDISCOMs would be passed on to the consumers. GoAP was requested by APDISCOMs to recommend for diversion of RIL D-6 gas of GMR Barge and Lanco Stage-II to the AP IPPs which are supplying power to APDISCOMs under long term PPAs. The aforesaid projects have approached Hon'ble AP High Court against the notices issued by APDISCOMs. The matter came-up for hearing on 12.02.2013. Hon'ble AP High Court directed APDISCOMs to file counter Affidavit by 18.02.2013.

	Gas Price: **5.7.1** Increase in gas price has adversely impacted the consumers. The price of gas from KG basin fields of RIL was increased from $ 2.52 to $ 4.2 per MBTU in a questionable manner. The new price is said to have been arrived at through so-called price discovery mechanism. This mechanism was carried out by RIL but not by the Government of India. The Prime Minister's Economic Advisory Council also found fault with the mechanism adopted in this price discovery. But still the GoI went ahead and gave clearance to this hike. The price differential will entail additional burden of more than Rs. 15,000 crore on the consumers in the state in the coming years.	Natural gas being natural resource, MOP & NG, GOI through competitive bidding route under New Exploration & Licensing Policy (NELP) route selected the prospective developers and allocated the gas wells in KG Basin for production natural gas. Accordingly, MoP&NG, GoI has entered Production Sharing Contract (PSC) with selected bidders. Since 2007, a series of correspondence was made with GoI to have a independent and autonomous regulator to fix the price of natural gas and it should not be market driven price. Further it was requested that the price of natural gas to the power and fertilizer sector should not be higher than US$ 2.5/MMBTU. In spite of the above request, EGOM, GOI fixed the RIL KG D-6 gas price @ 4.205 US$/MMBTU and the price is valid up to March'2014, based on the International crude oil price. Hon'ble Supreme Court in its judgment on dispute between RIL & RNRL clearly indicated that "the PSC and constitutional provisions on natural resources override private agreements and the Government retains the power to control price". EGoM, GoI is only the competent authority to revise the price of natural gas beyond 2014. As replied above the fixation of Natural Gas price is under
	5.7.2 RIL sought gas price hike in the name of increased capital cost. It increased capital expenditure from $2.5 billion to $8.8 billion. CAG which audited these expenditures questioned the reasonableness of these expenditures. It found that ten contracts were awarded in questionable manner and wanted an in depth review of these contracts. Eight contracts were awarded to Aker Group on a single bid basis, without any competition. A contact of $1.1 billion was given to Aker Group against estimated original cost of $ 300 million. Following these findings CBI launched an inquiry in to Mr. V.K. Sibal who was the Director General of Hydrocarbons (DGH) when these expenditures were approved. The new DGH also found that while 22 wells need to be drilled by March 2011 to be able to produce 61.8 MCMD of gas only 18 wells were drilled. The GoI also came to a conclusion that $1.85 billion out of $5.694 billion already claimed to have been invested should be disallowed. As gas price was hiked in the name of increased capital cost and as it was found that the claimed capital expenditure by RIL was not real but inflated gas prices shall be brought down. DISCOMs as well as GoAP shall see to it that old gas prices prevail.	

		the purview of EGOM, GOI. With regard to the capital expenditure of RIL, and awarding of contracts to the successful bidder under NELP policy, the same is within the purview of MOP&NG, GOI and it take appropriate action.
	5.7.3 Even more astonishingly the government of India increased the price of gas from ONGC from $ 1.79 to $ 4.2 per MBTU. This hike was effected in the name of minimizing the losses of public sector gas companies. Irony is that these companies are some of the highly profit making companies in the country even before this hike. One could only imagine the windfall profits these companies are going to make. But electricity consumers have to bear this burden. Instead of facilitating availability of cheap and affordable electricity to the consumers these steps of the government are making electricity very costly. Price of gas from ONGC fields was increased to be commensurate with the gas price form RIL fields. As it was found that price hike of gas from RIL fields was based on inflated capital costs price of gas from ONGC fields shall also be brought down.	As replied above. The fixation of Natural Gas price is under the purview of EGOM, GOI.
	5.7.4 Recently a Committee a headed by Prof. Rangaragan, Chairman of the Prime Minister's Economic Advisory Committee recommended hiking gas price to $8 per MBTU. This Committee followed unheard of method to increase domestic natural gas prices primarily to benefit RIL. Even before RIL other domestic gas companies like ONGC and Cairn will reap enormous profits. Nowhere in the world is the domestically produced natural gas priced like this. The conditions of gas production change from country to country. In the past the RIL before the Bombay High court mentioned the cost of gas production as $0.60. In response to an international bid floated by NTPC RIL won a bid to supply gas at the rate of $2.3 per MBTU. The proposed hike in gas price will add to the electricity consumers' burden enormously. As the proposed hike not based any proper methodology it shall be opposed. We request the DISCOMs as well as the	

	GoAP to take up this issue with the GoI and see that the above arbitrary price is not imposed on the consumers in the state.	
	6.1 The Commission has put the limit of Rs. 5.50 per unit as the price for open market purchases. But the present FSA proposals of DISCOMs show that nearly 40% of the open market purchases were paid more than this limit. The DISCOMs are covering the above high price behind the so called market discovered price. We request the Commission not to approve higher prices. As the whole open market, short term power purchases are mired in controversies we request the Commission to conduct a detailed enquiry in to these purchases.	The invoices were submitted to the Hon'ble Commission for prudent check.
	7.1 DISCOMs in the state are declaring that they are earning huge profits. These profits are higher than the margins allowed by the Commission. If they are really earning these profits where is the need for the present FSA proposal? What is true – deficits or profits?	The Discoms are earning nominal profits after including the FSA claims as revenue.
	8.1 Commission itself is contributing to hike in power purchase costs – increase in ceiling of open market price to Rs. 5.50 per unit and recent increase in wind energy tariff are just two examples. And these decisions were also characterized by lack of transparency, and meant to benefit a section at the cost of the state. In this context we would like to draw attention of the Commission to Section 86 (3) of the electricity Act, 2003 which stipulates that "The State Commission shall ensure transparency while exercising its powers and discharging its functions."	

Annexure – 1

ANDHRA PRADESH POWER GENERATION CORPORATION LIMITED

Details of imported and Domestic coal consumed during 3rd Quarter of FY 2012-13

Month	Station	Imported Coal			Domestic coal			Domestic & Imported coal		
		Qty	Rate/MT	GCV on Air Dried Basis	Quantity	Rate/MT	GCV on random Air Dried Basis	Quantity	Rate/MT	GCV as fired basis
		MT	Rs.	Kcal/kg	MT	Rs.	Kcal/Kg	MT	Rs.	Kcal/Kg
Oct' 12	VTPS	55,836.00	5390	6000	510,822	2441.34	2974	566,658	2,731.89	3041
	VTPS-IV	91,840.00	5390	6000	141,439	4046.79	3024	233,279	4,575.60	3611
	RTPP	84,434.84	5390	6110	327,486	3955.00	3010	411,921	4,249.14	3379
	KTPS/O&M				299,697	1776.92	3007	299,697	1,776.92	2845
	KTPS V				240,195	1489.90	3236	240,195	1,489.90	3062
	KTPS VI	82,198.00	5390	6145	146,071	2864.31	3236	228,269	3,773.79	3508
	RTS B				7,676	2543.04	3732	7,676	2,543.04	3531
	KTPP				215,534	3191.97	3693	215,534	3,191.97	3494
Month total		314,309			1,888,920			2,203,229		
Nov' 12	VTPS	42,195.00	5390	6000	490,675	2687.83	3115	532,870	2901.80	3137
	VTPS-IV	72,573.00	5390	6000	118,185	4096.80	3152	190,758	4588.79	3596
	RTPP	38,113.56	5390	6065	375,139	4032.14	3418	413,253	4157.37	3395
	KTPS/O&M				290,556	1761.57	3110	290,556	1761.57	2943
	KTPS V				234,110	1579.66	3306	234,110	1579.66	3128
	KTPS VI	71,890.00	5390	6139	108,425	3494.85	3306	180,315	4250.43	3804
	RTS B				30,241	2524.08	3789	30,241	2524.08	3585
	KTPP				181,718	3233.23	3649	181,718	3233.23	3453
Month total		224,771.56			1,829,049			2,053,821		
Dec '12	VTPS				553,493	2778.99	3349	553,493	2778.99	3169
	VTPS-IV	69,358.00	5390	6000	125,376	2541.09	2845	194,734	3555.78	3592
	RTPP	3,466.32	5390	6065	394,945	3920.70	3619	398,411	3933.48	3437
	KTPS/O&M				355,790	1812.26	3203	355,790	1812.26	3031
	KTPS V				259,060	1578.51	3180	259,060	1578.51	3009
	KTPS VI	83,008.00	5390	6169	150,332	2691.72	3180	233,340	3651.60	3829
	RTS B				32,324	2544.90	3756	32,324	2544.90	3554
	KTPP				214,902	3302.72	3743	214,902	3302.72	3542
Month total		155,832.32			2,086,221.68			2,242,054.00		
Qr total		**694,912.72**			**5,804,191.28**			**6,499,104.00**		

1. GCV of coal is tested on Air Dried Basis.
2. GCV of coal as fired basis is arrived by the use of the following formula:
   GCV on air dried basis X (100 - Total moisture) / (100 - inherent moisture)

Annexure-II

NTPC RSTPS Stage I & II for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic	Imported	Weighted Avg. Rate (Rs./MT) PCM	Weighted Avg.GCV (Kcal/Kg) KCM
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (SR Stage I & II) Rs./M.T			
1	Apr-12	924489.000	0.000	924489.000	196.83	0.00	196.83	2129.09	#DIV/0!	2129.09	3749
2	May-12	952032.000	14984.000	967016.000	229.49	4.83	234.32	2410.51	3224.94	2423.13	3806
3	Jun-12	758323.420	20675.580	778999.000	173.50	10.72	184.22	2287.93	5183.34	2364.77	3990
4	Jul-12	772805.550	26686.450	799492.000	173.31	14.22	187.53	2242.60	5328.88	2345.62	4051
5	Aug-12	862430.780	3881.220	866312.000	184.53	2.55	187.09	2139.69	6579.75	2159.58	4093
6	Sep-12	740836.000	0.000	740836.000	162.19	0.00	162.19	2189.34	#DIV/0!	2189.34	4086
7	Oct-12	839241.000	0.000	839241.000	191.11	0.00	191.11	2277.14	#DIV/0!	2277.14	3446
8	Nov-12	802634.000	0.000	802634.000	185.27	0.00	185.27	2308.30	#DIV/0!	2308.30	3746
9	Dec-12	1002443.000	8595.000	1011038.000	233.78	5.46	239.24	2332.08	6353.30	2366.27	3669

NTPC Simhadri 1 for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Landed Cost of Coal (Simhadri) Rs./M.T.		Weighted Avg. Rate (Rs./MT) PCM	Weighted Avg.GCV (Kcal/Kg) KCM
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Domestic	Imported		
1	Apr-12	657146.000	97476.000	754622.000	141.85	55.30	197.15	2158.64	5672.92	2612.59	3230
2	May-12	614384.000	155681.000	770065.000	120.21	88.66	208.86	1956.57	5694.69	2712.29	3395
3	Jun-12	538113.000	87018.000	625131.000	114.36	49.66	164.02	2125.23	5707.19	2623.83	3107
4	Jul-12	549686.000	86002.000	635688.000	103.12	40.17	143.29	1875.90	4670.81	2254.02	3211
5	Aug-12	773627.000	2736.000	776363.000	139.09	1.28	140.37	1797.88	4670.79	1808.01	3030
6	Sep-12	503399.000	0.000	503399.000	102.27	0.00	102.27	2031.53	#DIV/0!	2031.53	3297
7	Oct-12	666897.000	117001.000	783898.000	140.27	43.98	184.25	2103.29	3758.80	2350.38	3454
8	Nov-12	617328.000	139265.000	756593.000	114.66	52.70	167.36	1857.37	3783.89	2211.98	3202
9	Dec-12	663868.000	197335.000	861203.000	126.29	90.32	216.61	1902.31	4577.10	2515.21	3285

NTPC Simhadri Stage 2 for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic	Imported	Weighted Avg. Rate (Rs./MT) PCM	Weighted Avg.GCV (Kcal/Kg) KCM
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (Simhadri) Rs./M.T.			
1	Apr-12	657146.000	97476.000	754622.000	141.85	55.30	197.15	2158.64	5672.92	2612.59	3253
2	May-12	614384.000	155681.000	770065.000	120.21	88.66	208.86	1956.57	5694.69	2712.29	3384
3	Jun-12	538113.000	87018.000	625131.000	114.36	49.66	164.02	2125.23	5707.19	2623.83	3181
4	Jul-12	549686.000	86002.000	635688.000	103.12	40.17	143.29	1875.90	4670.81	2254.02	3234
5	Aug-12	773627.000	2736.000	776363.000	139.09	1.28	140.37	1797.88	4670.79	1808.01	3020
6	Sep-12	503399.000	0.000	503399.000	102.27	0.00	102.27	2031.53	#DIV/0!	2031.53	3272
7	Oct-12	666897.000	117001.000	783898.000	140.27	43.98	184.25	2103.29	3758.80	2350.38	3438
8	Nov-12	617328.000	139265.000	756593.000	114.66	52.70	167.36	1857.37	3783.89	2211.98	3217
9	Dec-12	663868.000	197335.000	861203.000	126.29	90.32	216.61	1902.31	4577.10	2515.21	3290

NTPC RSTPS Stage III for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic	Imported	Weighted Avg. Rate (Rs./MT) PCM	Weighted Avg.GCV (Kcal/Kg) KCM
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (SR Stage III) Rs./M.T			
1	Apr-12	217510.000	0.000	217510.000	56.75	0.00	56.75	2609.08	#DIV/0!	2609.08	3673
2	May-12	248031.000	0.000	248031.000	71.78	0.00	71.78	2894.10	#DIV/0!	2894.10	3592
3	Jun-12	223382.000	0.000	223382.000	60.13	0.00	60.13	2691.90	#DIV/0!	2691.90	3662
4	Jul-12	222993.000	0.000	222993.000	49.28	0.00	49.28	2209.81	#DIV/0!	2209.81	3535
5	Aug-12	102.000	0.000	102.000	0.03	0.00	0.03	2857.05	#DIV/0!	2857.05	3659
6	Sep-12	153147.000	0.000	153147.000	32.69	0.00	32.69	2134.40	#DIV/0!	2134.40	3741
7	Oct-12	259365.000	0.000	259365.000	64.86	0.00	64.86	2500.88	#DIV/0!	2500.88	3362
8	Nov-12	234088.000	0.000	234088.000	75.52	0.00	75.52	3226.14	#DIV/0!	3226.14	3469
9	Dec-12	264754.000	0.000	264754.000	81.38	0.00	81.38	3073.93	#DIV/0!	3073.93	3332

NTPC Taclher Stage II for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic / Imported Landed Cost of Coal (Talcher) Rs./M.T.		Weighted Avg. Rate (Rs./MT) PCM	Weighted Avg.GCV (Kcal/Kg) KCM
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Domestic	Imported		
1	Apr-12	1333845.000	257157.000	1591002.000	119.97	177.38	297.34	899.40	6897.61	1868.90	3151
2	May-12	1304452.000	323936.000	1628388.000	122.55	210.42	332.97	939.46	6495.75	2044.78	3095
3	Jun-12	1307372.000	248180.000	1555552.000	122.43	152.20	274.63	936.44	6132.59	1765.46	2810
4	Jul-12	1220741.000	214055.000	1434796.000	117.87	122.90	240.78	965.57	5741.70	1678.11	2812
5	Aug-12	1160642.000	93824.000	1254466.000	101.86	50.66	152.52	877.62	5399.89	1215.85	2643
6	Sep-12	843767.000	74016.000	917783.000	81.84	27.53	109.37	969.99	3719.12	1191.70	2781
7	Oct-12	1241063.000	228368.000	1469431.000	123.17	129.64	252.81	992.45	5676.66	1720.44	2902
8	Nov-12	1263498.000	258233.000	1521731.000	122.97	145.63	268.60	973.23	5639.46	1765.07	2887
9	Dec-12	1368601.000	229461.000	1598062.000	113.59	130.20	243.79	829.95	5674.15	1525.51	2985