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40	Partner, M/s Shree Krishna Steels	
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42	K.L.Rao, Whole Time Director,M/s Jeedimetal Effluent Treatment Limited	
43	D.V.A.S.Ravi Prasad, Advocate	
44	P.Krishna, General Secretary ,M/s Jeedimetla Industries Association	
45	Managing Director, M/s Pankaj Polymers Limited	
46	Director ,M/s Aman Tubes Pvt. Ltd.	
47	M/s Kisan Tata Agro Industry	
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50	M/s Vasant Chemicals Pvt. Ltd.	
51	V.V.Prasad, Executive Director, M/s Vimta Labs Limited	
52	Proprietor, M/s Diamond Steel Re Rolling Mill	
53	M/s Bhavika Plastek Pvt. Ltd.	
54	M/s Sainath Plastek	
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56	Director, M/s Pramukh Packaging (P) Ltd.	
57	Secretary, Service Society, Pashamylaram Notified Gram Panchayat Industrial Area	
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1. T. Harish Rao, MLA, Dr.K.Narayana, Secretary
2. Dr.K.Narayana, Secretary,
3. B.Anjaneyulu, AISF State President
4. K.Ramakrishna, Ex-MLA, State Working President, Andhra Pradesh Ryotu Sangham
5. M.Thimma Reddy, Convenor,People's Monitoring Group on Electricity Regulation
6. D.V.Krishna, Secretariat Member, A.P. State Committee CPI (ML) New Democracy
7. K.Govardhan, Working Editor, Prajapanda
8. Gade Diwakar, General SecretarY, All India Kisan Mazdoor Sabha (AIKMS)
9. P.J.Chandrasekhar Rao, MLC, State President
10. N.Sambasiva Rao, State President,
11. P.Durga Bhavani, State President,N.Jyothi, State General Secretary Andhra Pradesh Mahila SamakhyaS.Venkateswarlu, State President,
12. S.Venkateswarlu, State President, J.Wilson-MLC, State General Secretary Andhra Pradesh Vyavasaaya Kaarmika SanghamJ.
13. B.Janak Prasad,Offical Spokesperson,YSR Congress Party
14. K.Raghu, Certified Energy Manager and Auditor

Sl.No	Objection/Suggestion	Reply
1	**1.1** The above Public Notice published in the Newspapers on 6th November 2012 directed that consumers have to file their suggestions/objections by 21st November 2012. Consumers were given just two weeks time to respond on such important issue. Given the amount of information involved to be examined and various issues raised along with variations in fuel costs this two weeks time is grossly inadequate to make any meaningful intervention on the part of consumers. We request the Commission to extend the date for submission of written suggestions/objections on the DISCOM proposals on FSA for the 2nd quarter of 2012-13.	APDISCOMs have proposed recovery of cost that was already incurred without any carrying cost. Considering the amount involved and the impact of carrying cost it is appropriate to take up the issue at the earliest. However, the issue falls in the purview of Hon'ble Commission.
2	**1.2** The present FSA proposals of DISCOMs for the second 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	The copies of invoices with the details as claimed by generators were submitted to commission for scrutiny.

	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. We request the Commission to direct GENCO and NTPC to provide GCV figures separately for local and imported coal.	
	2.2 APDISCOMs' FSA proposals show that while APERC approved procurement of 22,440 MU during 2nd quarter of 2012-13 DISCOMs were able to procure only 19,008 MU, a decline of 3,432 MU (15.27%). A great part of this decline could be attributed to decline in hydro power generation. While APERC estimated availability of 2,625 MU of hydro power only 861 MU could be generated during this quarter. There was a deficit of 1,764 MU of hydro power. During this quarter while the Commission approved procurement of 3,285 MU from open market DISCOMs were able to procure only 2,569 MU, a decline of 716 MU. 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. While coal based plants of central generating stations and gas based plants in the state delivered more or less the quantities projected by APERC it were the coal based plants of GENCO that let down the state. These plants delivered nearly 1,000 MU less than the projected quantities. This may be attributed to coal shortage. But when central generating stations were able to deliver the projected quantities even in the background of coal shortage what stopped the GENCO plants from delivering their due. The Chief Minister frequently called upon NTPC to generate more power to bail out the state from darkness. But almost there was no word about APGENCO!	APDISCOMS are procuring power from short term sources through transparent tender process and through exchanges. Orders were placed on Traders/Generators to purchase power based on the quantum and price offered. APGENCO has generated 19055.79 MU during April to September in 2012-13 and supplied 17422.046 MU to AP DISCOMS after meeting the auxiliary consumption. Please refer annexure-D(i), the generation targets filed by Discoms for half year period is 17086 MU and Annexure-D(ii) the generation targets fixed by APERC is 17510.45 MU. Therefore, it is evident that the APGENCO crossed the generation targets filed by AP DISCOMS and nearer to the generation targets fixed by Hon,ble APERC.
	2.3 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**	Not in the purview of licensee. Govt. of AP shall be requested for pursue with central Govt. for speedy clearences.

	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%".**	
	3.1 Though AP has access to more than 2700 MW gas based power generation capacity less than 1,000 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 28 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. 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 purchases from open market as well as steep power cuts imposed on all electricity consumers 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.	Issue not in the purview of APDISCOMs.
	3.2 Even out of the total gas produced from RIL's KG basin fields power plants in AP were allocated a small portion. Out 30 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 2002 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. 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	Allocation and delivery of gas is not in the purview of APDISCOMs.

<table>
<tr><td></td><td>gas was allocated to the gas based power plants in AP there would have been no power cuts, no open market procurement at high rates and new FSA proposals. It is high time the assurance given to these plants is delivered by the central government.</td><td></td></tr>
<tr><td></td><td>3.3 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.</td><td></td></tr>
<tr><td></td><td>3.4 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 of this high cost of power has to be procured form these two plants because of power shortage in the state. Rs. 5.46 per unit is paid to power procured form Lanco unit and Rs. 3.90 per unit was paid to power procured form GMR unit. If the same gas was made available to the plants with approved PPAs Rs. 1.80 per unit would have been enough to access the same power. This implies that Rs. 97.33 crore additional burden was imposed on electricity consumers in the state because of diversion of gas to merchant power plants. In other words, 10 percent of the proposed FSA burden is because of this diversion of gas. We request the Commission not to allow this additional burden.</td><td>Allocation of gas is not in the purview of APDISCOMs</td></tr>
<tr><td></td><td>Table: Per Unit Variable Cost Burden

<table>
<tr><td rowspan="2">Plant</td><td rowspan="2">Variable cost according to ARR 2012-13 (Rs/U)</td><td colspan="3">Variable cost according to FSA Proposals for Q2 of 2012-13 (Rs/U)</td></tr>
<tr><td>July</td><td>August</td><td>September</td></tr>
<tr><td>Coal based</td><td>plants</td><td></td><td></td><td></td></tr>
<tr><td>NTPC (SR)</td><td>1.74</td><td>1.52</td><td>1.39</td><td>1.49</td></tr>
<tr><td>Simhadri I</td><td>2.10</td><td>1.80</td><td>1.54</td><td>1.58</td></tr>
<tr><td>KTPS – A, B, C</td><td>1.35</td><td>2.08</td><td>2.16</td><td>1.95</td></tr>
<tr><td>VTPS – I, II, III</td><td>1.94</td><td>2.33</td><td>2.59</td><td>2.82</td></tr>
<tr><td>VTPS – IV</td><td>2.65</td><td>3.63</td><td>3.55</td><td>3.52</td></tr>
</table></td><td>Coal details of NTPC is enclosed here with Annexure-I. The details regarding APGENCO were not yet received.

APGENCO is procuring imported coal as per the targets fixed by Central Electricity Authority. 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</td></tr>
</table>

					railway freight. The increase in variable cost is due to increase in VAT, Central excise duty, royalty, fuel surcharge hike and railway freight. Regarding generation, APGENCO has achieved the targeted generation fixed by Hon'ble commission for the first half year in 2012-13.
	RTPP	2.18	3.34	3.48	3.39	
	Gas based	**plants**				
	APGPCL – St. 1	1.89	2.33	2.33	2.33	
	Reliance	1.72	2.09	2.06	2.03	
	Konaseema	1.80	2.09	2.10	2.01	
	Vemagiri	1.80	2.10	2.10	2.01	
	GVK	2.07	2.22	2.20	2.16	
	GVK Extn	1.80	2.10	2.11	2.02	
	Gautami	1.80	2.10	2.10	2.01	
	Spectrum	1.77	2.25	2.26	2.53	
	Lanco	2.04	2.26	2.19	2.24	
	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 Aggregate Revenue Requirement (ARR) for the year 2012-13 in the case of GENCO plants variable costs reported under FSA proposals were higher than those mentioned the Aggregate Revenue Requirement (ARR). In the case of GENCO plants increase in variable costs range from Rs. 0.37 to Rs. 1.30 per unit. There is no explanation for this hike in variable costs of GENCO coal based plants. 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. All facts need to be made public.					
	4.3 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 vicinity is more than the state's needs?					The relevant invoices of gas generation are submitted to APERC for scrutiny. Further allocation of gas is not in the purview of APDISCOMs
	5.1 We request the Commission to closely scrutinize the claims of DISCOMs under prior period expenditure. Given the track record of GVK and Gautami the amounts claimed by them (Rs. 11.42 crore and Rs. 3.18 crore respectively) raises suspicion. The Commission needs to see that these claims are to be subjected to severe scrutiny.					Any other document on these items will be submitted for authentication as and when called for by Commission.

	5.2 Rationale in collecting income tax of firms from consumers needs to be reexamined. Rs. 108.35 crore of the prior period expenditure is accounted for by the income tax of the utilities. As the income tax is levied on revenues collected from consumers asking the consumers to bear the income tax burden of the utilities implies consumer paying for the same item twice. As the income earner is obligated to pay tax on its income to expect the consumers to bear the tax amount defeats the very purpose of this tax. We request the Commission to provide us an opportunity to be heard in person during the public hearing on the above FSA claims of DISCOMs.	All the claims are being admitted as per the regulations in vogue and terms of PPA. The income tax is reimbursable to the generators.

15. Sri Shiva Spinning Mills Private Limited, 6-6-1, IDA, Kattedan, Opp:Shivarampally Railway station, Hyderabad-500077

Sl.No	Objection/Suggestion	Reply
1	**PRIOR PERIOD EXPENDITURE:** An amount of Rs. 7,14,29,054/- claimed in July, 2012, Rs.36,30,76,978/- claimed in August, 2012 and totaling to Rs.43,45,05,852/- which is not acceptable as the same is not pertaining to prior period therefore the same is liable to be set aside. Further during September,2012 an amount of Rs.105,57,78,574/- shown as credit therefore the same is liable to be refunded during the quarter for which it is pertaining.	Prior period expenditure either credit/ debit will be passed on to the consumers as per the regulation.
2	**STOA CLAIMED IN FIXED COST:** An amount of Rs.30,61,30,975/- claimed in July,2012, Rs.18,82,25,010/- claimed in August,2012 and Rs. 10,79,96,791/- claimed in September,2012 thus totaling to Rs.60,23,52,776/- as STOA in Fixed cost. Please clarify what is STOA. As it is not component of Fixed cost it is not acceptable and liable to be set aside. Finally we request you to kindly furnish one copy of agreement entered with all the supplier of power of 2nd quarter of FY 2012-13 and a copy of bills claimed by them during 2nd Quarter of FY 2012-13 to enable us to scrutiny the same and come to conclusion whether the claim of FSA made by the APCPDCL is correct or not and file our final objection.	STOA is the charge for allowing access to the transmission lines when is energy is purchased on short term basis. All the invoices pertain to power purchases has been submitted to Hon'ble Commission for prudent check. The short term PPAs with developers are available in APTRANSCO website.

16.M Venugopal Rao, Senior Journalist of India (Marxist), **17.B V Raghavulu, Secretary, AP State Committee, communist Party of India**		
Sl.No	**Objection/Suggestion**	**Reply**
1	The four Discoms have submitted their FSA claims for a sum of Rs.981.32 crore for the second quarter of 2012-13 - CPDCL for Rs.435.05 crore, EPDCL for Rs.201.81 crore, NPDCL for Rs.114.36 crore and SPDCL for Rs.231.10 crore, seeking consent of the Commission to collect the same from non-agricultural consumers. As repeatedly submitted during the earlier public hearings on FSA claims of the Discoms, while the wrong policy approaches of the Central and State governments are basically responsible for tariff hikes and FSA burdens, the irrational regulations of the Commission and its reluctance to correct the same over the years, despite umpteen requests made by those who are appearing before it in public interest during its hearings, are further complicating the position and continuing avoidable and totally unjustifiable imbalances by imposing unjustifiable burdens of certain categories of consumers, especially the subsidized consumers.	The claim is made as per the regulation in vogue.
2	In my written submissions dated September 20, 2012, I pointed out that "without any critical review and examination of all relevant factors and without considering alternatives, the Commission, in a simplistic manner, has revised the ceiling price from Rs.4.17 per unit as permitted in its tariff order for 2012-13 to Rs.5.50 per unit, accepting the contention of the Discoms that there would be a gap of about 60 mu per day between demand and availability of power in the State during the current financial year. The manner in which the Commission has permitted the Discoms to revise the ceiling price to Rs.5.50 per unit within one day of submission of their proposal shows signs of "regulatory capture" and regulatory failure to	Hon'ble Commission was approached explaining the power shortage, the prevailing market price and technical constraints in southern grid in procuring short term power. The price was decided after due consideration of all factors involved. Further, it is to inform that corridor has to be booked well in advance to garnish the maximum power at lower rate. APDISCOMs made effort to ensure that the power is procured to lessen the demand supply gap to the extent possible at lowest rate to cater the

	protect larger consumer interest. Despite that, power shortage and power cuts ranging from 50 mu to a maximum of 89 mu per day are continuing in the State! With some of the power traders the Discoms have entered into short-term power purchase agreements to buy power at more than Rs.5.50 per unit, i.e., exceeding even the revised ceiling limit hastily permitted by the Commission. It is to be seen whether they would seek the consent of the Commission to further increase the ceiling limit to be in tune with what the Discoms have termed "the rate prevailing in the market which was discovered through transparent e-procurement process" and whether the Commission would give its consent accordingly." Now, in their subject filings, the Discoms have submitted that "considering the acute shortage scenario, APDISCOMs have procured power at a prevailing market price which was more than ceiling price. The Hon'ble Commission is humbly requested to consider the market discovered price over Hon'ble APERC ceiling price for certain traders and allow actual cost in the proposed FSA." 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	needs of various sectors.

	by the Commission, the Discoms are not in a position to avoid power cuts. Power cuts to the tune of about 50 to a maximum of 89 mu per day 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 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.	
4	Responding to the issue of getting 50% of existing capacity of extension projects in the State, the Discoms stated that "the national tariff policy allowed the Licensees to procure power through PPA route for a period of five years only. Hence, from January 2011, all the future procurement has to be done on a competitive bidding basis. The licensees have since called for procurement of 2,000 MW on a long term basis for 25 years and another 2000 MW on a medium term basis for a period of four years starting June 2012. Both these procurements are to be done on a competitive bidding basis." The Commission	A report on share of capacity in expansion of IPP projects was submitted to APERC in a letter vide Lr.No.CE/IPC /F.APERC/ D.No.105/11, Dt: 31.05.2011 wherein the legal feasibility for sharing of capacity in Goutami, Vemagiri and GVK expansion projects was reported. Again in Tariff Order 2012-13, Hon'ble

	expressed its view in the tariff order for 2012-13 thus: "The reply of the Licensees is not satisfactory. The National Tariff Policy (Section 5.1) does provide that a quantum of power equivalent to 50% of the expansion capacities of the existing plants can be procured through PPA approved by the Commission. In the Tariff Order for FY 2011-12, Commission had directed the Licensees to examine this issue of getting a share of power from the extensions of the existing IPPs and file a report by 30.04.2011. But, no such report is received so far. While giving a reply (page : 111; Para : 148 of Tariff Order for FY 2011-2012), Licensees themselves agreed that they requested the IPPs for 50% share in the energy to be generated by the extension projects. In view of these, the Commission reiterates its direction issued in FY 2011-12 and Licensees shall submit a report by 31.05.2012 and post the same on their respective websites" (Pages 31-32). Have the Discoms submitted the report as directed by the Commission? If so, has the Commission considered the same and given any direction to the Discoms? If the Discoms have not submitted that report, what action the Commission has taken to force the Discoms to implement its direction? The Discoms, as per the direction of the Commission, should have submitted the report by 31.5.2012, which was, incidentally, the date on which the Commission had given its approval enhancing the ceiling price to Rs.5.50 per unit for purchasing power on short-term basis. This is another example of how the Discoms are deliberately ignoring, may be, at the behest of the vested interests in the Government, alternate opportunities available for cheaper power and how the will of the Commission is emasculated to take timely and effective action in this regard as per national tariff policy, much to the undue advantage of developers of private power plants.	Commission directed to submit a detailed report regarding the subject and the same was submitted to Hon'ble Commission vide Lr. No. CE/IPC/F.APERC/D.No. 147/12 Dt. 19-11-2012.
5	The subject FSA filings of the Discoms show that they are purchasing power from Lanco stage II and GMR barge mounted plants at prices exceeding even the ceiling price fixed by the Commission. Even the Ministry of Power, Government of India, is constrained to seek reasons as to why PPAs for long term could not be signed by the Discoms and the two projects. In D.O.No.4/23/2011 dated 6th November, 2012, Sri	In case of Lanco Stage – II, the price was amended to Rs.5.46/Kwh for the period 5.07.12 to 09.07.12,01.06.12 to 30.11.12 and 17.12.12 to

	I.C.P.Keshari, joint secretary, Ministry of Power, GOI, addressed to Sri Mrityunjay Sahoo, Principal Secretary, department of energy, Government of A.P., in response to a letter written by the latter regarding continuation of KG D6 gas supply to these two projects, has stated : "2. I would like to point out that APERC vide its communication dated 31.05.2012 (copy enclosed) had conveyed that the ceiling price for purchase of short term power during FY 2012-13 revised to Rs.5.50 per unit on par with the ceiling limit prescribed in the tariff orders for FY 2010-11 & FY 2011-12. However, it is evident from the tariff provided by Govt. of Andhra Pradesh vide your DO referred above that tariff in respect of power to be purchased from GMR Barge Mounted Power Plant from 01.11.2012 to 30.05.2013 (Sl.No.20) is Rs.5.60/ per unit. Similarly, in the case of Lanco Kondapalli Stage-II the tariff is Rs.5.70/per unit for the period from 05.07/2012 to 09.07.2012 again from 01.06.2012 to 30.11.2012 & from 17.12.2012 to 30.05.2013 (Sl. No.13 & 14). In both the cases it appears that the tariff is higher than the ceiling fixed by APERC i.e. Rs.5.50 per unit as conveyed vide APERC letter referred above. "3. As regards signing of PPA it is also pertinent to mention here that Govt. of Andhra Pradesh has simply staged that it has been ascertained that there is no long-term PPA at regulated tariff by the aforesaid companies for supply of power to AP Discoms as yet, but the reasons as to why the PPA for long term could not be signed by both the companies has not been indicated. "4. I therefore request you to kindly clarify the aforesaid issues by return fax so that matter may be taken up with MOP&NG immediately." From the above, it is clear that the Discoms, obviously, at the behest of the powers-that-be in the State Government, are blatantly violating the national tariff policy and the decisions of the Commission in rejecting their request to permit them to purchase power from Lanco stage II and GMR barge mounted projects at higher prices and by exceeding the ceiling price fixed by the Commission for purchasing power	30.05.13.

	on short-term basis and ignoring options for getting relatively cheaper power @ less than Rs.3 per unit from these projects. It obviously implies that the Government is in collusion with the private developers to give them undue benefit at the cost of the consumers of power. Even the approach of the Ministry of Power, Government of India, implies that it is unduly favouring private developers to take undue advantage of the ceiling price fixed arbitrarily by the Commission. Therefore, I request the Commission to reject the illegal requests of the Discoms for ratifying the purchases of power made from Lanco stage II and GMR barge mounted projects at higher prices. Since the Commission had already rejected the request of the Discoms to permit them to purchase power from Lanco & GMR at higher prices, and as the Discoms have blatantly violated the decision of the Commission, I request the Commission to reject the claim of the Discoms to include such cost of power purchase in FSA claims in toto, not just difference of amount exceeding the ceiling price fixed by the Commission, and penalize the officers responsible for violating its decision, after ascertaining whether they have made such purchases on their own or at the behest of the State Government. If such illegal purchases are made at the behest of the Government, I request the Commission to direct the latter to reimburse that amount to the Discoms. Responding to this issue, the Commission explained that "Commiission, in its Tariff Order for FY 2012-13, at para-47, has expressed its view stating that 'Commission desires that whenever the GoAP recommends gas allocation for any of the plants in AP, every effort shall be put in to ensure that the power generated from such gas plants is made available to the Licensees in the State.' This is not a matter covered by the Electricity Act. This is more in the nature of a policy rather than a statutory matter" (para 14 and pages 24-25 of FSA order for the first quarter of 2012-13). Our request to the Commission is to exercise its legitimate authority to compel the Discoms, as well as the State Government, to follow the national tariff policy to get power of these two projects on the basis of PPAs to be signed by them and approved by the Commission after holding public hearing. Or else, the Discoms and the State Government should be directed to approach the Government	

	of India to cancel allocation of gas made to these two projects and allot and supply the same to other projects with whom the Discoms had PPAs, based on optimum benefit to the consumers.	
6	The data submitted by the Discoms show that the variable costs of some of the coal-based thermal plants of both NTPC and AP Genco - Simhadri, RTPP and VTPS, for example - are very high. Though the Discoms have not explained the reasons for the same, It can be presumed that it is due to utilization of costly imported coal for generation of power by those plants. Responding to our submissions during the earlier public hearings on FSA claims on the need for providing relevant information pertaining to the procedure adopted for importing coal through competitive bidding and examining the same, the Commission has simply stated that "the role of Commission is limited to verifying whether the coal imported by APGENCO is procured through competitive bidding or not as the cost of it is levied on the consumers" (para 36 and page 42 of FSA order of the Commission for the 2nd quarter of 2011-12). The Commission has failed to see that the relevant information pertaining to the procedure adopted by AP Genco for importing coal through competitive bidding is provided to us. Nor did it respond positively to our request to arrange to permit interested objectors to peruse the relevant files in its office in the presence of the officers concerned. The above response of the Commission simply says what its role is but has not made it clear whether it has played its role in its true spirit and examined what kind of competitive bidding is followed for importing coal and whether it is satisfied that that is the only procedure that can be adopted and that no other better procedure can be adopted, based on the actual market conditions prevailing, to explore the possibility for importing coal at a prices cheaper than what AP Genco and NTPC are paying, especially in view of the fact that "the cost of it is levied on the consumers". Did the Commission examine whether AP Genco and NTPC followed internatiaonal competitive bidding to ensure participation of producers of coal, since coal is being imported from other countries, or simply confined the bidding to a few selective companies or traders who are not producers of coal but middlemen trading in coal? Despite brining the fact	The coal details such as Quantum of Coal, GCV and price of coal of CGS stations are enclosed herewith **Annexure-I**. The bills of NTPC and GENCO are admitted after verification of their bills with supporting documents and the same are submitted to Hon'ble commission. AP GENCO has been procuring imported coal duly calling tenders from central public sector undertakings and orders have been placed on lowest bidder. The rates are also competitive. The imported coal is being procured as per direction of Central Electricity Authority and procurement is through transparent process of bidding only.

	that coal is being imported at avoidable higher cost through contrived bidding process and that NTPC is paying much higher cost than the price being paid by AP Genco for importing the same quality of coal, the Commission, by not examining all these relevant aspects, is shirking its responsibility of protecting larger consumer interest, with such a casual approach. I once again request the Commission to examine our submissions with all the seriousness they deserve and take necessary corrective and effective steps to protect larger consumer interest and explain its responsive action in detail.	
7	The claims of the Discoms show that they have paid a sum of Rs.3.0586 crore per month to LVS project without getting a single unit of power. It means they are paying more than Rs.36 crore per annum to LVS project without getting a single unit of power. This aberration is a result of the policy of the State Government, orders given by the Commission and the courts of law in the past. Though the consumers of power have absolutely nothing to do with this mess, they are being penalized like this for more than eight years. Actually, the Discoms and the Commission should have taken this position into consideration at the time of finalizing annual revenue requirement of the Discoms and issuing tariff order for 2012-13, because the position was known even at that point itself. If the Discoms and the Commission considered that power can be purchased from LVS, they should have included the cost of such power purchase fully, and if considered that power cannot be purchased from LVS, they should have included fixed cost in the total cost of power to be purchased for 2012-13. As such, there is no justification in not including payment of fixed charges to LVS project in the cost of power purchase and annual revenue requirement of the Discoms and in the tariff order for 2012-13 and now claiming the same under FSA. It is strange that the State Government could not get allotment of gas to LVS project and laying of pipeline to supply the same to the project to avoid continued payment of fixed cost against deemed generation and get additional power from the project generated using natural gas a fuel.	As per the PPA APEPDCL obligated to pay fixed charges. The fixed charges are included in ARR and approved in Tariff Order at Table No.19 of page no.45.

8	The Discoms also have shown a sum of Rs.11.42 crore as prior period expenditure for the year 2011-12 as payment made to GVK Industries Ltd. towards incentive. Why are the Discoms claiming incentive of the last financial year for GVK project now in the FSA of second quarter of the current financial year, when no such claim of payment of incentive is being made under FSA in the case of other power projects with whom the Discoms had PPAs? Did GVK project generate and supply power to the Discoms exceeding threshold level of PLF during 2011-12 to warrant payment of incentive for generation above that level? Or, did the Discoms pay incentive on deemed generation from threshold level of PLF of 68.5% to 85% or part thereof to GVK project? It is unfortunate that the Commission is reluctant to take up PPAs of projects like GVK, Spectrum and Lanco for public hearing and rectifying the manipulative and irrational provisions therein, though there have been persistent requests from the public over the years. In the past, we had repeatedly explained the irrational provisions in such PPAs and the resultant avoidable burdens on consumers of power every year running into hundreds of crores of Rupees. In some of PPAs, Discoms have made a provision for payment of incentive even on deemed/notional generation upto 85% PLF (from 68.5% PLF) in the case of GVK Jegurupadu project and Spectrum project. How irrational and manipulative the provisions of PPAs of such projects can be understood from this example. Rejecting O.P.No.26 of 2009 and O.P.No.28 of 2009 filed by AP Transco and the Discoms, seeking revision of norms for tariff payable to the project of GVK Industries Limited by adopting the regulations of CERC, the Commission, in its orders dated 10.3.2011, maintained that “the petitioner ought to have approached the Commission with a request to review the regulation u/s 181 akin to the regulation issued by CERC u/s 178 of the EA 2003.” Further, the Commission maintained that “the petitioner ought to have approached the Commission in a different form but not by filing this petition to adopt CERC regulation paramete ignoring the powers of the Commission in fixation of the tariff, etc independently without looking into the parameters defined in the above said regulation.” The Commission maintained that “no such regulation is passed by the Commission, which	As per the PPA incentive/ disincentive will be computed at the end of the tariff year. The tariff year was ended on 19th June’12 the incentive can be computed and taken into consideration only in 2nd quarter of 2012-13.

	itself is vested with the same power u/s 181 of the EA 2003 akin to the S.178 of the EA 2003." Since inception, the Commission has held public hearings on several PPAs and given its consent, making changes in the terms and conditions of some of the PPAs, "though no such regulation (relating to terms and conditions of PPAs) is passed by the Commission." Therefore, the approach of the Commission in passing such an order in the above O.Ps. is nothing but escapist and shirking its responsibility of protecting larger consumer interest by amending the manipulative terms and conditions in the PPA in a rational way, thereby continuing the injustice being done to the consumers and undue financial benefits to the developer at the cost of consumers of power. Are the Discoms paying incentive on deemed generation to the GVK project following this questionable order of the Commission? What further action the Discoms have taken to approach the Commission to get the terms and conditions of the PPAs of projects of GVK, Spectrum and Lanco on which no public hearing has been held by the Commission so far, amended in a rational way? There is no justification in the Commission not taking up the PPAs of these projects for public hearing and amending their terms and conditions in a rational way. When blatantly manipulative and irrational terms and conditions in the PPAs have been imposing avoidable burdens on the consumers of power running into hundreds of Crores of Rupees over the years, why is the Commission abdicating its regulatory responsibility much to the undue advantage of the private developers of these projects? Why is the Commission not framing its tariff regulations for which it is empowered to frame the same under Section 181 of Electricity Act 2003, as the Commission itself has affirmed? Such blatant failures of inaction and escapist approach in issuing orders on the part of the Commission are not contributing to regulating tariffs in a rational way; they are simply perpetuating irrational and illegal terms and conditions in the PPAs and unjustifiable burdens on consumers of power of the Discoms. In the absence of its own tariff regulations, on what basis the Commission is giving consent to PPAs? Why can't the Commission decide on the terms and conditions of the PPAs of GVK, Spectrum and Lanco projects, based on experience of those and	

	similar projects or national tariff policy, etc.? Payment of fixed cost on deemed generation is an absurdity. Payment of incentive on deemed generation is asininity.	
9	It is strange that the Commission is taking the stand that "no time limit has been prescribed in the relevant Regulation of APERC for finalization of the FSA claims by the Commission. There is also no provision in the FSA Regulation that the FSA claim of the DISCOMs will be forfeited if the Commission does not issue the orders within a particular period." The untenable and obnoxious implication of this assertion of the Commission is that it can take months and years for finalization of the FSA claims of the Discoms, thereby missing the spirit as well as the purpose for which the provision for FSA claims is made. The approach of the Commission defeats the very objective of facilitating the Discoms to recover the permissible additional expenditure periodically to ensure that they need not face financial difficulties on account of non-recovery of deferred tariff, i.e., FSA amounts, promptly. I would like to remind the Commission that "during the course of the public hearing held on 29.9.2011 (on FSA claims of the Discoms for the financial years 2008-09 and 2009-10), the Hon'ble Chairman intervened to say, among others, that the Commission's attempt would be to restore "normalcy" in two years, that is, clearing all pending claims for FSA to be redeemed in two years and thereafter ensuring timely submission and disposal of FSA claims" (para five of my written submissions dated November 30, 2011).	Issue not in the purview of APDISCOMs.

11	In my submissions dated September 20, 2012, I explained that “some of the orders of the Commission in unduly favouring developers of NCE units by increasing tariffs in a whimsical manner are imposing avoidable burdens on the consumers. The Discoms have claimed a huge sum of Rs.201.75 crore paid to NCE units towards differential tariff for the past period of five years – 2004-2009 - as per the orders of the Supreme Court and the Appellate Tribunal for Electricity. The reality is that the original basis for such a huge hike in tariffs are the orders of this Commission. The hon’ble Chairman, hon’ble Member (Finance) and the then hon’ble Member (technical) had given different orders, enhancing the tariffs for NCE units for a period of ten years from 2004-05 onwards. In effect, there is no majority order which is to be implemented legally. On appeals filed by NCE developers, the ATE, in its interim order dated 1st February, 2012, directed that “the tariffs including the incentive and terms and conditions as determined by the Chairman (of APERC) in his order dated 19.08.2011 shall be made effective in the interim period till the final disposal of the appeals.” On appeals filed by AP Transco and others, challenging the interim order of the ATE, the Supreme Court, in its order dated April 4, 2012, directed that “the orders impugned passed by the Appellate Authority (ATE) are directed to be executed and the appellants shall deposit money, out of which 50% of the said amount shall be withdrawn by the respondents without furnishing any security and 50% with security to the satisfaction of the Appellate Authority.” Estimates show that the differential amounts to be paid to the NCE units for the power sold by the to the Discoms for the period of seven years – from 2004-05 to 2010-11 - are Rs.357 crore as per the order of Sri A Raghotham Rao, Rs.486 crore as per the order of Sri C.R. Sekhar Reddy and Rs.1138.77 crore as per the order of Sri R. Radha Kishan, the then member (technical). The very fact that the Chairman and Members, including the then member (technical), of the Commission had issued different orders which entail such huge differentials ultimately to be borne by the consumers of power shows that the Commission could not come to an unanimous understanding objectively on parameters to be adopted for revising tariffs fixed by the Commission on	NCE tariff for the period 2004-2009 is the matter of subjudice. Prior period expenditure is part of FSA formula envisaged vide Section 45(B) of APERC Conduct of Business Regulations and the same is levied accordingly.

	20.3.2004 and that the orders were issued based on the subjective perceptions of the Chairman and members concerned. As per the orders of the Courts, ATE and the Commission, the Discoms had already paid about Rs.223 crore in the past periods towards differential amount., i.e., the difference between the tariffs applicable before 1st April, 2004 and the tariffs applicable from 1.4.2004 as per the order dated 20.3.2004 of the Commission. Why are the Discoms claiming such huge differential amount pertaining to past periods now in the FSA claims for the first quarter of the current financial year? Going by this trend, payment of further differential amounts would prepare ground for FSA claims for the remaining three quarters of 2012-13 also. Going by the views expressed by the Commission during the public hearings on the petitions seeking hike in tariffs for power of windmill energy units, further hike in tariffs for windmill energy, claims for differential amounts under FSA by the Discoms and additional burdens on the consumers are in store." Further, I submitted that "regarding our objection to their proposal to impose FSA burden relating to past periods on the present consumers, who did not have power service connections during the past periods, based on their consumption during the first quarter of 2012-13, the Discoms have given a confused reply maintaining that "the FSA is levied as per the consumption pattern in respective months to respective consumers. The data of month wise, service wise energy consumed is being maintained by licensees." It is not a question of the Discoms maintaining data. When the Discoms want to impose FSA for the past period of 2004-2009, for example, are they calculating the FSA based on the consumption of the consumers for that past period, or on the basis of the consumption of the consumers during the first quarter of 2012-13? Are they charging FSA to those present consumers, who did not have any service connection during that past five-year period and did not consume any power, based on their consumption during the first quarter of 2012-13? If not, on what basis the Discoms propose to charge FSA of past periods for the first quarter of 2012-13 to such consumers?" There is no reply from the Discoms. The Commission, too, in its usual style, simply skipped this serious and relevant objection by not making	

	even a mention of the objection, leave alone expressing its views on the same, in its order dated 2.11.2012 issued on the FSA claims of the Discoms for the first quarter of 2012-13. Nor did the Commission disallow the claims of the Discoms for that amount to the extent of imposing on consumers of power who did not have any power service connections during the five year period of 2004-2009. The objection is not to allowing prior period expenditure as such, but to when, to what extent, on whom and how. This is precisely the kind of avoidable problem - of imposing tariff burden of consumption of power by some consumers on some other consumers - that is being caused by abnormal delay in taking up and disposing of the FSA claims of the Discoms by the Commission.	
12	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). Having held public hearing on amendments to methodology of FSA on August 16, 2011, the Commission reserved it for its orders. It is normal practice of courts of law and of quasi judicial bodies like the Commission to give orders once the hearings are completed and orders on them reserved. Even if issues pertaining to the same matter are brought to the notice of the authorities concerned, they have to be taken up separately. Giving Commission's orders on amending the methodology of FSA on the basis of the public hearing held on 16.8.2011 does not come in the way of issuing its order on the hearing that was concluded and taking up "certain further amendments" that have been brought to its notice separately. The very fact that the Commission has not even made a	Hon'ble Commission to take a view on this issue.

	mention of what those "further amendments" are, who brought those to its notice and when – without bringing the same to the notice of the Commission before or during the public hearing held on 16.8.2011 - and when it would take "a holistic look" and hold public hearing afresh is giving scope for the view that the Commission is deliberately delaying the process. The Commission held that public hearing after some of us have repeatedly been agitating and re-agitating the issue before the Commission over the years. During such a long period, why those "further amendments" have not been brought to the notice of the Commission seems to be an inexplicable mystery. Responding to another submission, the Commission maintained that "in the present Order, leviable FSA charge is being determined as per the provisions in the connected regulation of APERC. However, suggestions of the objectors would be examined while amending the regulation in future" (para 24 and page 23 of the Commission order on FSA claims of the Discoms for the first quarter 2012-13). How long it will take for the Commission to take "a holistic look at the entire methodology of levy of FSA"? Did the Commission hold the earlier public hearing on amending the FSA methodology without taking "a holistic look"? It is strange that the Commission is still undecided, even after a gap of more than 14 months after holding its public hearing on amending methodology of FSA, as to when it would take up the issue for hearing by making a casual reference to "amending the regulation in future."	
13	The irrational and manipulative regulations of the Commission relating to FSA methodology are hitting the consumers of power below the belt. I request the Commission to examine the following points, among others, for taking "a holistic look" for amending the entire methodology of FSA: a) Imposing the FSA burden of agricultural consumption of power on non-agricultural consumers is unfair, irrational and untenable. The laboured arguments of the Commission to justify continuation of this irrational methodology do not hold water. Simply because there are regulations of the Commission	a) APDISCOMS are mandated to file FSA as per the regulation in vogue.

	to exempt agricultural consumers of power from payment of FSA and impose the same on non-agricultural consumers is nothing but tautological, for, the very reason for seeking amendments to the regulations is that the latter are irrational. The contention of the Commission that " the consumption by the agricultural sector will be excluded till the Commission is satisfied that metering of agricultural consumption is complete", implying that this methodology of imposing FSA burden of agricultural consumption on non-agricultural consumers would continue till then is perverse. It is nothing but penalizing the non-agricultural consumers of power for the failure of the Discoms in implementing the directive of the Commission to meter agricultural pump sets and the inability of the Commission to get its directive implemented by the Discoms. The contention of the Commission that since agricultural pump sets are not metered, agricultural consumption of power cannot be determined is also questionable. The Discoms are submitting annual agricultural requirement of power and estimates of consumption based on which the Commission is determining requirement of power for agricultural consumption in its annual tariff orders. Based on that determination only the subsidy to be provided by the Government for supply of free power to agriculture is being worked out and paid. Therefore, the same quantum of agricultural consumption of power needs to be taken into consideration for the purpose of determining FSA till a better methodology is worked out and implemented. To refuse to do so adamantly is to bail out the Government from paying subsidy towards meeting FSA amount to be borne by agricultural consumers who are getting supply of free power as per the policy of the State Government and continue to hit non-agricultural consumers of power below the belt. When the Commission can determine agricultural consumption of power for the purpose of tariff determination, there is no reason for not determining the same for the purpose of determining deferred tariff, i.e., FSA. It is clarified that "Commission is of the view that the excess energy purchased, to meet the requirement of the LT agricultural category over and above the Tariff Order quantity sales, shall be	

	borne by GoAP" (para 29 and page 26 of FSA order for 2nd quarter of 2011-12). In the FSA order for the first quarter of 2012-13, the Commission again asserted that "the Commission, while arriving at month-wise power purchase quantities, proposes to limit the LT agricultural sales to minimum of LT Agl category sales as approved in tariff order or the actual energy consumed by agricultural category consumers. Hence the impact of the excess energy purchased, to meet the requirement of the LT agricultural category over and above the Tariff order quantity sales, does not fall on the consumers" (para 21 and page 16). Going by the same logic, the FSA amount of permitted agricultural consumption also should be borne by the GoAP and not imposed on non-agricultural consumers.	
	b) As per the orders of the Commission for the last four financial years and the first quarter of the current financial year, the total amount of FSA the Discoms are permitted to collect from non-agricultural consumers works out to Rs.10895 crore. If we take agricultural consumption of power as permitted in the tariff orders of the Commission for the same period on an average as 25%, the FSA for agricultural consumption, on the basis of uniform rate, works out to Rs.2724 crore which the non-agricultural consumers are forced to bear because of the orders of the Commission issued based on its irrational regulations. This amount may vary if worked out proportionately on the basis of applicable cost of service to LT-agricultural category. The magnitude of this unjustifiable and avoidable burden on non-agricultural consumers also underlines the need for amending the relevant regulations to bring agricultural consumption of power under FSA and avoid imposition of that burden on non-agricultural cosumers.	APDISCOMS are mandated to file FSA as per the regulation in vogue.
	c) Regarding the objections raised earlier against fixing uniform FSA rate to all categories and slabs of consumers in the State, the Commission reiterated that "regarding the objections on the uniform FSA charge across the entire State, Commission would like to refer to the Tariff Order for FY 2012-13,	The Discoms have proposed to amend FSA regulation for fixation of slab wise FSA rate.

	wherein the Govt. of Andhra Pradesh, u/s 108 of Electricity Act 2003, issued a policy direction that the tariff is to be maintained uniform across the State and accordingly the Commission kept the tariffs uniform across all the four DISCOMs in the State. When the maintain tariff rates had been maintained uniform across the four DISCOMs in the Sate, in accordance with the policy direction given by GoAP u/s 108 of EA 2003, the question of determination of FSA rates on differential basis does not arise since the FSA component is nothing but a surcharge on main tariff and the original tariff together with FSA now being determined will be the eventual effective overall tariff, which has to be construed as the figure which is expected to be uniform across the DISCOMs. Based on this, Commission is of the view that it is not possible to have DISCOM wise/Category wise FSA rates for different DISCOMs and for different consumer categories" (para 30 and pages 31-32 of FSA order for the first quarter of 2012-13). The Commission and higher courts of law already held that policy directions given by the Government under section 108 of Electricity Act, 2003 are not binding on regulatory Commissions. After taking various aspects, including cross subsidy, into account, the Commission is determining tariff to be fixed to each category/slab of consumers under different Discoms differently based on applicable cost of service of each category and in some cases based on voltage levels as well. After intimating the Government about tariffs to be fixed to different categories/slabs of consumers under different Discoms to bridge the permitted revenue gap of the Discoms, the Commission is seeking the view of the Government on providing subsidy to different categories of consumers. Only after the Government confirms its willingness to provide subsidy to various categories of consumers, the Commission is able to determine uniform tariffs to same category/slab of consumers in the entire State. The subsidy being provided by the Government differs from one category to another and from one Discom to another. That is how the Commission is in a position to determine uniform tariff for same category/slab of consumers in the entire State. If the Government does not provide any subsidy, the Commission has to	

	go by cost of service applicable to each category in each Discoms, after taking cross subsidy into account, and determine tariffs differently to same category of consumers under different Discoms. In other words, it will not be possible for the Commission to maintain uniform tariff for same category of consumers in the entire State, simply based on the policy directive given by the Government under section 108 of EA, 2003. When tariffs are determined by the Commission, after taking cross subsidy and Government's subsidy into account, among others, the same principles should be applied for determining deferred tariff, i.e., FSA. Tariffs are uniform to same category/slab of consumers under all the Discoms in the State. They are not uniform to all categories of consumers. Similarly, uniform rate of FSA should be determined to same category of consumers and different rates of FSA be determined to different categories/slabs of consumers under all the Discoms in the State. For this purpose, FSA rate should be proportionate to tariffs applicable to different categories/slabs of consumers. Which means, cross subsidy and Government's subsidy must be included for working out deferred tariff, i.e., FSA, rates proportionate to the two components of cross subsidy and Government's subsidy included in the applicable tariffs. However, by following a different and irrational methodology for determining uniform FSA rate to all categories/slabs of consumers in the State artificially, without providing for cross subsidy and Government's subsidy, the Commission is violating the very methodology and principles it is adopting for determination of uniform tariffs to same category of consumers and different tariffs to different categories/slabs of consumers in the entire State.	
	d) By fixing uniform FSA rate to all categories of all non-agricultural consumers, the Commission is hitting the subsidized consumers below the belt. For example, for the first quarter of the current financial year, the Commission permitted the Discoms to collect an FSA of Rs.1.32 per unit. The consumers in domestic category's lowest slab of 0-50 units who have to pay Rs.1.45 per unit and the highest slab of commercial category consumers who have to pay Rs.8 per unit have to pay	The Discoms have proposed to amend FSA regulation for fixation of slab wise FSA rate.

	Rs.1.32 per unit towards FSA. Suppose, if ten paise per Rupee of tariff per unit is to be paid towards FSA, then the FSA for 0-50 units domestic category consumers have to pay would be 14.5 paise per unit and consumers of highest slab of commercial category have to pay 80 paise per unit, if FSA is determined proportionate to applicable tariffs. But, by imposing uniform rate of FSA on all categories of non-agricultural consumers, the Commission is hitting the subsidized consumers below the belt in two ways by not only denying them cross subsidy and Government's subsidy in deferred tariff, i.e., FSA, but also by transforming them into subsidizing consumers by imposing FSA burden of agricultural consumers on them as well. This is more so in the case of domestic consumers of 0-50 units slab. Therefore, FSA should be proportionate to applicable tariffs of the categories/slabs concerned, providing for both the components of cross subsidy and Government's subsidy to subsidized categories. Had the FSA amount been considered and covered in the annual revenue requirements of the Discoms, if the factors contributing for FSA were known before issuing tariff order, the same would have been covered by cross subsidy and Government's subsidy.	
	e) There is discrimination between areas in imposing power cuts. The power cuts in rural areas are the highest followed by towns and cities in the descending order. Therefore, the discrimination is between consumers of different areas. Irrespective of the level of power consumption of different categories/slabs of consumers in a particular area, period of power supply to all consumers, except agricultural consumers, in a particular area is the same. Irrespective of different charges at which Discoms are purchasing power from generators under power purchase agreements, for the purpose of tariff fixation to call categories of consumers only average cost per unit of power is being considered by the Commission. There is no discrimination of allotting relatively cheaper power to some categories and costlier power to some other categories. Therefore, level of consumption of different categories/slabs of	It is a policy decision taken by GoAP to provide 7 hrs free supply to Agl.consumer. 24 hrs power supply for lighting in rural areas is provided depending on the availability of power supply and demand.

	consumers being dependent on their requirement and affordability in a particular area, it should not be seen as a contradiction between consumers with low level consumption and consumers with high level consumption. Higher the consumption higher will be the tariff and vice versa, depending on the level of slab or category. So also is the total amount of FSA. If cross subsidizing consumers are subjected to disproportionately longer power cuts, the Discoms would lose cross subsidy revenue, resulting in financial difficulties for the Discoms to meet requirement of cross subsidy to the subsidized consumers. If subsidized consumers are subjected to disproportionately longer power cuts, the need for providing cross subsidy would come down, resulting in reducing the requirement of cross subsidy to them and increasing revenue of the Discoms. Therefore, to avoid this discrimination, power cuts should be imposed on all areas equitably. However, supply of power for seven hours a day to agriculture should be ensured to save crops, as agriculture is already being subjected to a power cut of 17 hours per day.	
	f) In view of the seriousness and magnitude of injustice being done to the consumers of power due to the irrational methodology and regulations of the Commission for determination of FSA, I request the Commission to take up the issue of amending the same in a rational manner for public hearing and issuing orders without further delay.	Matter falls in the purview of Hon'ble Commission.
14	Though it has been brought repeatedly to the notice of the Commission that the information and data provided by the Discoms relating to FSA is quite inadequate, especially information relating to procedure adopted for short-term purchases of power and import of coal, the Commission is maintaining that "the information initially furnished and the additional information subsequently furnished by the DISCOMs against the FSA claims is sufficient to enable the Commission to proceed with the processing of the claims and that the information furnished is adequate even from the point of the consumers. Commission thoroughly examines all the relevant documents and allows only to the admissible extents" (para 15 and	FSA filings and the relevant information are placed in Discom's website.

	pages 8-9 of FSA order for the first quarter of 2012-13). Even if we take the subjective view of the Commission at its face value, the fact is that “all the relevant documents” are not provided to the interested objectors and no opportunity is provided to them to examine the same in the office of the Commission in the presence of officers concerned. Unless the Commission gives up such unresponsive approach and ensure that “all the relevant documents” are made available to interested objectors for perusal, it would lead to shrouding of facts, giving a go by to the principles of transparency, accountability and natural justice and suppression of failures of action and inaction on the part of the Discoms and the Commission as well. There are several instances of such failures of action and inaction which are not reducing avoidable financial burdens on the consumers but allowing their continuance or adding more burdens. It is high time the Commission gave up such undemocratic approach.	
15	We reiterate that the neo-liberal policy approaches of the Central and State Governments – failure in ensuring timely supply of fuels like natural gas and coal at least as per allocations made, failure in taking concerted steps in a planned manner to increase production of fuels required for utilization of installed capacity of power plants existing, coming up and proposed, failure to allocate adequate quantum of fuels to proposed and upcoming projects of public sector utilities like AP Genco, failure in regulating or fixing prices of fuels in a rational manner based on prudent expenditure and reasonable profit, forcing AP Genco, NTPC, etc. to import coal, failure to ensure effective procedure of bidding for importing coal at cheapest possible rates, failure to regulate prices of power in the free market, on the whole deliberately neglecting public sector units and pampering private sector both in the sectors of fuels and power, etc. – are responsible for the present crisis of power shortages and increasing burdens of power tariff hikes and abnormal FSA burdens. Therefore, for their failures of action and inaction, the Governments at the Centre and the State should bear subsidy to avoid imposition of unjustifiable FSA burdens on the consumers of power. As if the accumulated, hefty unbearable burdens of repeated tariff hikes and FSA, instead of	Issue not in the purview of APDISCOMs.

	making an honest self-introspection of their approaches and polices, the Governments, as well as the Commission, are going on a spree of further increasing tariff and FSA burdens on the consumers. In the case of GVK project's PPA, the Commission refused to amend the irrational and manipulative provisions therein based on CERC tariff regulations and maintained that the Discoms ought have approached it "with a request to review the regulation u/s 181 akin to the regulation issued by CERC u/s 178 of the EA 2003", as explained in paragraph 8, while it obliged developers of non-conventional energy units to enhance tariffs for their power with retrospective effect from 2004-05, relying on guidelines of the very same CERC, without asking them to approach the Commission u/s 181 of the EA, 2003. Similarly, the Commission obliged the Indian Wind Energy Association and the State Government to enhance tariffs for purchasing power from windmill units, again, based on the guidelines of the CERC and orders of some other regulatory commissions, etc., not on parameters fixed by the Commission in the past or without the Commission itself fixing parameters afresh on its own and issued its order on 15.11.2012, enhancing the tariff by a whopping 35% from Rs.3.50 to Rs.4.70 per unit! The very fact that authorities in the Commission met the Chief Minister at his camp office twice and held discussions with him recently and that the CM stated that the Commission's order on tariff for wind energy would be issued on the 12th of this month is a reflection on the independence of the Commission. There are several instances of such failures of action and inaction which are not reducing avoidable financial burdens on the consumers but allowing their continuance and adding more burdens. It is high time the Commission gave up such partial approach.	
16	I request the Commission to see that replies of the Discoms to our submissions are sent to us in time and provide me an opportunity to make submissions in person during the public hearing on the subject issue.	

18. R.K.Agarwal, Hon. Chairman Andhra Pradesh Spinning Mills Association& 99 others

19. M/s Rain Cements Limited

Sl.No	Objection/Suggestion	Reply
	<u>Inadequate time allowed for filing objections</u> 1. The public notice was issued on 6.11.2012 allowing time only till 21.11.2012 for filing objections. The time allowed by the Commission for the filing of objections is wholly inadequate and unreasonable. The consumers require sufficient time to collect/purchase copies of the FSA proposals, understand the FSA proposals as filed by the licensees, evaluate the impact of the FSA proposals, collect relevant information (more particularly when the licensees have given their proposals in a vague and cryptic manner without sufficient data and in an obtuse manner), carry out necessary consultations, prepare the objections and then have them delivered within the stipulated time, both to the Commission as well as the licensees. The Commission also ought to have taken into account with due sensitivity that there were intervening festival holidays. At least 30 clear days ought to have been allowed to the consumers for preparing and submitting their objections against the proposals to impose FSA which have very serious and onerous consequences on the consumers.	APDISCOMs have proposed recovery of cost that was already incurred without any carrying cost. Considering the amount involved and the impact of carrying cost it is appropriate to take up the issue at the earliest. It is incorrect to state that the time given for filing objections is inadequate. The purpose of filing objections is to receive the comments of the consumers broadly about the claims made by the Discoms, thereby the Hon'ble Commission would be obligated to examine the said claims in detail from the stand point of the objections that was raised by consumer/s. The thirty days time is not applicable to FSA proceedings. Infact the APTEL in recent judgments categorically held that no notice/public hearing is required if the Commission is following the formula specified. In this case there is no different procedure being followed, no public hearing is required at all. However, the time given by the Hon'ble Commission is reasonably sufficient to respond on the FSA claims of the Discoms. Hence the issue falls in the purview of Hon'ble Commission..

	FSA proposals are vague, with inconsistent information and no explanations In a matter requiring public notice and hearing, the Commission itself has a greater duty to enable meaningful public participation and so as not to put the public to frustration and/or inconvenience	
	Refunds for 2006-07 and 2007-08 5. The Commission has not determined the refunds due to the consumers for 2006-07 and 2007-08 and caused the amounts to be refunded. The FSA for any subsequent period, including Q2 of 2012-13 cannot be proceeded with without considering and allowing those refunds.	This objection is not maintainable in this FSA. It may be taken up in Tariff proceedings.
	Objections on the content of the FSA proposals 6. The statements of month-wise category-wise sales for the quarter do not show the corresponding power purchase quantities by appropriately grossing up the same for the losses as per the methodology specified in the tariff order. The methodology appears to be different from that in the applications for the previous years and the previous orders of the Commisssion. 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.	FSA regulation doesn't provide for grossing up of sales. FSA was claimed on actual power purchases.
	7. The agricultural consumption in excess of the Tariff Order quantities has to be seen month-wise and Discom-wise. The excess purchases for each month and for each Discom on account of agricutural consumption has to be disallowed from the energy purchases. The information given by the Discoms is opague as to application of this methodology.	Category-wise voltage-wise actual sales were already submitted to Commission and the same are placed in website. Hon'ble Commission will take view on agriculture sales as per the regulation in vogue.
	8. Thus by a combination of some missing data, some erroneous data, lack of proper definition and explanation of data, silent and unexplained modification of methodology, it has been ensured that the consumers are confused and would never be able to understand the proposals. The licensees may be directed to explain the correct position in detail and provide the missing information.	Complete information is furnished along with the filing as per the regulation. Further, the calculation sheets are self explanatory as source, variable & fixed cost and variance.

	9.	The amounts claimed in respect of expenses for STOA charges and, if any, PGCIL, transmission charges, SLDC charges are not admissible.	The differential amounts in respect PGCIL, Transmission charges and SLDC charges are not claimed.
	10.	Incentives paid for generation above the normative PLF cannot be considered as fixed cost. It has to considered as variable cost for the specific quantity of energy for which such incentives are to be allowed and the same has to be taken into account for arriving at the weightted average variable cost.	
	11.	The amounts shown as prior period expenses include incentives for previous periods which is not correct. That should be taken as variable cost and considered in the weighted average variable cost. In such a case, it rquires to be considered if the amount to be considered under prior period expenses is to be arrived at by re-working the variable cost and weighted average variable cost for the relevant previous period.	Hon'ble Commission may take a view .
	12.	The amounts shown as for revision of income tax for periods as far back as 2002-2003 cannot be included in the FSA for the current period. The FSA Regulation as was applicable then did not provide for it.	All the prior period items which are claimed in the current quarter can be recovered through FSA as per the regulation in vogue.
	13.	It is not explained as to how, and on what basis, the filing and publication charges are admissible at all and how these can be claimed as prior period expense	The expenditure was admitted and paid as per the orders of CERC. FSA is the mechanism either to collect/refund the variance in power purchase cost.
	14.	The secondary energy charges of APGENCO for FY 11-12 is said to be claimed. Has it been admitted and paid ? Mere claim cannot justify the inclusion in prior period expenses. In any case, the same is not fixed cost and must be considered as part of the variable costs and considered in arriving at the weighted average variable costs.	FSA is claimed based on the invoices received from APGENCO during the quarter but not on payment basis. Further, it is to inform that secondary energy charges of APGENCO were admitted by APDISCOMs.
	15.	The provision for prior period expenses in the formula is being grossly abused to mulct a section of the consumers in an arbitrary, capricious, irrational and unreasonable manner. The basic fundamental underlying principle in the FSA formula is to distribute the variance in costs upon the energy consumed during a quarter. There must therefore be nexus between the energy consumed in the quarter (in the denominator of the formula) and the variation in costs considered (in the numerator of the formula). Otherwise the entire formula becomes irrational, inconsistent, unreasonable and	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.

		arbitrary.	
	16.	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	The monthly FSA statement itself is prepared on the merit order and in a deficit scenario the question of violation doesn't arise.
	17.	It is not clear as to the basis of the methodology adopted where the wheeling is being done on kVAh basis to related to the cost of purchase which is in kWh. How is the KVAh being converted to 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.
	18.	It is not clear from the information furnished as to how the power for agricultural consumption in excess of the tariff order approved quantities for each month 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, monthwise. 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. It is incorrect, if this has been done as it appears, to work out the weighted average cost of purchase including the additional purchases at higher cost and then limiting the power purchase quantity to the tariff order quantity and applying this weighted average cost thereon. The methodology followed in the calculations given in the proposal is not clear and the licensees may be directed to explain the same in detail. The tariff order expressly limits the price for short-term power purchases to Rs 2.65 per kWh during off-peak hours and to Rs 4.50 per kWh during peak hours in case such power purchases become necessary, and this is also subject to following the procedure of competitive bidding. It is not known as to whether the competitive bidding procedure has been followed for short-term power purchases over and above the tariff order purchase quantities. It is also not explained as to how the short-term power purchase price over and above the stipulated limits is being claimed contrary to the specific limitation in the tariff order.	Additonal power is procured to cater the needs of all the categories in a deficit driven scenario. It cannot be specifically identified with agriculture where only restricted 7 hours supply is provided. Further, it is to inform that all the short term power was procured through competitive bidding process.

	19. As per the licence conditions of the Discoms, the Discoms are required to follow the guidelines/instructions given by the Commission in respect of any short-term or urgent purchases. The Commission has issued guidelines. It appears that the guidelines for post-facto approval have been completely breached. The Discoms must explain as to how the purchases made in breach of the licence conditions is allowable. The Commission needs to also consider whether the regulatory apathy and indifference in enforcing licence conditions and regulatory oversight, which has improperly prejudiced the consumer and public interest, is to be suffered.	Information is already submitted to Hon'ble Commission as per the directives.
	20. The observations of the Commission in paragraph 69 of the tariff order for FY 2012-13 with regard to backing down of low-cost approved stations to accommodate short-term purchases in the light of the observations with respect to 2010-11 and 2011-12 requires to be kept in mind. The licensees must be directed to provide the information with regard to such backdown during the quarter.	The backing down information for the second quarter of 2012-13 is enclosed as **Annexure-II**.
	<u>Methodology of computation is contrary to Regulations</u> 21. From the statements appended to the proposal, it appears that the FSA is being computed on a state-level basis. The purchase quantities and expenditure on the basis of the entire State (combining / pooling / cartelising all Discoms) taken together. Such methodology is not authorised or contemplated by the Regulation and is therefore contrary to law. The claim of an individual Discom for a FSA rate determined on the basis of all Discoms taken together is illegal and contrary to the Regulation 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 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.
	22. The Regulation clearly and unambiguously requires each licensee to give the particulars of its own purchases and expenditure. This requires that each Discom must specifically give its own calculations for its own power purchase quantities, sources of supply, costs and claims with reference 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 the FSA of that Discom. The main tariff order itself deals with the requirement of each Discom separately, and with the power purchase quantities 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 separately (with reference to the 3rd Transfer scheme), and with the approved distribution losses of each Discom separately, and with the approved agricultural consumption quantity limitation for each Discom separately, and for D-D sales at specific transfer rate. The FSA	

	has therefore to be determined separately in accordance with these parameters separately determined for each Discom. There ought not to be any difficulty in providing separate and complete information by each Discom with respect to itself.	
	23. It is not at all clear from the statements of information furnished as to how the Discoms have purchased and accounted for the power from generating stations as allocated to the respective Discoms specifically under the statutory 3rd Transfer Scheme.	As the power is being procured for entire state for the single merit order. The total power purchased and associated cost is being shown in the monthly statements which are self explanatory.
	24. There is no clarity or information on the D-D transfers and the consequences resulting therefrom with respect to the provision in the tariff order for such transfers. This has been specifically and elaborately dealt with in the tariff order. There is no clarity or information with regard to the effect on the net power purchase cost of each Discom on sale to another Discom or to another entity, and what happens to the power purchase cost variations on such Discom sales.	
	25. Because each Discom can sell different quantities of energy out of a given quantity of power purchase, due to the 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 realise additional revenue from their consumers in excess of their actual difference in power purchase and/or fuel costs. This is impermissible.	Since entire power purchase quantity is taken for the computation of FSA, the effect of D-D for the state has no relevance.
	26. The details of the source-wise purchase by each Discom is also relevant and necessary to ascertain the sources from which the excess power is purchased and at what cost	Power purchase by all the Discoms is submitted which is sufficient to calculate the FSA for 2nd Qtr of 2011-12.
	27. The approach of the licensees defies and defiles the legislative and statutory object, purpose, policy and mandate of unbundling distribution to independent and separate entities which have consequently been separately licensed	
	<u>FSA to be on fuel cost variations only</u> 28. The Act envisages and permits variation only on account of fuel cost adjustment by way of a formula. Variations in power purchase cost, other than those arising directly out of variations in fuel costs, or	

	the costs of transmission and SLDC charges relating thereto are not adjustable under a fuel surcharge formula. It is therefore necessary to determine the FSA only in respect of fuel cost variations alone. 29. Regulation 4 of 2005 provides for the manner of claiming variations in uncontollable power purchase costs. That Regulation cannot be rendered otiose.	The differential amounts in respect PGCIL, Transmission charges and SLDC charges are not claimed.
	<u>Treatment of Agricultural consumption</u> 30. 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 penalise the other consumers for the neglect and default of the licensee. 31. 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. 32. The FSA must be distributed over the entire consumption including agriculture, otherwise the computation 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.	As per clause 45(B) condition 1, the consumption of agriculture sector will be excluded till the Commission is satisfied that metering of agriculture consumption is complete, as maybe notified in the Tariff Orders from time to time. APDISCOMs have submitted FSA proposal in accordance with regulation in vogue.

20. M.R.Prasad, Secretary General A.P.Ferro Alloys Producters Association		
Sl.No	**Objection/Suggestion**	**Reply**
1	Before dealing with the maintainability and merits of the Petitions filed by the Petitioners, the Objector pleads to submit that the basis for filing of this Objection Statement is the notice issued on the official website of this Hon'ble Commission, wherein this Hon'ble Commission was pleased to post the Petitions of the Petitioners and call for objections, if any, by stakeholders within 5:00 PM On 21 st November, 2012. While the Notice has numbered the Petitions as OP Nos.80 to 83, the link to the Notice on the website leads to the Petitions which are numbered quite differently by the Petitioners. Hence, the Objector is totally unsure as to which are the Petitions, the Objections are called upon. This become pertinent because, one of the Petitioners – APSPDCL – has in fact, numbered its Petition as O.P. No. 3 of 2012. Hence, the Objector prays that until this fundamental confusion is set to rest, the date of Objection filing may be extended and importantly, this Hon'ble Commission may be pleased to direct the Registry and the Petitioners to clarify as to which are the petitions to which the Objectors have to reply to.	All the information relevant to FSA of 2nd Qtr was placed in website for objections/suggestions from stakeholders. The O.P.No. mentioned in the FSA filing of AP Discoms i.e., O.P.No. 1 of 2012 to 4 of 2012 are the O.P.Nos. allotted by Hon'ble Commission in respect of ARR filing for FY: 2012-13 based on which Hon'ble Commission issued Tariff Order FY: 2012-13. It is mentioned for reference purpose. The OP NO. 80 of 2012 to 83 of 2012 allotted to APEPDCL, APSPDCL, APNPDCL and APCPDCL respectively to the present FSA filings.
2	**Re: Regulations containing the FSA are non est** At the outset, it is submitted that the fundamental edifice and 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.	The issue not in the purview of APDISCOMs. In reply to Para Nos. 3 &4 , 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
3	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. 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. 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"). 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. 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. 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	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 were 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. That apart regulation No.9 of 2004 gives effect of continuity of clause 45-B of CBR of 1999 until regulation governing FSA issue are passed by APERC.

	the formula, Regulation 45-B imposes certain conditions	
4	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. 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.	
5	**Moreover, the Hon'ble Appellate Tribunal for Electricity in its Suo Motu Order passed in O.P. 1 of 2011 has held thus:** "*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 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."	
6	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. 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.	
7	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; 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.	
9	**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 9 to 16 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 objector
10	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.	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 therwise 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. The relevant invoice copies are submitted to Commission substantiating the claims made by CGS generating stations based on CERC orders. Further APDISCOMs have admitted bills only as per the terms and conditions stipulated in PPAs. The provisional variable cost of each generating station has been approved and placed in Tariff Order. FSA is the actual cost incurred against the power purchase cost already approved and for approval of recovery of variance APDISCOMs have approached
11	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	
12	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.	
13	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.	
14	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.	
15	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	
16	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.	
17	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.	Hon'ble Commission.
18	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	No claim of any generator cannot be admitted and passed on to consumer without scrutiny with reference to clauses of agreements and relevant regulations. The FSA formula provides for claiming variance in both fixed and variable along with prior period expenditure. All the incremental fixed cost and prior period expenditure are substantiated with relevant documents.
19	**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 in case of generator/s, the question of approval of pass through of the FSA claims of the Petitioners arises.	FSA is claimed to seek the approval of Hon'ble Commission for the incremental cost on power purchase. Hon'ble Commission will issue order only after prudent check of the claims with reference to PPAs and regulations.
20	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.	APDISCOMS are admitting the bills after through scrutiny and any excess claim found to be claimed by generator will be rejected.
21	**Re: "EQUALITY" AMIDST DIVERSITY** It is amazing that all Distribution Companies have made the same quantum of FSA claims, irrespective of their load patterns, consumer mix, and voltage regimes.	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
	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	rate of FSA can be calculated and claimed.
22	This is possible only if : All Petitioners must be claiming the same amounts for the same quantum of energy originating from the same Account Head. 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	
23	**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 regulation in vogue.
24	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).	
25	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.	
26	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 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.	Agriculture consumption was excluded as per the FSA formula in vogue.

27	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 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)*.	
28	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*	As long as Regulation governing FSA i.e. CBR 1999 is in force the agriculture consumers are to be exempted.

	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"	
29	**SALES DATA BY APTRANSCO** The governing clause 45-B of the CBR 2003 contains a stipulation that APTRANSCO has to file within 30 days all sales data before this Hon'ble Commission, failing which, all claims will stand forfeited. Admittedly, the sales data has not been furnished by APTRANSCO.	Sales data is being submitted by the licensees to the Hon'ble Commission in time.
30	**PRIOR PERIOD CLAIMS** Huge amount of charges, which are 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.	APDISCOMs are entitled to recover the prior period expenditure incurred during the quarter 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.
31	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.	
32	**EQUITIES - PLIGHT OF CONSUMERS** After an unprecedented steep hike in Tariff structure in this financial year itself, the 2nd quarter Fuel Surcharge Adjustment (FSA) claims by the Petitioners at Rs.0.8239/unit is unreasonable 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 is in accordance with regulations further APDISCOMs have procured the power at actual cost which are more than that are specified in Tariff Order. To perform financially viable APDISCOMs need to recover the costs.
33	THEREFORE, it is most respectfully prayed that the petitions filed by the petitioners fuel surcharge adjustment claims filled by the Petitioners for the 2nd quarter of 2012-13 may be rejected with costs, in the interest of justice and equity	

21. M/s Leo Laminates Pvt. Ltd.
22. A.Vijaya Kumar, President FAPSIA
23. M/s Meenakshi Paper Mills Pvt. Ltd.
24. M/s Padmavati Ply Pvt. Ltd.
25. Gaurav Agarwal, Director M/s Deevya Shakti Paper Mills (P) Ltd.
26. I.Srinivas Reddy, Managing Partner, M/s Sri Venkata Ramana Ice Factory
27. A.Ananda Reddy, Managing Partner , M/s Siddartha Enterprises
28. A.Ramachandra Raju, Proprietor, M/s Sri Srinivas Alloy Castings
29. A.Ramachandra Raju, Proprietor,M/s Srinivasa Alloy Castings
30. A.Ashok Kumar Reddy, Managing Partner M/s Sai Krishna Ice Factory
31. I.Srinivas Reddy, Managing Partner , M/s Sai Krishna Alloy Castings
32. M/s Abhedya Industries Ltd.
33. Er. J.S.Rao, Managing Director, M/s Keerthi Industries Ltd.
34. Challa Gunaranjan, Counsel for M/s Thermal Systems (Hyderabad) Pvt. Ltd. & Other 9 firms
35. M/s Rocksand Minerals Pvt. Ltd.
36. M/s Relmix Pvt. Ltd.
37. M/s Stic-On Papers Pvt. Ltd.
38. M/s Vantech Chemicals Ltd.
39. M/s Akash Steel Industries
40. M/s Shree Krishna Steels
41. M/s Priyanka Steels
42. K.L.Rao, Whole Time Director M/s Jeedimetal Effluent Treatment Limited
43. D.V.A.S.Ravi Prasad, Advocate
44. P.Krishna, General Secretary, M/s Jeedimetla Industries Association
45. M/s Pankaj Polymers Limited
46. Director M/s Aman Tubes Pvt. Ltd.
47. M/s Kisan Tata Agro Industry
48. M/s Salguti Industries Ltd.
49. M/s Khair Steel Re-Rolling Mills
50. M/s Vasant Chemicals Pvt. Ltd.
51. V.V.Prasad, Executive Director,M/s Vimta Labs Limited
52. Proprietor M/s Diamond Steel Re Rolling Mill

53. M/s Bhavika Plastek Pvt. Ltd.
54. M/s Sainath Plastek
55. M/s Subhan Steels
56. Director M/s Pramukh Packaging (P) Ltd.
57. Secretary, Service Society Pashamylaram Notified Gram Panchayat Industrial Area
58. M/s S.R.Drugs & Intermediates Pvt. Ltd.
59. M/s AVR Organics Pvt. Ltd.
60. M/s Arene Life Sciences Ltd.
61. M/s Sri Chaitanya Chlorides
62. M/s Madiha Metal Works

Sl.No	Objection/Suggestion	Reply
1	As per condition no.2 of the above formula "The licensee shall provide the Commission with its calculation of each fuel surcharge adjustment required to be made pursuant to its tariff before it is implemented with such documentation and other information as it may require, for purpose of verifying the correctness of adjustments", in the absence of the detailed calculation regarding fuel surcharge adjustment, we are not in a position to ascertain whether the figure stated for the purpose of calculation is correct or not.	The relevant details are submitted to Commission and placed in website. Hon'ble Commission after prudent check will decide on amount to be passed on as FSA.
2	Prior Period expenditure was claimed in respect of certain generating station but failed to give detailed statement to examine it.Discom is not entitled to claim any prior period expenditure especially when the FSA for the previous periods was claimed and determined by the learned commission. This will defeat the earlier proceedings of the Learned Commission.	With regard to prior period expenditure description and reference of relevant orders were submitted along with FSA claim. Copies of invoices were also submitted to Commission for scrutiny.
3	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.	Licencees are mandated to file the FSA each quarter regularly and is a part of the regular business. Each of the officer according to the ranks are authorized to correspond on behalf of the company.
4	The Discom did not show the quantum of sale on account of agriculture consumption and there is no information as to how the segregation of FSA for that purpose was taken and it is unjust to penalize all the consumers leaving agriculture consumers.	FSA was computed as per regulation in vogue. The details of sales are annexed to the filing.

63.Pramod Agarwal, Director M/s Sitaram Spinners Pvt. Ltd.
64. Gopal Agarwal, Director, M/s Rama Spinners Pvt. Ltd.
65. Pramod Agarwal, Director,M/s Agarwal Foundries
66. Pramod Agarwal, Director M/s Maruti Ispat & Energy Private Limited
67. Pramod Agarwal, Director M/s MS Agarwal Foundries Private Limited

<table>
<tr><th>Sl.No</th><th>Objection/Suggestion</th><th>Reply</th></tr>
<tr><td>1</td><td>The 2nd quarter of 2012-13 FY year ended by 30.09.2012. Between July to September only 60% of CMD is supplied by the licensee. There is no clarification in the proposal so as to the quantity of energy purchased for H.T.Category beyond the quantity approved by the Tariff Order. The following table based on the information contained in Tariff order dated 30.03.2012 wil show that no extra costs for purchasing extra energy can’t be fstened on the H.T – I consumers.
<table>
<tr><th>Sl.No</th><th>Brief Details</th><th>Quantity / Amount in Rs.</th></tr>
<tr><td>1.</td><td>Power availability from AP Genco as mentioned at page No.36, Sl.No:52, table.13</td><td>41155.12 MU</td></tr>
<tr><td>2.</td><td>Projected requirement of HT-I consumer during the year as mentioned at Page NO.18, Sl.No:27, table.5</td><td>12333.22 MU</td></tr>
<tr><td>3.</td><td>Average purchase cost from AP Genco including energy charges and demand charges as mentioned at Page.No.37, Sl.No.54</td><td>Rs.3.05 Per KWH</td></tr>
<tr><td>4.</td><td>Average sale price including energy charges and demand charges as per present tariff claimed in the bills for 554221 KWH in October, 2012 billing month
Rs.250per KVA x 1597.60 KVA = Rs. 399400
Rs.4.37 per KWH x 554221 KWH = Rs. 2421946
Rs. 1Per KWH x 80072 KWH = Rs. 80072</td><td>Rs.5.24 Per KWH</td></tr>
</table></td><td>FSA is for the price and mix variance vis-à-vis tariff order. There is no link for HT category sales alone all the purchases and sales (excl. agl) are taken into account for computation of FSA.</td></tr>
</table>

<table>
<tr><td></td><td><table>
<tr><td></td><td>(PEC)
Rs. 1125 x 1 (Customer Charges) = Rs. 1125
TOTAL CLAIM = Rs. 2902543
i.e., Total Rs.2902543 = 5.24 per KWH Quantity 554221 KWH</td><td></td></tr>
<tr><td>5.</td><td>Excess calim</td><td>Rs.2.19 per KWH</td></tr>
<tr><td>6.</td><td>Excess claim in percentage</td><td>71.803278%</td></tr>
</table></td><td></td></tr>
<tr><td>2</td><td>The formula prescribed in Section – 45B of the business Regulations is not the one specified under Section-42(4) of the Electricity Act. The formula prescribed under the reforms act prior to the coming into force of the Electricity Act has no legal sanctity as Section-62(4) sys that the FSA has to be calculated based on the formula specified under the Act. No formula is specified under the Act.</td><td rowspan="2">In reply to the contention that the clause 45-B of APERC conduct of Business Regulation where under Fuel surcharge formula has been provided was brought under AP Reforms Act, and that no such formula under the Electricity Act 2003 has been formulated, and that the Fuel Surcharge levied under impugned order amounts to amendment of tariff, is incorrect and not tenable at law. As a matter of fact APERC though constituted under AP.Reforms Act as per Sec.182 of Electricity Act 2003, the said commission shall be deemed to be appointed under the Electricity Act 2003, and that the Regulation passed under the said Act also saved by Sec.185 of Electricity Act 2003 since they are not inconsistent with Electricity Act 2003. Therefore, the regulations governing the FSA being part of APERC conduct of Business Regulation are in consonance with the provisions of Electricity Act 2003. It is pertinent to state here that the APERC by issuing Regulation 9/2004 dt.1.7.2004, specifically stated that these regulations including the conduct of Business Regulations shall continue to apply as Regulations</td></tr>
<tr><td>3</td><td>The formula is also is illegal for the reasons of incorporation Z and A components. The objector states that Levy of Fuel surcharge is permitted by Sec 26(9) if the reforms Act and Sec 62(4) of the Indian Electricity Act.2003. The provisions of the reforms act which arte not inconsistent with the Indian Electricity Act are saved by Sec 185(3) pf the Act. The provisions of Sec 26(9) of the reforms act stipulate that no Tariff of “Part of Tariff” may be amended mote than once in financial year. Both the provisions permit Levy of Fuel Surcharge as per the formula specified/prescribed. The petitioner submits that the formula referred to in Sec 62(4) shall have to be specified by the appropriate commission under the Indian Electricity Act 2003, which came into force on 10.06.2003. The formula introduced in Regulation 45-B of conduct of business Regulation by Amendment Regulation 1 of 2003 has been made U/S 9/2 and S 54 of Reforms Act. Thus the FSA decided under such formula cannot be implemented o enforced against the consumer. Thus the Fuel Surcharge shall not touch or take any of the items of expenditure which factor is taken into consideration while fixing the Tariff for the financial year. As per Regulation 4 of 2005 the fixed charges</td></tr>
</table>

	are taken into consideration while fixing that Tariff. Therefore any surcharge based on fixed charges would amount to amendment of the part of the Tariff Order. The formula specified by the Regulatory commission which is in the nature of subordinate legislation shall be subservient t the Legislation. As per the present Tariff Structure the recovery of the fixed cost is through levy of customer charges, fixed/demand charges. Therefore the commission shall not take the fixed costs into consideration whole arriving at the FSA, and if it is dome it is void abinitio.	under Electricity Act 2003 and remains in force till new Regulations are notified under Electricity Act 2003. Therefore the said contention of the petitioner, that the APERC Regulations are not the Regulations passed under Electricity Act 2003, is not correct.
4	The objector petitioner submits that State Government as part of its policy is supplying power to agricultural sector free of cost. The State Government has to pay the distribution licensee to the power supplied t the said sector. While passing the ARR for the control period or tariff for the financial year the agricultural sector is not exempt from Tariff. Only the cost is not being collected and virtually it amount sale of power to Government. Similarly in the FSA formula Q represents the actual energy sold to categories in KWH in the quarter. This connotes that the total of fuel surcharge alleged shall have to divided by the entire quantity of energy sold so as to arrive at the rate of surcharge for KWH. Condition No-1 to the formula stipulates that the FSA worked out will be distributed among all categories of consumers that existed in the quarter. However the consumption by the agricultural sector will be excluded till the Commission is satisfied that metering of agricultural sector is complete. The natural meaning that derives form the above is that the levy of FSA is not exempted for agricultural sector, but its collection is exempt and DISCOMS have to work out their remedies with the government. The provisions of Sec 65 of the Electricity Act are relevant to read in this regard. It states that if the State Government requires the grant of nay subsidy to any consumer or class of consumers in the Tariff determined by the commission U/S 62, the state government shall pay in advance the amount to the licensee. The provision to the section stipulates that the direction to give subsidy shall not operate if the	Agriculture sales are exempted as per existing FSA regulation.

	payment is not made. This provision is equally applicable to the FSA also.	
5	The petitioner submits that the Government of A.P. filed its statement during the hearing of Tariff proposal for the financial year 2012-13 stating interalia that an amount of Rs.5500 crores has been earmarked towards subsidy to agricultural sector power consumption. Therefore any charge on agricultural sector has to be born by the State Government but not by the other sectors of consumers.	
6	The objectors submit that the Tariff is decided for full cost recovery. The cost of service (COS) is computed for each category of consumers. Based on the cost of service and revenue from each consumer category, the consumer categories are classified as subsidizing if the revenue is more than the cost and subsidized if the revenue is less than the cost. The surplus from subsidizing category is allocated to the subsided. Thus the crores subsidy is within the Board category i.e., for example HT category. The agricultural sector is in LT category and the supply of power to that category is free of cost at the instance of Government. It cannot be subsisted from HT category. It is pertinent to note that in the Tariff fixed for service against irrigation & Agriculture the price is shown as 'O'. The petitioner submits that after fixing the rates the Commission found that there will be under recovery of 5358.67 crores for the four DISCOMS during 2012-13 due to the subsides and the same was informed to the Government. The commission stated in Para-208 and 209 of the order that the licensee have to be compensated by the Government under Section-65 of the Act to that extent.	The tariffs are designed by the Hon'ble Commission to progressively reflect the cost of supply/cost to serve (CoS) of electricity and in line with Section 61(g) of the EA, 2003. The Commission in determining the Retail Supply Tariffs and allocation of cross-subsidy uses the Embedded CoS model where category wise costs and revenues will be ascertained. the Commission allocates the available cross-subsidy emanating from the CoS model among the subsidized categories in proportion to the financial gap (the difference between the estimated revenue at the prevailing tariff and the cost-to-serve (CoS) of these categories) to the total financial gap of all subsidized categories. If the gap continues even after cross-subsidy allocation, for the subsidized categories, a view is taken whether to increase the tariffs of the subsidized category or of the subsidizing category in order to cover the gap. This decision is based on the **Commission's perception on the permissible rate shock** that can be absorbed by the subsidized / subsidizing categories.
7	The Other relevant provision in this regard is Sec 55 of the Act, which stipulate that no licensee shall	The indisputable fact is that the metering of agriculture consumption is not complete till date and therefore the

	supply Electricity after expiry of two years from the appointed date except through installation of meter. The Commission is empowered to extend the said period by notification. But there is no such notification. The Commission also has not passed any order requiring that default to make good by the licensee. The petitioner submits that both the Commission and the Distribution Companies grossly violated the provision of Sec 55. it is well established that no person shall gain out of his own default. Therefore exempting agricultural sector consumers from the FSA is wholly illegal, arbitrary and void. I submit that when the Government is subsidizing the consumption of electricity by agricultural sector and quantity of power consumed by the said sector is indicated in the filings of the DISCOMS and approved by the Commission is 439.30 MV during the Tariff proposals and when the Commission has noticed the same in the Tariff order the metering of the agricultural consumption has lost its significance.	APERC has not notified such completion in the tariff orders. The claim of the petitioner that in the light of section '55' of the Electricity 2003 after the period of 2 years the APERC is not supposed to extend the time for metering of agriculture consumers, is not tenable at law. As long as the APERC has not notified in the tariff order in-compliance of proviso '2' sub-section '1' of section '55', the effect of condition '1' of clause '45' – B of conduct of business regulations would prevail. Therefore, there is no justification in the claim of petitioner that 1st respondent ought not to have exempted to agriculture consumers from the FSA liability along with other consumers.

Md.Ghouse, State Secretary, Marxist Communist Party of India (United) MCPI(U), AP State Committee		
Sl.No	**Objection/Suggestion**	**Reply**
1	ప్రపంచ బ్యాంకు బాట లో విద్యుత్ సంస్కరణలు అమలవుతున్నాయి. వారనుకోన్నట్లు విధముగా బోర్డును ముక్కలు చేశారు. రెగ్యులేటరీ కమీసన్ వేశారు. చార్గీలు పెంచారు. ప్రైవేటు వారికి అవకాశము ఇచ్చారు. కేంద్ర, రాష్ట్ర ప్రభుత్వాలు విద్యుత్, బొగ్గు, గ్యాస్ ప్రైవేటీకరణ విధానాలు బాహాటంగా ముందుకు తెస్తున్న క్రమంలో వీటికి వ్యతిరేకంగా మా పార్టి వైపున మీ ముందు సూచనలు చేయదలి చాం. మీ కమీసన్ వాదనలు వినడానికి ఖరారు చేసిన తేదిన అనగా తేది 03.12 2012 రోజు మాకు అవకాశము కల్పించగలరు.	గౌరవ కమీసన్ వారి పరిధిలో కలదు

ANNEXURE-1

NTPC RSTPS Stage I & II for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic	Imported	Weighted Avg. Rate	Weighted Avg.GCV
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (SR Stage I & II) Rs./M.T		(Rs./MT) PCM	(Kcal/Kg) KCM
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
	Total	5010916.750	66227.250	5077144.000	1119.86	32.32	1152.18	2234.83	4880.73		

NTPC Simhadri 1 for 2012-13

Sl.No.	Month	Quantity in MTs			Amount in Crores			Domestic	Imported	Weighted Avg. Rate	Weighted Avg.GCV
		Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (Simhadri) Rs./M.T.		(Rs./MT) PCM	(Kcal/Kg) KCM
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
	Total	3636355.000	428913.000	4065268.000	720.90	235.06	955.96	1982.47	5480.45		

NTPC Simhadri Stage 2 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	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
	Total	3636355.000	428913.000	4065268.000	720.90	235.06	955.96	1982.47	5480.45		

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
	Total	1065165.000	0.000	1065165.000	270.66	0.00	270.66	2541.01	#DIV/0!		

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
	Total	7170819.000	1211168.000	8381987.000	666.52	741.09	1407.61	929.49	6118.82		

NTPC All Stations COAL CONSUMPTION & COST for 2012-13 (April'12 to March'13)

	Quantity in MTs			Amount in Crores			Domestic	Imported
	Domestic Coal	Imported Coal	Total	Domestic Coal	Imported Coal	Total	Landed Cost of Coal (Talcher) Rs./M.T.	
RSTPS St.1 &2	5010916.75	66227.25	5077144.00	1119.86	32.32	1152.18	2234.83	4880.73
RSTPS St.3	1065165.00	0.00	1065165.00	270.66	0.00	270.66	2541.01	0.00
Simhadri St.1	3636355.00	428913.00	4065268.00	720.90	235.06	955.96	1982.47	5480.45
Simhadri St.2	3636355.00	428913.00	4065268.00	720.90	235.06	955.96	1982.47	5480.45
Talcher St.2	7170819.00	1211168.00	8381987.00	666.52	741.09	1407.61	929.49	6118.82
Total	20519610.75	2135221.25	22654832.00	3498.82	1243.54	4742.37		

ANNEXURE-2

DATE	LVS	BSES	RTPP	KTS ABC	LANCO	VTS	SIMHADRI	KTS V	RTS B	SPEC	GVK	Srivatsa	Konaseema	NTTS-IV	GVK II	GMR	RTPP2	KTPP-I	RTPP-III	GOWTHAMI	KTSVI	RGM-7	TLR-II	RGM(NTPC)	NLY-II/1	NLY-II/II	SMHD-II	IGSTPS
July'12	0	0	2.1705	0.0444167	0	3.750417	0.718	0.13191667	0	0	0.17075	0	0	8.103166667	0.465116667	0.604333333	5.026083333	0.247	2.676166667	0	2.95741667	1.154438	0.0250025	0.022505	0.1409275	0.27806	0.4835775	4.4534725
Aug'12	0	0	1.204416667	0.0191667	0	1.547333	0.674	0.14566667	0	0	0.07566667	0	0	0.571	0.022166667	0.124416667	1.55525	0	0.92075	0	0	0	0	0	0	0	0.007	0.80189
September'12	0	0	1.204416667	0.0191667	0	1.547333	0.674	0.14566667	0	0	0.07566667	0	0	0.571	0.022166667	0.124416667	1.55525	0	0.92075	0	0	0	0	0	0	0	0.007	0.80189