CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No.254/MP/2017

Coram:

Shri P.K.Pujari, Chairperson
Dr. M.K.Iyer, Member

Date of Order: 3rd December, 2018

In the matter of

Application for re-setting of the Rate of Late Payment Surcharge under Regulation 45 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 Tariff Regulations

And

In the matter of

1. BSES Rajdhani Power Limited
BSES Bhawan, Nehru Place,
New Delhi- 110019

2. BSES Yamuna Power Limited
Shakti Kiran Building, Karkardooma,
Delhi- 110032 …..**Petitioners**

Vs

1. NTPC Ltd,
NTPC Bhawan, SCOPE Complex,
Institutional Area, Lodhi Road,
New Delhi- 110003

2. NHPC Ltd,
NHPC Office Complex, Sector-33,
Faridabad- 121003 (Haryana)

3. Aravali Power Company Private Limited
Indira Gandhi Super Thermal Power Station,
Jahrli, District- Jhajjar,
Haryana- 124141

4. Sasan Power Limited
H Block, 1st Floor, Dhirubhai Ambani Knowledge City,
Navi Mumbai- 400710

5. SJVN Limited
Shakti Sadan, Corporate Office Complex,
Shaman, Shimla- 171006

6. THDC Limited
Corporate Office, Pragatipuram,
By-Pass Road, Rishikesh- 249201

7. DVC Limited
DVC Headquarters, DVC Towers,
VIP Road, Kolkata- 700054

8. Power Grid Corporation Limited
Saudamini, Plot No. 2, Sector-29,
Near IFFCO Chowk, Gurgaon- 122001

9. Tata Power Delhi Distribution Ltd
33 kV Substation, Hudson Line,
Kingsway Camp, Delhi-110009

10. New Delhi Municipal Corporation
Palika Kendra, Sansad Marg
New Delhi- 110001

11. Power Department,
Union Territory of Chandigarh
1st Floor, UT, Secretariat,
Sector- 9D, Chandigarh- 160009

12. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171004

13. Punjab State Corporation Limited
The Mall, Secretariat Complex, Patiala- 147001

14. Haryana Power Purchase Centre
Shakti Bhawan, Sector- 6, Panchkula- 134109

15. Power Development Department
Government of J & K, Secretariat
Srinagar- 190009

16. Jodhpur Vidyut Vitran Nigam Ltd
New Power House, Industrial Area, Jodhpur-342003

17. Ajmer Vidyut Vitran Nigam Ltd
Old Power House, Hathi Bhata, Jaipur Road,
Ajmer- 305001

18. Jaipur Vidyut Vitran Nigam Ltd
Vidyut Bhawan, Janpath, Joytinagar,
Jaipur- 302005

19. Uttarakhand Power Corporation Limited
Urja Bhawan, Kanwali Road, Dehradun- 248001

20. Uttar Pradesh Power Corporation Limited
Shakti Bhawan, 14, Ashok Road,
Lucknow- 226001

21. Electricity Department
Administration of Daman & Diu,
Daman- 396210

22. Electricity Department
Administration of Dadra & Nagar Haveli,
Silvasa via Vapi

23. Chhattisgarh State Power Distribution Company Limited
Dhagania, Raipur- 492013

24. Maharashtra State Electricity Distribution Company Limited
Prakashgad, Bandra (East), Mumbai- 400051

25. Madhya Pradesh Power Management Company Limited
Shakti Bhavan, Vidyut Nagar, Jabalpur- 482008

26. Gujarat Urja Vikas Nigam Limited
Vidyut Bhavan, Race Course,
Vadodara- 390007

27. Power Department
Government of Sikkim, Kaazi Road, Gangtok- 737101

28. GRIDCO
Janpath, Bhubaneshwar- 751007 **.....Respondents**

Parties present:

Shri Buddy Ranganathan, Advocate, BRPL & BYPL
Shri Hasan Murtaza, Advocate, BRPL & BYPL
Ms. Swapna Seshadri, Advocate, GUVNL
Shri Ashwin Ramanathan, Advocate, GUVNL
Shri Raunak Jain, Advocate, TPDDL
Shri Vishvendra Tomar, Advocate, TPDDL
Shri M.G. Ramachandran, Advocate, PGCIL
Ms. Anushree Bardhan, Advocate, PGCIL
Ms. Ranjitha Ramachandran, Advocate, PGCIL
Shri Venkatesh, Advocate, NTPC
Shri Sandeep Rajpurohit, Advocate, NTPC
Shri Somesh Srivastava, Advocate, NTPC
Shri Deep Rao, Advocate, APCPL
Shri Nishant Grover, BYPL
Shri Samir Singh, BYPL
Shri Manoj Kumar Sharma, NTPC
Shri Umesh Ambati, NTPC
Shri Manish Garg, UPPCL
Shri Sarosh Majid Siddiqi, THDC
Shri Rajeev Agarwal, SJVNL

ORDER

The Petitioners, BRPL & BYPL have filed the present Petition seeking the following reliefs:

"(a) Change the fixed rate of late payment surcharge of 1.50% per month in Regulation 45 of the 2014-19 Regulations to the Bank Rate;

(b) The excess recovery of LPSC vis-à-vis actual rate of interest on loans be treated as non-tariff income of generating companies and transmission licensees; and

(c) Pass any other order or direction as this Hon'ble Commission may deem necessary in the interest of justice."

2. The Petitioners, BRPL & BYPL are the distribution licensees in the State of Delhi sourcing power supply in bulk and on Long Term basis *inter ali*a from the generating companies under the jurisdiction of the Central Commission in terms of Section 79 (1) (a) & (b) of the Electricity Act, 2003 (hereinafter "the 2003 Act") in order to effect retail supply of electricity to the consumers of Delhi.

3. The Petitioners in this Petition have submitted as under:

(i) Regulation 45 of the 2014 Tariff regulations notified by the Central Commission on 21.2.2014 specifies the fixed rate of Late Payment Surcharge (LPSC). The intent behind fixing the LPSC, when payment of bill is delayed, is founded on the doctrine of compensation. This is clear from the reading of the Statement of Reasons (SOR) to the 2014 Tariff Regulations and the 2009 Tariff Regulations. Thus, the objective of specifying LPSC was akin to liability to pay interest, which is founded on the doctrine of compensation.

(ii) LPSC is a commercial mechanism to compensate the generating companies & transmission licensees. However, there are certain lacunae in the rate of LPSC of 1.5% in the year 2009-14 Regulations which are as under:

(a) LPSC is to compensate the generating companies (Gencos) and transmission licensees (Transcos) for loss of revenue on account of non-payment of bills by beneficiaries. LPSC is at a fixed rate of 1.5%. However, the loss of revenue till receipt of payment from the beneficiaries against the bills is mitigated by Gencos and Transcos by availing loans at floating rates of interest. Therefore, the lacuna is that the beneficiaries are liable to pay LPSC at fixed rate, whereas the Gencos and Transcos avail loans at floating rate. This anomaly can be corrected by having the LPSC at floating rate.

(b) The Gencos and Transcos would face burden when the lending rates applicable to them are higher than the fixed rate of LPSC. Similarly, the Gencos and Transcos would stand to gain when the lending rate applicable to them are lower than the fixed rate of LPSC. For eg, when additional working capital interest rate is 21% as against 18% LPSC fixed rate, the Gencos/Transcos are at loss. Similary, when the additional working capital interest rate is 8% against 18% LPSC fixed rate, the Gencos/ Transcos are at gain. This shows that Gencos/Transcos could recover LPSC at a rate which is more than the interest payable by them for availing loans. Such cxcess recovery should be clawed back towards rationalization of tariff which would benefit the consumers at large. Hence, the excess recovery of LPSC vis-à-vis the actual rate of interest on loans be treated as non-tariff income of the generating companies/ transmission licensees.

(c) Initially, the loans were linked to Prime Lending Rates (PLR) of banks. RBI vide its guidelines dated 17.12.2015 had directed the banks to extend loans with reference to the marginal cost of funds based lending rates (MCLR). Hence, there has been a change from PLR to MCLR as the benchmark for determining interest rate. When the 2014 Tariff Regulations were notified, the loans were linked to base rate of banks. Hence, the LPSC under Regulation 45 requires to be reset to bring in line with the bank lending norms.

(d) The rate of LPSC ought to be in sync with the current bank lending norm i.e. MCLR. The RBIs repo rate, i.e the interest banks pay for short term borrowing from Central Bank has been recommended as the benchmark to price loan rates. In view of the change in the regime of PLR to MCLR/ RBI Repo rate, the Commission may require to step in to release the debtors from hardship, as there has been a subsequent fall in the interest rates since the fixation of the LPSC at 1.50% per month.

(e) It is settled law that the discretion of the Court to award interest at a rate has to be exercised fairly and judiciously. For transactions which are not squarely governed by such circulars, the RBI directives may be treated as standards for the purpose of deciding whether the interest charged is excessive or is opposed to public policy.

(f) There are several sources of obtaining working capital finance available to the gencos/Transcos and the rate of interest on such working capital depends upon the operational performance and profitability which would allow these gencos/transcos to source funds at a cheaper rate. Hence, these generating companies and transmission licensees can pay back their bank interests even if the rate of LPSC is reset with MCLR regime.

For the aforesaid reasons, the Petitioners have prayed that the LPSC ought to be directly linked with the rate of interest on working capital.

4. The matter was admitted on 22.2.2018 and notice was issued to the respondents. The Commission also directed the Respondents to file replies including the question of 'maintainability'. Replies have been filed by the Respondents, NTPC, GUVNL, PGCIL, NHPC, TPDDL, MSEDCL, SJVNL, UPPCL & Aravali PCPL on the issue of maintainability and on merits. The Petitioners, BRPL & BYPL vide affidavits dated 10.8.2018 & 16.8.2018 have filed their rejoinders to the replies filed by NTPC, PGCIL, GUVNL, MSEDCL, NHPC & SJVNL.

Submissions of Respondents

NTPC

5. The Respondent No.1, NTPC vide its reply affidavit dated 16.3.2018 has submitted that the Petition is not maintainable for the following:

(i) The Petitioners under the garb of the Petition are seeking amendment of the Regulations which is not permissible in law. Once the regulations are framed by the Commission in exercise of legislative functions of the Commission under section 178 of the 2003 Act, the same cannot be amended under the adjudicatory powers of the Commission under section 79(1)(a) and (b) of the 2003 Act.

(ii) Once a regulation is notified by the Appropriate Commission, it is binding on the Commission and cannot be amended by way of an order under the adjudicatory power. Thus, the prayers sought for by the Petitioners are contrary to the provisions of the 2003 Act and the regulatory practice in the country.

(iii) The submissions of the Petitioners that rate of LPSC need to be considered by this Commission have already been raised by the stakeholders while notifying the 2014 Tariff Regulations. The issues raised have been settled in the Statement of Reasons (SOR) to the 2014 Tariff Regulations. Hence, in terms of the doctrine of *resjudicata*, the Petitioners cannot raise such issues in the Petition when it has not challenged the same. Since the contentions have been duly considered by the Commission while notifying the Regulations and since the validity of the said regulations have not been challenged before appropriate forum, the Petitioners are barred by the principle of resjudicata from re-raising these issues before this Commission.

(iv) The Regulations notified by the Commission can only be amended, modified while exercising judicial discretion of the Commission under special circumstances by exercising power to relax norms in exceptional case, which has not been claimed by the Petitioners in the present case. Hence, the present Petition is not maintainable.

(v) APTEL has consistently held in a number of cases that it is open for the Appropriate Commission to take a view of normative or actuals, whichever is better. However, once normative parameters are adopted, the benefits if any which may accrue need to be passed on to the utility. It is well settled position in law that Appropriate Commission must adopt normative approach so that parties are informed of the benchmarks beforehand and that if they are in a position to better the benchmark, they are entitled to such benefits, unless there is some unhealthy practice adopted.

(vi) The objective of retaining the penal provision for LPSC is to ensure the recovery of cost in a time bound manner and discourage inefficiency of operation on behalf of entity. In case LPSC is reduced then the parties may act arbitrarily and may continue to default as the LPSC rate may be very close to the market rate.

(vii) The Commission in year 2004 has held that LPSC is in the nature of disincentive to promote efficiency. This principle has been followed by the Commission in its subsequent tariff regulations to discourage financial inefficiency in operation.

Accordingly, the Respondent has contended that the Petition is not maintainable and the same may be rejected.

PGCIL

6. The Respondent No.8, PGCIL vide its reply affidavit dated 23.3.2018 has submitted the following:

(i) The Petition filed by the Petitioners seeking amendment of the 2014 Tariff Regulations is liable to be rejected. The framing of Regulations including its amendments is legislative functions of the Commission and cannot be a subject matter of dispute to be settled by the Commission in this proceeding.

(ii) The Tariff Regulations have been notified after due process of publication, inviting comments, suggestions and objections in order to give certainty to the determination of tariff and should not be varied from time to time at the instance of any person.

(iii) The specific issue of linking LPSC to the bank lending rate was considered and rejected by the Commission at the time of framing of the tariff regulations and the Petitioners cannot raise the same issue again by way of present Petition.

(iv) If LPSC is linked to bank rate or lending rates, it would create uncertainty and varied calculations for determining the actual LPSC. The tax statutes and other statutes dealing with payment also provide from a fixed rate of interest for delayed payment.

(v) Unlike Interest on loan or Interest on Working Capital, LPSC is a surcharge on the beneficiaries for delayed payment of the bills beyond the due date. Such delayed payment is a default by the beneficiaries and should be discouraged as the delayed payment affects cash flows of the licensee.

(vi) In order to run its business effectively the revenues are to be realized in time as per exception in the industry. If the Petitioners find favorable market conditions and if so desires may take loan from the bank on its due date without any surcharge liability, so that the Petitioners can save additional cost.

(vii) The directives and circulars of RBI for lending activities of the banks cannot be used as a base for LPSC. The intent of the Petitioner to link the LPSC to the lending rate appears to be to use the amounts payable by the licensees as a *de facto* loan from bank. It is the responsibility of the Petitioners to arrange for its finances. IOWC, being a tariff element and LPSC being surcharge on delayed payments cannot be compared.

NHPC

7. The Respondent No.2, NHPC vide its reply affidavit dated 27.3.2018 has submitted as under:

(i) The LPSC is a penal provision imposed on the discoms/ beneficiaries for ensuring timely payment to the generators/ transmission licensees.

(ii) Though some of the stakeholders had suggested for linking LPSC with working capital interest, the Commission did not consider the same in the SOR to the 2014 Tariff Regulations and had provided a fixed rate of surcharge for delayed payments.

(iii) It is a matter of concern to the respondent that even after providing fixed rate of surcharge for delayed payments, an amount of Rs 1030.31 crore is outstanding for more than 60 days against the beneficiaries as on 15.3.2018. Out of this, an amount of Rs 247.91 crore is outstanding against Petitioner No.1. In this scenario, if the rate of LPSC is reduced from fixed to floating, more number of beneficiaries will be reluctant to make timely payment of energy bills and will result in further accumulation of outstanding dues of generating companies.

(iv) The beneficiaries are given sufficient time period of 60 days for making payment of energy bills without LPSC. Accordingly, the Commission has considered only the receivables equivalent to two months (60 days) fixed cost as part of working capital. The realization on account of entire LPSC is treated as non-tariff income in the books of accounts of this respondent.

(v) LPSC being a penal provision, there is no need to link it with the lending rates. The Commission has kept LPSC as a separate instrument/ mechanism to ensure timely recovery of energy bills irrespective of any variation in the lending rates from to time. Accordingly, the contention of the Petitioner to reset LPSC with MCLR is not logical and cannot be agreed to. The Petitioner can avail short term loans at reduced interest rates from the market to clear the outstanding dues of respondents within the stipulated period of 60 days and in that case, the difference between LPSC and market rates will be a saving to the Petitioners.

(vi) There is no merit in linking the LPSC with MCLR or repo rate as suggested by the Petitioner as such changes will defeat the sole purpose and the intent of the regulations. The Petitioner is misleading the Commission by quoting judgments related to award of interest rates as the same does not have any correlation with the penal provisions.

SJVNL

8. The Respondent No.5, SJVNL vide reply affidavit dated 9.4.2018 has mainly submitted as under:

(i) The 2014 Tariff Regulations have been issued in exercise of the legislative functions of the Commission under Section 178 of the 2003 Act and therefore, the amendment of the same cannot be a subject matter of dispute to be reviewed by the Commission.

(ii) The rate of LPSC has been raised by stakeholders and has been deliberated by the Commission in the SOR to the 2014 Tariff Regulations.

(iii) LPSC is required to be read in conjunction with the rebate policy allowe by the Commission in the said regulations. A rebate of 2% is given to the discoms to make payment of bills to the generating companies/ transmission licensees. Moreover, discoms can avail rebate upto 2% which is beyond bank rate to reduce additional cost by taking loan from bank / financial institutions before its due date, without any implication of LPSC. The LPSC is a penal provision and as such is required to be more stringent than the provisions regarding rebate.

(iv) LPSC is a surcharge on the beneficiaries for delayed payment of bills beyond the due date. Such delayed payment should be discouraged as delayed payments affects cash flows of the generating companies.

(v) This respondent had regulated power supply of various defaulting entities in the past due to non-payment of energy bills leading to huge accumulation of outstanding dues. Even when the LPSC rate was 1.25% and 1.5% per month during the 2009 and 2014 tariff Regulations, the discoms have defaulted continuously to avoid payment of bills. LPSC may be considered at a higher rate, if possible, in the next tariff period.

(vi) The comparison of LPSC with IOWC is misconceived and vague in nature. IOWC is one of the components of tariff element and hence cannot be compared with LPSC. Other State Regulatory Commissions like Gujarat, Maharashtra, Haryana etc., have provided fixed rate of LPSC which allows for firmness, uniformity in approach and explicit calculation.

Accordingly, the Respondent has submitted that the prayer of the Petitioner may not be allowed.

Aravalli Power Company

9. The Respondent No. 3, Aravalli Power Company Pvt Ltd (APCL) vide reply affidavit dated 2.5.2018 has submitted that the modification of the regulations is not permissible in exercise of the judicial power. It has also submitted that the prayer of the Petitioners that LPSC be linked to bank rate was considered and rejected by the Commission while framing the 2014 Tariff Regulations. The Petitioners have not challenged the vires of the 2014 Tariff Regulations and therefore has accepted the validity of the Regulations. It is therefore not open to them to challenge the same by way of the present application as this determination has attained finality. The Respondent while pointing out that 'Power to relax' can be exercised only in rare and exceptional circumstances has submitted that the alteration of LPSC will jeopardise the financial position of the respondent. Accordingly, the Petitioner has prayed that the relief prayed for in the Petition may be rejected.

GUVNL

10. The Respondent No. 26, GUVNL vide reply affidavit dated 22.3.2018 has contended that prayer of the Petitioners to have a floating LPSC rate or for the LPSC to be set with the MCLR regime is in the teeth of the 2014 Tariff Regulations and cannot be maintained. It has also submitted that floating rate of LPSC is not the solution to the issue raised by the Petitioners as there will be complete uncertainty to the purchasing entities to its contractual obligations. The Respondent has further submitted that the generating companies / transcos may

be directed to place on record the rates of working capital loans availed on an average by them, since the notification of the 2014 Tariff Regulations. The Respondent has added that the said data would reveal that LPSC ought to be reduced to 1% as against 1.5%, if not more and after considering the data, the Commission can treat this Petition to be under Regulation 114 of the Conduct of Business Regulations, 1999 and amend the LPSC rate. The Commission can also direct the parties to give continuously, the sources and rates of working capital and notify a rate every three months which can be the LPSC to be applied in the PPA entered into.

TPDDL

11. The Respondent No. 9, TPDDL vide reply affidavit dated 2.4.2018 has endorsed the submissions of the Petitioners and has submitted the following:

(a) The rationale of LPSC is to compensate the gencos/transcos for the loss of revenue due to delay in payments made by the discoms. To compensate the loss, the gencos/transcos avail loans which rate provided to theme at floating rates of interest. When additional working capital interest is lower than the LPSC rate, there is mismatch that would result in excess recovery by gencos/transcos, which would otherwise be adjusted in order to rationalize the tariff for the benefit of the consumers.

(b) LPSC is generally linked to working capital requirement. If the working capital requirement has been increased, time period of LPSC has to be kept in accordance with it and vice versa. For distribution licensees income from LPSC is reduced by the LPSC financing cost and the net LPSC income is treated as Non-Tariff Income (NTI) and is reduced from the Annual Revenue Requirement (ARR) of the discom.

(c) The principle behind allowing LPSC is to compensate the discom for the interest burden due to blocking of working capital for longer period. However, any income due to LPSC should be passed in the ARR and should not be treated as a gain. Similarly, LPSC income should be allowed on the approved working capital of generating companies for the number of days of delay.

(d) The APTEL in its judgment dated 18.4.2017 in Appeal No. 199 of 2015 (MSPGCL V MERC & ors) has considered the question of LPSC to be paid by distribution licensee to the gencos as NTI and reduction of the same from the ARR of the gencos. The APTEL has held that there is no infirmity in the State Commission's decisions in considering DPC as NTI and deduction of the same from the ARR of the appellant. This approach has been followed by the APTEL in its judgment dated

11.5.2017 in Appeal No. 250/2015 (Jaigad Power Transco Ltd V MERC) wherein the APTEL has upheld the State Commission's orders treating the LPSC as part of NTI of Transmission licensee and reduction of the same from the ARR of the Transco. This Commission should also follow the same principles or the LPSC should be allowed on the approved working capital of generating companies for the number of days delay.

(e) As per the 2009 Tariff Regulations, LPSC was charged at 1.25% per month and this Commission without any cogent or apparent reasons had increased the rate to 1.50% per month which is required to be aligned with the bank rates. As a result of alignment of LPSC rate with the MCLR bank rates, any excess recovery of LPSC *vis a vis* actual rate of interest on loans be treated as NTI of Gencos/Transcos.

Accordingly, TPDDL has prayed that the Petition may be allowed and the benefit of the relief may be extended to the Respondent being similarly situated.

MSEDCL

12. Respondent No. 24, MSEDCL vide affidavit dated 9.4.2018 has submitted that the PPAs between the generators and the discoms provide for payment of LPSC in the event of delay in the payment of energy bills at the rate provided in the PPAs. It has further submitted that RBI provides for that all rupee loans sanctioned and credit limits renewed with effect from 1.4.2016 shall be priced with reference to MCLR and hence the BPLR system incorporated in the PPAs has to be replaced by the MCLR or Base rate system. Continuation of SBAR or LPSC at the rate of 1.50% would cause unjust enrichment of the generators and injustice to discoms and the consumers. MSEDCL has stated that MERC has also replaced the SBAR system with Base Rate system in its MYT Regulations, 2015. Accordingly, the Respondent has submitted that the applicable rate of LPS may be changed to the prevailing MCLR rates.

UPPCL

13. The Respondent No. 20, UPPCL vide its reply affidavit dated 27.6.2018 has submitted that while the LPSC has increased from 1.25% per month to 1.50% per month, the rebate amount has remained constant over the 2001-09 period. This

has imposed additional burden on the respondents. It has submitted that Rebate and LPSC may be linked to a certain reference rate say SBI PLR (or any other rate as deemed fit by Commission) and this will capture the movement in reference rate and would thus serve the objective of rebate/LPSC.

Rejoinder of Petitioners

14. The Petitioner No.1 (BRPL) vide affidavit dated 10.8.2018 and Petitioner No.2 (BYPL) by affidavit dated 16.8.2018 have filed common consolidated rejoinder to the replies filed by NTPC, PGCIL, NHPC, GUVNL, SJVNL and MSEDCL mainly as under:

(i) The Commission will not amend the tariff regulations by way of a judicial order and neither has the Petitioner sought for such an order. The Commission is empowered in law to come to a decision that in the facts and circumstances of the case, the rate of LPSC is required to be reset. However, such a resetting of the rate of LPSC in the Tariff Regulations may have to follow the requirement of previous publication as the tariff regulations will then have to be amended.

(ii) Under section 21 of the General Clauses Act, 1897, the power to issue notification, rules includes the power to amend, vary, rescind any notification and therefore, the Commission is entitled in law to amend the rate of LPSC in Regulation 45 of the 2014 Tariff Regulations.

(iii) Under Regulation 54 of the 2014 Tariff Regulations, the Commission is entitled to relax any of the provisions of the regulations on its own motion or on a Petition made before it by an interested person. Thus, CERC is entitled under its own regulations to relax the rate of LPSC of 1.50% by issuing an order on the Petition made by the Petitioners.

(iv) The submissions of the Respondents that the prayer of the Petitioner is hit by the '*doctrine of res judicata* 'is misconceived. As laid down by the Hon'ble Supreme Court in UPPCL V NTPC (209) 6 SCC 235, 'tariff making is a continuous process'. Also, the Petitioners are not challenging the Tariff Regulations and the doctrine of *res judicata* does not apply to a legislative exercise.

(v) RBI vide its guidelines dated 17.12.2015 directed the banks to extend loans with reference to the marginal cost of funds based lending rates (MCLR). Hence, there has been a change in regime from PLR to MCLR as the benchmark for determining interest rate. Since there has been a change in the guidelines of the RBI, the LPSC requires to be reset to bring in line with bank lending norms.

(vi) LPSC is to compensate the gencos/transcos for the loss of revenue till receipt of payment from the beneficiaries against the bills is mitigated by gencos/transcos by availing loans at floating rates of interest. Therefore, the lacuna is that the beneficiaries are liable to pay LPSC at fixed rate whereas the gencos/transcos avail loans at floating rate. This anomaly can be corrected by having the LPSC at floating rate.

(vii) The contention that LPSC should be in conjunction with the rebate is far from reality where it is known fact that discoms are cash strapped and are suffering due to non-amortization

(viii) The intention behind fixing the LPSC when payment of bill is delayed, is founded on the doctrine of compensation. This is clear from the SOR of the 2014 Tariff Regulations. The objective of specifying LPSC was akin to a liability to pay interest and is a commercial mechanism to compensate the gencos/transcos. If LPSC were to be treated as penalty or a penal provision, then such penal provision could not be by a regulation but could be imposed only by a judicial order on facts of a particular case. Moreover, a penalty would have to be compensated with the offence/ default. Hence, the Petitioner's contention is that LPSC rate should be commensurate with the rate of interest being suffered by the generator.

Accordingly, the Petitioners have submitted that the prayers of the Petitioners in para 1 above may be allowed.

15. During the hearing of the Petition on 18.9.2018, the learned counsel for the Petitioners while reiterating the submissions made in the Petition have contended that the difference between the LPSC rate and the borrowing rate shall be treated as Non-Tariff income of the generating company/transmission licensee and shall be deducted from their ARR. The learned counsel for the Respondents has mainly argued that the Petition is not maintainable as it does not disclose the provision of law under which such reliefs have been prayed for by the Petitioners. They have also submitted that the regulations notified cannot be amended under the adjudicatory powers of this Commission. Accordingly, the Commission reserved its order in the Petition after directing the parties to file their written submissions. In compliance with the said direction, the Respondents, NTPC and TPDDL have filed their written submissions, mainly on the lines argued during the hearing.

Analysis and decision

16. Based on the submissions of the parties the question which emerges for consideration is whether the Petition is 'maintainable'.

Maintainability

17. The Commission in exercise of the power under Section 178 read with section 61 of the 2003 Act, has notified the terms and conditions for determination of tariff for the period 1.4.2014 to 31.3.2019, after previous publication and extensive stakeholders consultations. The Petitioners in the present Petition on seeking change of the rate of Late payment Surcharge of 1.50% per month to the Bank Rate and also for treatment of the excess recovery of LPSC vis-à-vis actual interest as non-tariff income of the generating companies and transmission licensees. Some of the Respondents like NTPC, NHPC, PGCIL, SJVNL and APCPL have questioned the maintainability of the Petition on the ground that the Tariff Regulations which have been notified by the Commission in exercise of its legislative functions cannot be reviewed/ amended through exercise of the adjudicatory power under Section 79(1)(f) of the 2003 Act. In support of their contentions, the Petitioners have referred to the Statement of Reasons (SOR) to the 2009 and 2014 Tariff Regulations and have submitted that LPSC is to compensate the gencos/transcos for loss of revenue on account of non-payment of bills by the beneficiaries and the same can be mitigated by availing loans at floating rate of interest. According to them, while the beneficiaries are liable to pay LPSC at fixed rate, the gencos/transcos avail loan at floating rates which gives rise to an anomaly, which can be corrected by resetting LPSC at floating rate. The Petitioners have contended that the Commission is empowered under Regulation 54 of the 2014 Tariff Regulations to relax the provisions of

Regulation 45 of the 2014 Tariff Regulations which specify the rate of LPSC of 1.50% per month and reset the rate of LPSC with the MCLR regime.

18. The matter has been examined. Under the 2009 Tariff Regulations notified by the Commission for the period 2009-14, Regulation 35 provided for levy of LPSC of 1.25% per month by the generating companies/transmission licensees, in case of delay in the payment of bills by the beneficiaries beyond the period of 60 days from the date of billing. Regulation 35 of the 2009 Tariff Regulations has not been challenged. Therefore, all stakeholders including the Petitioners have accepted the fixed rate of LPSC in the 2009 Tariff Regulations. In the draft Tariff Regulations for the period 2014-19, the Commission had proposed modification in the rate of LPSC from 1.25% per month to 1.50% per month in order to ensure that tariff for generation and transmission are promptly paid by the beneficiaries. In response to the draft regulations, some of the beneficiaries suggested for decrease in the rate of LPSC to 1% while some of them had suggested for retention of the LPSC as 1.25%. However, the Association of Power Producers and Chhattisgarh State Power Generation Company Ltd (CSPGCL) had proposed for linking the LPSC rate to the rate of interest on working capital on the ground that LPSC was to compensate the additional burden on the working capital interest on account of delay in payment of the tariff. The relevant portion containing the suggestions of the beneficiaries is extracted from the Statement of Reasons (SOR) to the 2014 Tariff Regulations as under:

"Stakeholders' Comments/Suggestions

45.2 Some of the beneficiaries including West Bengal State Electricity Distribution Company Ltd. (WBSEDCL) and Tripura State Electricity Corporation Ltd. (TSECL), Assam Power Distribution Company Ltd. (APDCL), MSEDCL and GRIDCO are in favour of retaining the existing rate of Late Payment surcharge of 1.25% per month. Further, M.P. Power Management Company Ltd. (MPPMCL) has proposed for the late payment surcharge of 1% per month. THDC India Ltd. has proposed that the rate of late payment surcharge should be at par with the rebate of 2% on presentation of bill for prompt payment.

45.3 Association of Power Producers (APP) has suggested for linking late payment surcharge to the lending rate as the late payment leads to increase in loan on working capital. It should be equal to Bank Rate (i.e. SBI = 350 bp) plus 250 basis points per annum for each month of delay.

45.4 Chhattisgarh State Power Generation Company Limited (CSPGCL) has proposed for linking the surcharge (%) to the working capital interest rate as the Delay payment surcharge compensates the additional burden on working capital interest. Further, the surcharge should also be computed on daily basis in order to incorporate interest on all short term borrowings."

19. After considering the suggestions of the stakeholders, the Commission decided that the rate of 1.50% as proposed in the said regulations was appropriate. The relevant portion of the Commission's findings in the said SOR is as under:

"Commission's Views

45.5 The Commission has gone through the comments and suggestions of the stakeholders and observed that the generators have requested to link the rate of late payment surcharge to lending rate whereas beneficiaries have requested to reduce the same. The Commission is of the view that the rate of late payment surcharge at 1.50% per month for payment beyond a period of 60 days from the date of billing as specified in the Draft Tariff Regulations is appropriate and does not require any change"

It is therefore evident that the Commission after considering the comments / suggestions of all the stakeholders had specified the Terms and Conditions for determination of tariff, including the LPSC rate of 1.50% (under Regulation 45), applicable for the period from 1.4.2014.

20. The Petitioners have argued that they have not sought amendment of the Tariff Regulations but have only sought for an adjudicatory order to relax the rate of LPSC of 1.50% in exercise of the power under Regulation 54 (Power to relax). The Respondents have argued that the Petitioners are seeking amendment of the regulations with retrospective effect in the garb of seeking relaxation of the provisions of the regulation. We have considered the rival submissions. Regulation 54 of the 2014 Tariff Regulations provides as under:

"54.Power to Relax. The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person."

Thus, Regulation 54 of the 2014 Tariff Regulations empowers the Commission to relax the provisions on its own motion or on an application made by an interested person.

21. The Power of relaxation is in general terms and its exercise is discretionary. It is settled law that exercise of discretion must not be arbitrary and must be exercised reasonably and with circumspection, consistent with justice, equity and good conscience, always in keeping with the given facts and circumstances of a case. In R.K. Khandelwal v. State of U.P., (1981) 3 SCC 592, the Supreme Court noted that

"6. Dr. Singhvi, who appears on behalf of the appellant, raised a further contention that the ratio 1:1 was relaxed from time to time by the University and that the appellant was discriminated against by the arbitrary refusal of the authorities to relax the ratio in his favour. We are prepared to accept that if there is a power to relax the ratio, that power must be exercised reasonably and fairly. It cannot be exercised arbitrarily to favour some students and to disfavour some others."

22. Let us consider the case of the Petitioners in the light of the above legal provisions. The rate of LPSC of 1.50% in Regulation 45 of the 2014 Tariff Regulations was fixed by the Commission after considering the submissions of some of the stakeholders that the LPSC rate should be linked with the rate of interest on working capital. LPSC has been prescribed as a deterrent for obviating undue delay in payment of generation tariff and transmission charges to the generating companies and transmission licensees where tariff is determined by the Commission. The very purpose will be defeated if the LPSC is reset with Bank Rate. Further, the Petitioners are always at liberty to pay the charges to the generating companies and transmission licensees within 60 days from the date of issue of the bill and avoid payment of late payment surcharge altogether. The

Petitioner's liability to pay the LPSC comes only when they pay the bills after sixty days.

23. The Petitioners and TPDDL have sought for reset of LPSC rate of 1.50% linking the LPSC rate with the rate of interest on working capital. Having considered and rejected the pleas of the stakeholders for linking the LPSC rate with the rate of interest on working capital earlier, we find no reason to entertain the prayer of the Petitioners and TPDDL to reset the rate of LPSC of 1.50%, on similar grounds, in this case. In case the Petitioners felt aggrieved with the said rate of LPSC, they were at liberty to challenge the same before the appropriate forum. Having not done so, the Petitioners after a lapse of four years of the tariff period are seeking for linking of the LPSC with Bank Rate that too with retrospective effect from 1.4.2014 invoking the 'power to relax'. In our view, the prayer of the Petitioners for exercise of 'power to relax' does not satisfy the condition of 'reasonability' consistent with justice, equity and good conscience. Further, the power to relax cannot be exercised to take away the right retrospectively, that has accrued to the generating companies and transmission licensees. In our view, no case has been made out for exercise of the 'power to relax' in this case.

24. Another contention of the Petitioners is that the excess recovery of LPSC vis-a-vis the actual rate of interest on loans may be treated as Non-Tariff Income of the generating companies and Transmission licensees and the same may be deducted from the ARR of the gencos/transcos. The Respondent, TPDDL has adopted the above submissions. It has however referred to the judgments of the APTEL dated 18.4.2017 in Appeal No.199/2015 (MSPGCL V MERC & ors) and judgment dated 11.5.2017 in Appeal No. 250/2015 & 242/2016 (Jaigad Power

Transco V MERC) and submitted that the Tribunal had upheld the State Commission's (MERC) orders treating LPSC as part of the Non-Tariff Income (NTI) of the generating company/transmissions licensee and had ordered the reduction of the same from the ARR. The Respondent, TPDDL has stated that this Commission should also follow the same principles and the net LPSC income after deducting the financing cost should be reduced from the ARR or LPSC income should be allowed on the approved working capital of generating companies for the number of days of delay. TPDDL has further pointed out that despite there being no provision for treatment of LPSC as NTI under the regulations of the State Commission, the Tribunal in the aforesaid judgments had approved the treatment of LPSC income earned and its holding cost as part of non-tariff income and deducted the same from the ARR. Accordingly, TPDDL has submitted that the prayer of the Petitioners in the Petition may be allowed.

25. The matter has been considered. The Respondent, TPDDL in its written submissions has contended that the judgment of the Tribunal dated 18.4.2017 in Appeal No. 199/2015 upholding the MERC order dated 26.6.2015 is applicable to the present case. PGCIL has argued that the judgments of the Tribunal are based on the regulations made by MERC.

26. Appeal No. 199/2015 was filed by Maharashtra State Power Generation Company Ltd (MSPGCL) challenging the order of MERC dated 26.6.2015 treating the LPSC paid by discom MSEDCL as Non-Tariff Income and deduction of the same from the ARR of MSPGCL for the period 2010-11 to 2012-13. MSPGCL in the said case had contended that since the MERC MYT Tariff Regulations, 2005, which governed the period till 31.3.2013, did not contain any provision for deduction of LPSC as NTI for generation business, the MERC had erred in considering the LPSC

as NTI in terms of the MERC MYT Regulations 2011. The MERC MYT Tariff Regulations, 2005 contained provisions for levy of LPSC @1.25% per month, if the payment is delayed beyond the period of two months from the date of billing. The said Regulations have defined the term 'Non-Tariff Income' under Regulation 2.1 as under:

> *"2.1 In these Regulations unless the context otherwise requires:*
> *(zg) "Non-Tariff Income" means income relating to the licensed business other than from tariff, excluding any income from other business and, in case of the Retail Supply Business of a Distribution Licensee, excluding income from wheeling and receipts on account of cross-subsidy surcharge and additional surcharge on charges of wheeling."*

27. The above definition does not provide for any deduction of LPSC as NTI from the ARR of generation business. In this regard, the observations of the Tribunal in the said judgment are as under:

> "*It is clear that there is no provision of Non-Tariff Income deduction from ARR of the generation business. Thus, as per Tariff Regulations, 2005, LPSC as Non-Tariff Income is not to be considered for ARR of the Appellant"*

28. However, the Tribunal vide its judgment dated 18.4.2017 upheld the order dated 26.6.2015 of MERC deducting the LPSC as NTI from the ARR of generation business of MSPGCL as under:

> *"11(b)(iv). However, it is observed that under different orders of the Appellant and other generators under the jurisdiction of the State Commission, the State Commission while approving/truing up their tariff deducted Non-Tariff Income from their ARRs under Tariff Regulations, 2005. The State Commission vide order dated 25.04.2007 in Case No. 68 of 2006, while approving the Appellant's ARR for 2007-08 to 2009-10 and determination of tariff for 2007-08 deducted provisionally Non-Tariff Income of the Appellant equivalent to actual Non-Tariff Income during 2005-06…*
>
> *(v)…….the State Commission in its order dated 05.03.2010 in Case No. 16 of 2008 regarding petition for true up for 2005-06 to 2007-08 and provisional truing up of 2008-09 has dealt the issue of Non-Tariff Income based on this Tribunal's Judgement dated 10.04.2008. The State Commission has dealt head wise NonTariff Income details submitted by the Appellant and the State Commission has deducted the interest from consumers (Interest on delayed ore deferred payment of bills) while truing up of ARR for the years 2005-06 to 2007-08. While doing so the State Commission has held that the Appellant has not submitted any specific reason for not considering LPSC as a part of non-tariff income. Subsequently, the State Commission vide order dated 12.09.2010 in Case No. 102 of 2009 regarding truing up for 2008-09, annual performance review of*

2009-10 and determination of tariff for 2010- 11 has considered non-tariff income for 2009-10 & 2010-11 as provided by the Appellant while computing ARR.

In view of the above it can be concluded that the Appellant knowingly admitted the treatment of LPSC as non-tariff income to be deducted while deciding ARR. T<u>he above orders were also not challenged by the Appellant and they have achieved finality in the form of treatment of LPSC as non-tariff income.</u>

(vi)xxxxx

(vii). In view of the above it is clear that the Tariff Regulations, 2005 were Applicable to the Appellant till 31.03.2013 and also there was no provision in Tariff Regulations, 2005 for deduction of LPSC as NonTariff Income from ARR. <u>However, the Appellant has accepted the deduction of LPSC as Non-Tariff Income in previous orders which have achieved finality and as such the deduction of LPSC for the period from 2010-11 to 2012-13 from ARR in the Impugned Order by the State Commission is in order. The Impugned Order to that extent is upheld."</u>

29. It is evident from the observations of the Tribunal in the above judgment that despite the absence of any provision in the MERC MYT Tariff Regulations, 2005, MERC had issued various ARR orders, including orders in respect of MSPGCL treating LPSC as NTI for the period from 2005-06 to 2007-08, 2009-10 & 2010-11. Since MSPGCL had not challenged these orders of MERC treating LPSC as NTI and had accepted the same, the Tribunal noted that the earlier orders had attained finality and thereby upheld the Order of MERC dated 26.6.2015 treating LPSC as NTI in the ARR of MSPGCL for the period 2010-11 to 2012-13. Nowhere has the Tribunal, in the said judgment, observed or given a finding that, in the absence of a provision in the MERC MYT Tariff Regulations, 2005, the treatment of LPSC as NTI by MERC in the ARR of MSPGCL was in order. It was only because MSPGCL had accepted the treatment of LPSC as NTI by MERC in its earlier orders, despite there being no provision, the Tribunal had concluded that the treatment of LPSC as NTI by MERC was in order and not otherwise, as contended by TPDDL. Hence, the contention of TPDDL that the Tribunal had approved the MERC order treating LPSC as NTI, despite there being no provision, is contrary to the facts and findings of the Tribunal in the judgment dated 18.4.2017 and is liable to be rejected. In our

view, the judgment dated 18.4.2017 in Appeal No. 199/2015 cannot be made applicable to the present case.

30. Regulation 45 of the 2014 Tariff Regulations notified by this Commission provides for a levy of LPSC at 1.50% for delay in payment of bills after 60 days from the date of billing. The said Regulations have neither defined the term 'Non-Tariff Income' nor does it contain any provision for treatment of LPSC as NTI. In the absence of these provisions, there is no reason for the treatment of LPSC as NTI and deduction from ARR of gencons/transcos as prayed for by the Petitioners/TPDDL. The submissions of the Petitioners/TPDDL are therefore rejected.

31. It is observed that the MERC MYT Tariff Regulations, 2011 provided for levy of LPSC at the rate of 1.25% per month or part thereof in case of any delay in payment. This Regulation also defines the term 'Non-Tariff Income' (Regulation 2.1(1) 42) and also provides for NTI related to Generation Business (Regulation 43.1) and NTI for Transmission Business (Regulation 62.1). These provisions are extracted under:

"2.1(1) (42) Non-Tariff Income" means income relating to the regulated business other than from tariff, excluding any income from Other Business and, in case of the Retail Supply Business of a Distribution Licensee, excluding income from wheeling and receipts on account of cross-subsidy surcharge and additional surcharge on charges of wheeling;"

The Non-Tariff Income related to Generation Business is defined as below:

"43.1 The amount of non tariff income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Cost in determining the Annual Fixed Cost of the Generation Company:

Provided that the Generation Company shall submit full details of its forecast of non tariff income to the Commission in such form as may be stipulated by the Commission from time to time.

The indicative list of various heads to be considered for non tariff income shall be as under:

....

e) __Interest on delayed or deferred payment on bills;__

f) Interest on advances to suppliers/contractors;
g) Rental from staff quarters;
....
....
k) Any other non tariff income"

The Non-Tariff Income related to Transmission Business is defined as below:

"62 Non-Tariff Income

62.1 The amount of non-tariff income relating to the Transmission Business as approved by the Commission shall be deducted from the aggregate revenue requirement in determining annual transmission charges of the Transmission Licensee:

Provided that the Transmission Licensee shall submit full details of its forecast of non-tariff income to the Commission along with its application for determination of aggregate revenue requirement."

Thus, the definition of NTI under Generation and Transmission & Distribution Business are similar, except that in case of Generation Business, the indicative list of income to be considered under NTI, which includes interest on delayed or deferred payment of bills (DPC) has been specified.

32. The Respondent, TPDDL in its written submissions has argued that the judgment of the Tribunal dated 11.5.2017 in Appeal No. 250/2015, upholding the MERC order in relation to the above said regulations is squarely applicable to the present case. PGCIL has argued that the judgments of the Tribunal are based on the regulations made by MERC.

33. Appeal No. 250/2015 was filed by Jaigad Power Transco Ltd (JPTL) challenging the MERC order considering DPC as part of NTI while approving the Revised Estimates in the ARR of JPTL for 2015-16. JTPL in the said case had contended that since the MERC MYT Tariff Regulations, 2011 do not specify DPC (or LPSC) as part of NTI for Transmission and Distribution Business, the order of MERC treating DPC as NTI for ARR of 2015-16 is arbitrary. Rejecting the submissions of JTPL, the Tribunal vide its judgment dated 11.5.2017 upheld the order of MERC as under:

“iii. In view of our discussions on the Tariff Regulations, 2011 as above and submissions made by the State Commission, we are of the considered opinion that there is no infirmity in the State Commission’s decision in considering DPC as NTI and deducting the same from the ARR of the Appellant.”

34. Referring to the above judgment, TPDDL has argued that despite MERC MYT Tariff Regulations, 2011 not specifically providing for LPSC/DPC under the definition of NTI for Transmission licensees like JTPL, the Tribunal has upheld the order of MERC and held that the Commission is empowered to approve NTI and consider DPC/LPSC as NTI, as per its due diligence. In our view, the submission of TPDDL is not based on proper appreciation of the findings of the Tribunal in the said case. TPDDL has conveniently failed to refer to the relevant circumstances which led the Tribunal to conclude that the Commission is empowered to consider DPC/LPSC as NTI, as per due diligence, in its judgment dated 11.5.2017. As stated, the definition of NTI under Generation business under Regulation 43.1 (quoted in para 29 above) provides for the indicative list of income to be considered under NTI, which includes the DPC. Though no specific provision was made in Regulation 62.1 to consider DPC as NTI for Transmission business, the Tribunal, on a harmonious construction of the above regulations held that the State Commission (MERC) was empowered to approve the DPC as NTI on prudence check. In other words, Regulations 43.1 and 62.1 was required to be harmonised to treat DPC as NTI, as deemed fit, by the State Commission. The relevant portion of the judgment is extracted hereunder:

Further, the definitions at Regulation 43.1 and 62.1 make it clear that after its prudent check, amount of NTI needs to be approved by the Commission. Although there is no specific reference to DPC as non-tariff income in the definition of NTI under clause 62.1, the State Commission is empowered to approve DPC income as NTI under the said clause of the Tariff Regulations, 2011 as it deemed fit. <u>Moreover, this is important for the State Commission to have harmony in various provisions of the said regulations.</u>

35. It is therefore clear that the observations of the Tribunal in its judgment has allowed the treatment of DPC as NTI, based on the interpretation of the Regulations specified under the MERC MYT Tariff Regulations, 2011. Nowhere does the Tribunal in the said judgment arrive at a finding that, in the absence of any provision under the MERC MYT Tariff Regulations, 2011, the Commission is empowered to treat DPC as NTI. Thus, there is no merit in the the submissions of TPDDL that the Commission is empowered to treat DPC as NTI even in the absence of a specific provision in the regulations. As stated, neither the 2014 Tariff Regulations defines the term 'Non-Tariff Income' nor any provision for treatment of DPC/LPSC as NTI has been provided. In this background, we find no reason to consider the LPSC as NTI and direct the deduction of the same from the ARR of gencos/transcos, as suggested by the Petitioners/TPDDL. The judgment dated 18.4.2017 of the Tribunal in Appeal No. 250/2015 cannot also be made applicable to the present case. The submissions of the Petitioners/TPDDL are, therefore, rejected.

36. We note that the Respondent, TPDDL in its written submissions has referred to the MERC MYT Tariff Regulations, 2011 providing for definition of NTI which includes DPC/LPSC and has stated that similar provisions have been made in the State of Chhattisgarh. TPDDL has therefore prayed that this Commission should also follow the same principles and the net LPSC income after deducting the financing cost should be reduced from the ARR or LPSC income should be allowed on the approved working capital of gencos for the number of days of delay. It is noticed that MERC in its MYT Tariff Regulations, 2015 has excluded DPC from being treated as NTI for all segments viz, Generation, Transmission and Distribution business. It is pertinent to mention that the 2014 Tariff Regulations applicable for the period 2014-19 has been issued after extensive stakeholders'

consultations and provision of LPSC has been made after examining the views of the stakeholders. There is no provision in the regulation to treat LPSC as NTI of the generating companies and transmission licensees. We are of the view that merely because provisions to treat the LPSC as NTI exist in the regulations of some of the State Commissions does not mean that this Commission should also adopt the same provisions, without having a corresponding provision in its regulations. Hence, we find no reason to consider the prayer of TPDDL to treat the LPSC above Bank Rate as non- tariff Income of the generating companies and transmission licensees.

37. In the light of the above discussions, both the prayers of the Petitioners are rejected.

38. Petition No. 254/MP/2017 is disposed of in terms of the above.

Sd/-	***Sd/-***
(Dr. M.K. Iyer)	**(P.K.Pujari)**
Member	**Chairperson**