

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 37 of 2008 & IA No. 77 of 2008

Dated : 30th October, 2009

**Coram : Hon'ble Ms. Justice Manju Goel, Judicial Member
Hon'ble Mr. H.L. Bajaj, Technical Member**

IN THE MATTER OF :-

BSES Yamuna Power Ltd.

A Company Registered under the
Companies Act, 1956 and having its
Registered Office at Shakti Kiran Building
Karkardooma,
New Delhi – 110 092

Through its Authorized Signatory (Mr. Arun Kanchan)

... Appellant(s)

Versus

1. Delhi Electricity Regulatory Commission

(A statutory Body of Government of NCT of Delhi)
Having its Office at Vinimak Bhawan,
C-Block, Shivalik, Malviya Nagar,
New Delhi – 110 017
Through its Secretary

2. C. P. Rai
Upbhogta hitharth Society
F-188/4, Laxmi Nagar,
Delhi – 110 092.

3. Jaikishan Aggarwal
393, Kucha Bulaki Begum,
Dariba Kalan,
Delhi – 110 006.
4. S. P. Gupta
Rajinder Nagar Welfare Association
28/7, Old Rajinder Nagar,
New Delhi – 60.
5. Mr. R. N. S. Tyagi
C-9/86, Yamuna Vihar,
Delhi
6. Animesh
B-55, Shivaji Road, North Ghonda,
Delhi – 110 053.
7. Achlesh Kr. Gupta
I-4649-85, Gali No.2,
New Modern Shahdra,
Delhi – 110 032.
8. Anil Batra
Aakriti Apartments,
62, Patparganj, I. P. Extension,
Delhi – 92.
9. N. H. Badlani
Flat No. 69-B,
Dilshad Garden, Pocket-I,
Delhi – 110 095.
10. Abhikshek Sharma
AM(T)
Delhi Transco Ltd.

11. Kamal Kiran Seth
Hony. Gen. Secretary
Udyog Nagar Factory Owner's Association (Regd.)
Z-101, (Opp. H-18)
Udyog Nagar, Rohtak Road,
Delhi – 110 041.
12. M. N. Bhattacharya
General Secretary
Federation of Group Housing Societies
D-403, Prince Apartments,
54, Indraprastha Ext.,
Delhi – 110 092.
13. Baldev Raj
General Secretary
The Society for Public Cause
Flat No. 590, Pocket "E",
Mayur Vihar, Phase – II,
Delhi – 110 091.
14. Ashok Gupta
Chief Convenor
Udyog Nagar Factory Owner's Association
Z-101, (Opp. H-18), Udyog Nagar,
Rohtak Road,
Delhi – 110 041.
15. O. P. Sehgal
President
Federation of RWA
73-D, Pocket – III,
Mayur Vihar, Phase – I,
Delhi – 110 091.
16. D. M. Narang

Gen. Secretary,
R-Block Welfare Association (Regd.)
R-814-B, New Rajinder Nagar,
New Delhi – 110 060.

17. S. Hassan
Secretary
Federation of RWA's in East North (NE) Distt. Friend
F-56, Dwarikapuri,
Naveen Shahdara,
Delhi – 110 032.
18. Ashok Kumar
11/Pocket – B,
Mayur Vihar, Phase – II,
Delhi – 110 091.
19. Rakesh Kumar
174-A, Pocket-F,
Mayur Vihar, Phase-II,
Delhi – 110 091.
20. Deepak
603, Pocket - E, Phase – II,
Mayur Vihar,
Delhi – 110 091.
21. R. Bisht
C-620, Mayur Vihar, Phase – II,
Delhi – 110 091.
22. Vice President
RWA,
E-586, Pocket – E, Phase – II,
Mayur Vihar,
Delhi – 110 0091.

23. Vijay Kumar
164-D, Pocket-F, Phase-II,
Mayur Vihar,
Delhi – 110 091.
24. Rajiv Chandok
E-586, Pocket-E, Phase-II,
Mayur Vihar,
Delhi – 110 091.
25. Priya Singh
219, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.
26. R. Goswami
37, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.
27. Kamla
57, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.
28. Madhu Agarwal
62, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.
29. Nisha
40, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.
30. Sahil Malhotra

156, Pocket-D, Phase-II,
Mayur Vihar,
Delhi – 110 091.

31. Shikha Saxena
54-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
32. Tinku Ghosh
52-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
33. G. R. Arora
50-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
34. Asha
46-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
35. Tarun
42-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
36. S. Mudgil
41-A, Pocket-A, Phase-II,
Mayur Vihar,
Delhi – 110 091.
37. S. Sharma
1-A, Pocket-A, Phase-II,

Mayur Vihar,
Delhi – 110 091.

38. Savita Chopra
117-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
39. M. Khan
118-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
40. B. Nath
86-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
41. Bhowan Chand Pandey
104-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
42. Alka
102-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
43. Krishan Book Depot
135-A, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091.
44. Madhu Handa
109-A, Pocket-C, Phase-II,
Mayur Vihar,

Delhi – 110 091.

45. Shashi Bansal
109-B, Pocket-C, Phase-II,
Mayur Vihar,
Delhi – 110 091,
46. Archana Chandra
14-D, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
47. Rama Arumughan
15-D, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
48. Satyajit Mohanty
13-D, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
49. Nitin Aggarwal
16-B, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
50. Sandeep Singh
20-B, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
51. P. Asha
17-B, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.

52. I. Bisht
17-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
53. A. C. Sharma
98-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
54. Sanjeev Sharma
91-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
55. Anishka Chauhan
87-A, Pocket-B, Phase-II,
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56. M. L. Malhotra
88-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
57. Deepak Sippy
85-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
58. Meirn Lawrence
84-A, Pocket-B, Phase-II,
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Delhi – 110 091.
59. Meena Bindal

- 92-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
60. Rajiv Garg
93-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
61. Manmohan
96-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
62. Dhurv Arora
106-A, Pocket-B, Phase-II,
Mayur Vihar,
Delhi – 110 091.
63. Lata Jain
93, Pocket-B, Phase-II,
Mayur Vihar,
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64. R. P. Garg
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65. B. S. Ahluwalia
DDA SFS Flat No. 9, Pkt. B,
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New Delhi – 110 025.

66. S. R. Sangar
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70. Er. K. K. Chaku
Gen. Secretary
Jhilmil & Friends Colony Indl. Area CETP Society
(Regd.)
CETP Plant, B-Block,
Jhilmil Industrial Area,
Delhi – 110 095.
71. Dr. Anil Gupta
Gen. Secretary
Friends Colony Industrialist Association (Regd.)
26, Lane No.3,
Friends Colony Indl. Area,

G.T.Road, Shahdara,
Delhi – 110 095.

72. Prof. R. P. Garg
President
Residential Welfare Association (Regd.)
Mayur Vihar Phase-II,
Delhi – 110 091
73. K. V. Panicker
Q-449, Dilshad Garden,
Delhi – 110 095.
74. A. P. Handa
General Manager (Fin.)
Mahanagar Telephone Nigam Ltd.
Office of the Executive Director
K. L. Bhawan,
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75. S. N. Tricycle Industry
300, Industrial Area,
Patparganj,
Delhi – 110 092.
76. Vishvakarma Tricycle Industry
291, Industrial Area,
Patparganj,
Delhi – 110 092.
77. Laxmi Tricycle Industry
312, Industrial Area,
Patparganj,
Delhi – 110 092.

78. Krishan Lal
RWA (L) Pocket Dilshad Garden,
L-136-C, Dilshad Garden,
Delhi – 110 095.
79. B. Singh
C-77, Gali No.8,
Khajoori Khas,
Delhi – 110 094.
80. I. F. Stevens
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3058/1 St. No.5,
Ranjeet Nagar,
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81. Rajinder Singh Khari
Pradhan
RW Association Khajoori Khas Colony,
Delhi – 110 094.
82. Vinod Jain
174, FIF, Patparganj,
Delhi – 100 092.
83. M. K. Jain
Chief Elect. General Engineer
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84. K. A. Sarma
CAO (Tax & Coordn)
MTNL,

O/o Executive Director,
K. L. Bhawan,
New Delhi – 110 050.

85. Ravi Chadha
143, FIE,
Patparganj,
Delhi – 110 092.
86. I. S. Bedi
115, FIE, Patparganj,
Delhi – 110 092.
87. Alok Narula
514, FIE, Patparganj,
Delhi – 110 092.
88. Gyan Narula
514, FIE, Patparganj,
Delhi – 110 092.
89. Manoj Sharma
160, FIE, Patparganj,
Delhi – 110 092.
90. O. P. Mittal
68, FIE, Patparganj,
Delhi – 110 092.
91. Sunil Puri
18, FIE, Patparganj,
Delhi – 110 092.
92. Kuldip Jain
36, FIE, Patparganj,

Delhi – 110 092.

93. Tara Chand
B-21, DSIDC Complex, FIE,
Patparganj,
Delhi – 110 092.
94. Sunil Kapoor
345, FIE, Patparganj,
Delhi – 110 092.
95. Sanjay Rastogi
169, FIE, Patparganj,
Delhi – 110 092.
96. Sanjay Gaur
150, FIE, Patparganj,
Delhi – 110 092.
97. R. K. Kachru
291, FIE, Patparganj,
Delhi – 110 092.
98. K. R. Mishra
65, FIE, Patparganj,
Delhi – 110 092.
99. Ashok Sharma
19, FIE, Patparganj,
Delhi – 110 092.
100. C. M. Aggarwal
80, FIE, Patparganj,
Delhi – 110 092.

101. S. N. Mittal
363, FIE, Patparganj,
Delhi – 110 092.
102. Bhupinder Narang
56, FIE, Patparganj,
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103. Vipin Gupta
Delhi Dal Mills (Millers) Association (Regd.)
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Delhi – 110 006.
104. S. K. Maheshwari
Gen. Secretary
Patparganj FIE Entrepreneurs Association
Estate Manager Office Building,
Opp. Plot No. 157,
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105. Praveen Khandelwal Sec. Gen.
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106. J. P. Sharma
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107. Madhur Malviya
245, Akashdarshan,

Mayur Vihar – I,
Delhi – 110 091.

108. Ram Lalit
Govt. Pensioners RWA
27/480, Trilok Puri,
Delhi – 110 091.
109. Ram Nath Sant
Govt. Pensioners RWA
27/480, Trilok Puri,
Delhi – 110 091.
110. S. N. H. Zaidi
Govt. Pensioners RWA
27/480, Trilok Puri,
Delhi – 110 091.
111. Gulshan Rai
C2/4, Janak Puri,
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112. Satender Jain
Hony. Secretary
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113. N. N. Mishra
73-C, Pkt. F,
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114. Ashok Bhasin
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Delhi – 110 007.
115. Promila Devedi
128-C, Pocket-F,
Mayur Vihar – II,
Delhi – 110 091.
116. Rajesh Gupta
Advocate
35, Daya Nand Vihar,
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117. Sh. Ashok Dhall
455, FIE, Patparganj,
Delhi – 110 092.
118. V. K. Aggarwal
487, FIE, Patparganj,
Delhi – 110 092.
119. Rakesh Kr. Jain
478, FIE, Patparganj,
Delhi – 110 092.
120. Vijay Kr. Maini
282, FIE, Patparganj,
Delhi – 110 092.
121. Mukesh Anand
267, FIE, Patparganj,
Delhi – 110 092.

122. N. L. Nagpal
60, FIE, Patparganj,
Delhi – 1 10 092.
123. Omkar Nath Gupta
278, FIE, Patparganj,
Delhi – 1 10 092.
124. Mahinder Kumar
131, FIE, Patparganj,
Delhi – 1 10 092.
125. Satyender jain
374, FIE, Patparganj,
Delhi – 1 10 092.
126. K. K. Anand
97, FIE, Patparganj,
Delhi – 1 10 092.
127. Anuj Goel
114, FIE, Patparganj,
Delhi – 1 10 092.
128. Kuldeep Chand Jain
A-1, FIE, Patparganj,
Delhi – 1 10 092.
129. Manoj Bhargav
513, FIE, Patparganj,
Delhi – 1 10 092.
130. Sarvajit Singh
295, FIE, Patparganj,
Delhi – 1 10 092.

131. M. Javed
158, FIE, Patparganj,
Delhi – 110 092.
132. R. L. Raheja
A-7, DSIDC Complex,
FIE,
Delhi – 110 092.
133. Sunil Behal
488, FIE, Patparganj,
Delhi – 110 092.
134. Sudhir Gupta
370, FIE, Patparganj,
Delhi – 110 092.
135. Mohan Singh Saini
A-7, DSIDC Complex,
FIE,
Delhi – 110 092.
136. Vivek Bagga
B-14, DSIDC Complex,
FIE, Patparganj,
Delhi – 110 092.
137. R. R. Sharma
32, Ras Vihar Apptt.,
99, I. P. Extn.
Patparganj,
Delhi – 110 092.
138. Sanjay Rastogi
E-153, Preet Vihar,

Delhi – 110 092.

139. M. L. Jain
Gen. Secretary
Resident Welfare Association (Regd.),
115-B, Pocket-A,
Dilshad Garden,
Delhi – 110 095.
140. K. Narayana Rao
Director
Udaan Bhawan,
Terminal I-B,
Indira Gandhi International Airport,
New Delhi – 110 037.
141. Y. K. Sharma
Gen. Sec.
WEA Channa Market Traders Association,
14A/22, W.E.A. Channa Market,
Karol Bagh,
New Delhi – 110 005.
142. R. C. Gupta
President
Guru Nanak Market Traders Association (Regd.)
13A/27, W.E.A. Karol Bagh,
New Delhi – 110 005.
143. President
8-A, W.E.A. R.W.A. (Regd.)
8-A/141, W.E.A.,
Karol Bagh,
New Delhi – 110 005

144. N. K. Sharma,
Gen. Secretary,
Tikona Park Awasiya Welfare Association,
Tikona Park, Block 7A,
W.E.A., Karol Bagh,
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145. C. S. Bedi
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Residents' Welfare Association
7-A Block (Rectangular Park),
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146. M. K. Oberai
Chairman
W.E.A. Residents' Welfare Federation
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147. H. K. Arora
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148. Raghu Nayyar
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149. Deen Dayal Sharma
President
Ranjit Nagar Avas Vikas Association
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150. Bhagwat Prasad Gupta
Member
Dayanand Co-operative House Building Society
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Ms. Purnima Wahi
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Mr. Harish Ahuja, DS(P)

Mr. Sumeet Pushkarna, Adv.
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Electrical Inspector,
Mr. S. K. Kapur,
Mr. Mukesh Sharma, AEE for
GNCTD

Mr. Rajan Gupta
Mr. Raghu Nayyar
Mr. R. N. S. Tyagi
Mr. A. K. Datta
Mr. Fanish K. Jain

Mr. A. K. Awasthi
Mr. Manjit Singh Ahluwalia
Mr. Jaydayal Singh
Mr. S. K. Maheshwar
Mr. Jagadish Lal
Mr. Sarbajit Roy
Mr. A. Azeez
Mr. Ravinder Singh
Mr. Tara Chand
Mr. Vivek Bagga
Mr. O. P. Mittal
Mr. Sanjay Rastogi
Mr. Jai Kishan Aggarwal
Mr. Ram Lalit
Mr. Ram Nath Sant
Mr. S. N. H. Zaidi

J U D G M E N T

Justice Manju Goel, Judicial Member

The BSES Rajdhani Power Ltd. the appellant in appeal No. 36 of 2008 and BSES Yamuna Power Ltd. appellant in the present appeal No. 37 of 2008 challenged the tariff order of the Delhi Electricity Regulatory Commission, arrayed as respondent No.1 in the two appeals, determining the aggregate revenue requirement for the FY 2008 to 2011 and distribution tariff for the period 01.03.08 to 31.03.09. The two appeals raise the same issues. The challenges to the two impugned orders, both dated 23.02.08, are

also similar. We have decided the appeal No. 36 of 2008 vide our judgment dated 06.10.09.

02) Nonetheless we had invited the parties to make their submissions on any issue which may be different in appeal No. 37 of 2008. The learned counsel for the appellant mentioned the issues of R&M expenses and A&G expenses. The appellant's grievance is that increased consumption has not been considered in granting A&G expenses. Mr. Haksar appearing for the Commission stated that the Commission has already contended that the appellant would be free to take any new initiatives in the MYT period provided such new initiatives are justified on cost benefit analysis. In other words, the Commission is willing to consider additional expenditure on new initiatives during the MYT period if the new initiatives are found to be justified. New initiatives also include the initiatives that are needed to cope with the increased consumer base. This is sufficient to take care of the appellant's grievances. This issue has been dealt with in the same manner in our judgment in appeal No. 36 of 2008

03) So far as R&M expense is concerned we found that the Commission has determined the 'k' factor at 3.7% as the relationship between the gross fixed asset and R&M expenditure which is not less than what was prayed for by the appellant. The

appellant had projected the R&M at 3% of GFA and 7% per annum increase. Thus the 'k' factor of 3.7% determined by the Commission cannot be a cause of grievance for the appellant. Therefore, we need not make any further order on R&M in this appeal.

04) All the issues involved in the present appeal have been settled in appeal No. 36 of 2008. All the dispensations given in our judgment in appeal No. 36 of 2008 shall apply in appeal No. 37 of 2008 and the judgment in appeal No. 36 of 2008 has to be read as judgment deciding the issues involved in appeal No. 37 of 2008.

05) The appeal stands disposed of accordingly.

06) With this the IA also stands disposed of.

07) Pronounced in open court on this **30th day of October, 2009.**

(H. L. Bajaj)
Technical Member

(Justice Manju Goel)
Judicial Member

Reportable ✓ / Non-reportable