



**Resources and Livelihoods Group,
PRAYAS**

(Initiatives in Health, Energy and Learning & Parenthood)

B-21, B. K. Avenue, Survey 87/10-A, New D. P. Road, Azad Nagar, Kothrud, Pune, 411-038, INDIA Phone:
+91-20-25388273, 65615594 Fax: 25388273 e-mail: reli@prayaspune.org website: www.prayaspune.org

30th November, 2008

To,
The Secretary,
Maharashtra Water Resources Regulatory Authority,
Mumbai.

**Sub.: Submission by PRAYAS on
Draft Approach Paper on Tariff Regulations for Bulk Water Tariff**

Dear Sir,

This is with reference to your letter dated 20th October 2008 seeking comments, observations and suggestions on the 'Draft Approach Paper on Tariff Regulations for Bulk Water Tariff'.

After a primary study and analysis of the approach paper we are herewith sending you through this submission our comments and recommendations on the subject matter. As highlighted in the submission, there are numerous key areas in which the approach paper needs to be improved and revised. Due to lack of clarity in the paper and absence of key content we were not able to undertake a very detailed analysis. Hence, we would like to make a more detailed submission on the paper in due time and process.

One of the major recommendations included in our submission is that the CBRs including the process of stakeholder consultation should be prepared prior to undertaking public consultation on crucial issue like water tariff. This will enable all stakeholders to understand the entire process and respond effectively.

We request the Hon. MWRRRA to take due cognizance of this as well as all other comments and recommendations given in this submission. The submission is being sent within the time-limits given by you (sending the submission by email on 30th November and subsequently a hard copy through courier).

We request the Hon. MWRRRA to make available all current and future comments and recommendations on this topic available on the website. Receipt of the letter and enclosed submission (total 24 pages) may kindly be acknowledged.

Yours Sincerely,

Dr. Subodh Wagle,
Professor and Dean, IITB-TISS School for Habitat
Studies, Tata Institute of Social Sciences
Trustee, PRAYAS
Group Coordinator, Resources and Livelihoods Group
Adjunct Professor, CTARA, IIT Bombay

Mr. Sachin Warghade,
Senior Research Associate,
Resources and Livelihoods Group
PRAYAS, Pune

**Recommendations on the
Draft Approach Paper on Tariff Regulations for Bulk Water Tariff**
Second Submission to MWRRA on 30th November, 2008 made by Resources and Livelihoods Group
PRAYAS, Pune

Introduction

This submission being made before MWRRA is based on the study of the approach paper on “Developing Regulations for Bulk Water Pricing in the State of Maharashtra”. This paper is submitted to MWRRA by ABPS Infrastructure Advisory Pvt. Ltd., the consultants who are appointed for the task of developing tariff regulations and ‘Conduct of Business Regulations’ for determination of bulk water tariff.

This submission made by PRAYAS is in continuation of the earlier submission made before MWRRA through letter dated 3rd November 08. We hope that the MWRRA will take due cognizance of both these submissions and accept the recommendations given in the said submissions.

The present submission has been divided into following sections:

1. Process of Preparing Approach Paper and Tariff Regulations
2. Insufficiency in the Content of Approach Paper vis-à-vis the Agreed TOR
3. Lacunas in Proposed Philosophy or Principles
5. Interpretation of the Tariff Related Provision in MWRRA Act

Detail comments and recommendations substantiated with justifications are presented under each of the above mentioned section. The comments and recommendations are given in the following paragraphs.

Section 1. Process of Preparing Approach Paper and Tariff Regulations
--

This section focuses on the actual and expected process of preparing approach paper and tariff regulations. In the following submissions only process related aspects are covered, while the content related aspects are covered in other sections of the submission.

Submission 1.1 Strict Adherences to ‘Stage-Gate System’

It was agreed in the TOR that the consultancy assignment will be divided into various stages and after every stage there will be review and approval of the outputs of that stage. This type of ‘stage-gate system’ is useful to avoid accumulation of errors in the final output and enhance the quality and appropriateness of the content of the outputs.

Accordingly, in paragraph 5 of the TOR, the stages of submission of various reports are mentioned. Specific time-period is also allotted for suggestions and approval of the output of particular stage. The TOR further mentions that the approval will be done by the Joint Planning,

Implementation and Review Committee (JPIRC) comprising of all the members of MWRRA and Secretary, MWRRA.

As per the TOR, in the first stage the submission, the consultant is required to submit 'Draft Conduct of Business Regulation' and 'Part 1 of the Approach Paper' comprising tariff philosophy or principles (refer para 5(1) of TOR). Only after approval of the outputs in first stage can the consultant go ahead with the output in the second stage (refer para 3 (19) (c) of TOR). The output in the second stage is 'Part 2 of Approach Paper' comprising methodology for tariff determination as well as terms and conditions of tariff regulations giving detailed step-by-step procedure with illustrative examples.

The draft approach paper, in its present form published by MWRRA for public consultation, states that the paper is a consolidated approach paper comprising of Part 1 and Part 2 (refer para 1.3 of approach paper). The approach paper does not mention about the process of review and approval of the first part of the paper by JPIRC. This leads to a conclusion that the 'stage-gate system' adopted in the TOR has not been strictly adhered by the consultant.

The separation of tariff philosophy or principles (i.e. first part of paper) from the operational part of tariff regulations (such as methodology for tariff determination) is necessary because it automatically leads to commitment on the philosophy/ principles before exploring the options for operational/ methodology part. In absence of this commitment there is a tendency to approach the operational/ methodology part by neglecting or compromising on essential principles of tariff. Hence, strict adherence to the 'stage-gate system' is necessary.

More importantly, such a 'short-cut' process would restrict the scope of the debate on the approach paper, severely affecting quality of the final version of the approach paper. To explain this, one needs to consider that the debate on methodology and Terms and Conditions can be meaningful if the principles or philosophy is frozen. The principles or philosophy cannot be frozen unless there is debate on the draft principles proposed by consultant. Efforts to simultaneously conduct debate on the one hand on principles or philosophy and, on the other hand, on methodology and Terms and Conditions would create confusion. This was the rationale for applying the 'Stage-gate System' in between the stage of developing principles/ philosophy and developing methodology and Terms and Conditions.

If at all this 'Stage-gate System' accepted in the TOR has been adhered to then it will be useful to know the process and to share the finally copy of 'principles or philosophy' approved by JPIRC.

Recommendations based on Submission 1.1:

1. Based on this submission on 'stage gate system', it is recommended that the JPIRC undertakes review and approval process for Part 1 of the approach paper.
2. Stakeholder consultation should be held in this process of review and approval.
3. And, only after approving Part 1, the process for review and approval of Part 2 should be begun.
4. Comprehensive stakeholder process should be undertaken through regional consultations in at least four different parts of the state.

Submission 1.2 **First Develop CBRs for Stakeholder Consultation and then Initiate Consultation on Tariff Regulations**

Along with the approach paper comprising tariff principles and regulations, as per the TOR, the consultant is also supposed to prepare the ‘conduct of business regulations’ (CBR) for water tariff. Among other things, the CBR are supposed to define and articulate steps and procedure for the process of stakeholders’ consultation to be undertaken while preparing regulations and before issue of tariff orders (refer para 4(1) of TOR). In other words, the process of consultation with stakeholders that will be undertaken by MWRRA to finalize the draft approach paper (that includes tariff regulations) should be as per the process of stakeholder consultation defined and articulated in the CBRs.

Hence, it is expected that the CBRs should be prepared, discussed, and finalized before initiating stakeholders’ consultation on tariff regulations based on the approach paper. The TOR in paragraph 5(1) clearly mentions that the consultant should submit draft CBR along with the first part of the approach paper. Hence, the TOR also requires that the CBRs, and especially, the process of consultation should be defined in the first step. Once this model of the process of consultation is finalized, it should be followed for conducting any process related to tariff regulations and tariff determination including the process of consultations on the approach paper.

But the current process initiated by MWRRA involves consultation process on tariff regulations without preparing appropriate CBRs to guide the process of stakeholder consultation.

The present draft of the approach paper—claimed to be the complete approach paper—does not make any mention of CBRs or process of stakeholder participation, except for para 7.21. In this Para (7.21), the consultant takes liberty of suggesting short-cut process for consultation on tariff regulation. Following the consultant’s advice, MWRRA seems to be conducting consultation on approach paper on tariff regulation before finalizing the CBRs for such consultation. This will amount to putting the horse before the cart. This serious lacuna needs to be addressed by following the recommendations given below.

Recommendations based on Submission 1.2:

1. As per the TOR, draft CBRs should be submitted by the consultant, which should include in details the process of consultation to be adopted for preparation of tariff regulations and issuing tariff order.
2. There should not be any consultation process on tariff regulations before the draft CBRs are reviewed and approved by MWRRA.
3. As consultation process is the main window for participation of stakeholders, in the true spirit of transparency, accountability, and public participation, MWRRA should conduct, the review and approval process pertaining to CBRs with appropriate and due consultation with stakeholders.

Submission 1.3 **Inadequate Publicity to the Public Notice Issued by MWRRA for Consultation on Approach Paper**

An advertisement was published in Times of India dated 23rd October 2008 giving the public notice, informing the public about the draft approach paper and also seeking comments and suggestions from interested parties on draft approach paper till 30th November 2008. But this notice was published in the 'classified' section of only the Mumbai edition of Times of India. The said notice does not appear in the Pune or Nagpur editions of Times of India¹. Thus, the notice could not be accessed by readers of Times of India from Pune or Nagpur and other parts where Pune or Nagpur edition is circulated.

Apart from this, the size of the advertisement about the notice published in Mumbai edition of Times of India is so small that it is difficult for the reader to notice the advertisement. It should be noted that the advertisements published in 'classified' section of news papers are always in smaller font size than the other sections of the paper. Hence, advertisement of such a crucial matter like consultation on tariff regulations should be published in bigger size and bigger font so that it gets immediate attention of the readers. In effect, the advertisement should be reader-friendly.

Further, the website on which the approach paper is hosted does not mention about the consultation process or the date of submission of comments and suggestions. So if someone accesses the approach paper from website, without getting chance to notice the press advertisement, will get no clue what-so-ever about any such consultation process.

Hence, the publicity given to the process of consultation is inadequate and insufficient.

In absence of details like the various stages of public consultation (like consultation through website, regional workshops, and focused group meetings) or the exact process of consideration of recommendations received (e.g. reasoned report) it is difficult for various stakeholders to prepare themselves for the said consultation.

Recommendations based on Submission 1.3:

1. Public consultation should be initiated only after all details of the consultation process are articulated and disclosed in the form of CBRs. CBRs should be finalized after appropriate and due consultation with various stakeholders.
2. Consultation by inviting suggestions through a public notice in newspapers should be done in such a way that the notice gets published in proper size and proper place in all editions of all leading newspapers (including Pune and Nagpur edition of Times of India).
3. Consultation by hosting documents on website should be accompanied with hosting of a document comprising all the details of the consultation process on the same website.

¹ This conclusion is based on study of editions of Times of India available on website. Factual information in contrast to this conclusion could be shared by MWRRA.

Submission 1.4 Marathi as Official Language for Consultation

As per the TOR, the consultant is expected to submit draft CBR and approach paper in English as well as Marathi language (refer para 7 of TOR). Hence, Marathi has been accepted an official language in the process of preparing the regulations. This is found necessary in the context of the language barriers faced by farmers and rural community, which represent a major group of stakeholders in water sector.

But the process of consultation has been initiated without publishing the approach paper in Marathi language. This will lead to disrespect to genuine needs of vast majority of stakeholders in water sector who are not well versed with English.

Recommendations based on Submission 1.4:

1. Public consultation should be initiated only after the documents related to consultation are simultaneously published in Marathi language.
2. It should be clearly mentioned in the public notice about the consultation that comments and suggestions from stakeholders can also be sent in Marathi language.

Submission 1.5 ‘Operational Summary’ of the Approach Paper

The approach paper published for consultation runs into almost 300 pages. It is difficult for most of the civil society groups and individual stakeholders to analyze such a voluminous document in a short period of time and give suggestions on the same to MWRRA. Hence, it is necessary that an abridged version of the operational sections of the report be made available for the public and stakeholders for comments. The abridged version of the paper will also be useful to enhance the outreach of the paper and ensure informed and, hence meaningful and intensive participation of all stakeholders. Such an abridged version of the paper comprising the operational summary of the paper (especially of chapters 7 to 10, which comprise of the key features of the proposal) should be made available in both English and Marathi languages.

Recommendations based on Submission 1.5:

1. An abridged version of the operational sections of the report should be made available for the public in both English as well as Marathi languages.
2. Such abridged version should be published in large scale in form of a booklet and the same should be widely disseminated to various stakeholders, especially, to the civil society groups having potential to reach-out to large number of stakeholders and to other who are not in capacity to access the document from internet.

Section 2. Insufficiency in the Content of Approach Paper vis-à-vis the Agreed TOR

In this section comments and suggestions are made based on the analysis of the content of the approach paper. But this section restricts to the comparison of the content expected as per the TOR and the actual content include in the approach paper. So the submissions below highlight whether all contents as expected in the TOR have been included in the approach paper or not. The comments on the quality of substance of actual content of approach paper are not included in the current section and the same are given in the next section of the submission.

Submission 2.1 Absence of Review of Tariff Structure of Various States in India in the Approach Paper

As per the TOR, it was required from the consultant to undertake review of the tariff structure in various states in India like Andhra Pradesh, UP, Punjab, Haryana, Tamil Nadu (refer para 3(2) of the TOR). The draft approach paper submitted by consultant does not include any information on this aspect. In this sense the draft paper is incomplete.

Recommendations based on Submission 2.1:

1. The consultant should complete the approach paper by incorporating the review of tariff structure in various states in India.
2. Public consultation should be undertaken only after the approach paper is complete in all respect.

Submission 2.2 Absence of Methodology for Tariff Determination in the Approach Paper

As per the TOR, the consultant is required to present the methodology for tariff determination in the second part of the approach paper (refer para 3(19)(b) of the TOR). But the approach paper does not provide concrete details of the generic methodology to be used for tariff determination. Instead the paper only provides illustrative example of arriving at tariff. The illustrative example cannot be considered as the methodology proposed for tariff determination because it pertains only to the current data and various other assumptions (e.g. the ad hoc assumptions about the weightages given for apportionment of O&M costs in Table 10-2 of the approach paper).

It should be noted that the TOR clearly indicates that the methodology for tariff determination is not the same as illustrative example for tariff determination (refer para 3(19)(b) & (c) of the TOR). A generic methodology cannot be derived from the illustrative example given in the approach paper. Hence, a generic method for determination of tariff for all future purposes is not included in the approach paper. In this respect the approach is incomplete.

The approach paper states that as per the GR dated March 25, 2007, the water rates as on April 1, 2007 will remain applicable till MWRRA determines tariff. As per the GR, now MWRRA is required to determine tariff from the year starting from 2009. Thus, the major focus of the approach paper seems to be limited to determining tariff for the control period from 2009 till 2011.

Based on this narrow focus, it can be clearly seen that the approach taken by the consultant is to arrive at the tariff for the next three year period, without giving due consideration to the generic methodology of tariff determination or terms and conditions (refer next submission 2.3 for comments on terms and conditions) for tariff regulations.

It should be noted that the regulations for bulk water pricing that will be formulated through the on-going process should cater to the needs of all future occasions and not just next three year period. Regulations are meant to serve the purpose determining methodology to be used on long-term basis. Hence, focusing on narrow three-year period will not be sufficient while formulating the regulations. This will not serve the purpose of regulation as can be understood from the letter and spirit of the MWRRRA Act.

Recommendations based on Submission 2.2:

1. The consultant should complete the approach paper by incorporating the generic methodology to be followed in all future occasions of tariff determination. Illustrative example should not be considered as satisfying the purpose of presenting the methodology for tariff determination.
2. Public consultation should be undertaken only after the approach paper is complete in all respect.

**Submission 2.3 Absence of Terms and Conditions of Tariff Regulations
in the Approach Paper**

As per the TOR, the consultant was required to submit the draft terms and conditions of tariff regulations (refer para 3(19)(c) of the TOR). But the draft approach paper submitted by the consultant does not include any concrete proposal on the terms and conditions for tariff regulations. In fact the approach paper has no single section or paragraph that clearly states the terms and conditions.

In chapter 7 of the paper, an attempt is done to lay down the framework for tariff regulations. But the introduction to the chapter clearly states that various issues associated with tariff regulations are discussed in the chapter (refer second paragraph in the beginning of the chapter). Thus, this chapter also does not include concrete proposal for terms and conditions for tariff regulations. In this respect the approach is incomplete.

Recommendations based on Submission 2.3:

1. The consultant should complete the approach paper by clearly stating the proposed terms and conditions for tariff regulations.
2. Public consultation should be undertaken only after the approach paper is complete in all respect.

Submission 2.4 **Absence of Review and Assessment of Various Aspects**
in the Approach Paper

As per the TOR, the consultant was required to undertake review and assessment of various aspects related to water tariff (refer para 3 of TOR). The study of the approach paper submitted by consultant suggests that the following areas of review and assessment have not been included in the approach paper:

- a. **Review and assessment of the O&M norms and allocations made for O&M for last 5 years (refer 3(5) of TOR):** In Chapter 9 of the approach paper, the consultant includes references to the O&M costs for last 5 years. But these are mere reproduction of data provided by MWRRA and it does not include any review or assessment of the costs (refer Table 9-1, 9-8, 9-12). This data is not reviewed or assessed but directly used by the consultant to calculate projections of O&M for next three years of control period. As per TOR, the consultant is actually required to not just review but also assess the norms as well as allocations for last 5 years. But no where in the report, the consultant presents their own review and assessment of the norms. The consultant has reproduced sections of the report prepared by WALMI on norms for M&R and made observations on the report. But the observations are based on the norms proposed by WALMI. Hence, it cannot be considered as an independent review and assessment of past norms, as required by the TOR. Hence, the approach paper is incomplete in this respect.
- b. **Review and assess inter-sectoral cross subsidy and government subsidy as reflected in water tariff assessment vis-à-vis actual O&M expenditure in last 5 years (refer 3(8) of TOR):** The consultant has totally ignored the requirement, as per TOR, to review and assess various subsidies. In fact there are only two sub-sections where subsidies are discussed. These are: paragraph 8.3.8 which only refers to particular GR that makes provision for management subsidy to WUAs, and paragraph 10.5 which only gives definition of cross-subsidy. In effect, the approach report does not include review and assessment of subsidies as required by TOR. Hence, the approach paper is incomplete in this respect.
- c. **Review and assess existing tariff structure vis-à-vis paying capacity and productive usage by each user category (refer 3(9) of TOR):** The consultant in its approach paper has totally ignores the issue of paying capacity. The approach paper does not include any review or assessment of existing tariff structure in relation to paying capacity or productive usage. The only references to paying capacity is found either in relation to the findings of various committees established to review water sector (refer para 4.5.6 and 7.1.1 of paper) or in relation to proposed methodology for apportionment of revenue requirement (refer para 10.3.2 of paper). It should be noted that the findings of the various committees are based on the tariff structure existing in the past, whereas the consultant was required to assess this issue in context of current tariff structure. Hence, the cursory references to issue of paying capacity given in the approach paper in relation to findings of various committees cannot be considered as review and assessment of the particular issue. Similarly, the reference to paying capacity in relation to calculations for

apportionment of revenue requirement also cannot be considered as review and assessment of the issue. This is because these calculations pertain to the proposed norms for revenue apportionment and does not include review and assessment based on existing tariff structure. In effect, the requirement of review and assessment of the issue of paying capacity and productive usage has not been full-filled by the consultant in the approach paper. Hence, the approach paper is incomplete in this respect.

- d. **Review and Assessment of Provisions of Water Tariff in CP & Bearer Act 1931:** As per TOR, the consultant was expected to review and assess provisions related to water tariff in various Acts including Central Province (CP) & Bearer Act 1931. Though, the consultant has taken cognizance of various acts in this relation, but fails to take cognizance of CP & Bearer Act. So for a stakeholder it is not clear whether CP & Bearer Act would have any effect on the tariff regulations and if so how.

Review and assessment of the above-mentioned issues is very crucial towards formulation of tariff regulations. Due to this very reason, it was included in the TOR. But the same has not been included by the consultant in the approach paper. Hence, there is a need to first ensure that the review and assessment of these crucial aspects is done and the same is included in the approach paper.

Recommendations based on Submission 2.4:

1. The consultant conduct thorough review and assessment of the issues mentioned above (required as per para 3(5), (8), (9) of TOR as reproduced in para 2.4 (a), (b) & (c) in present submission) and include the same in the approach paper.
2. Public consultation should be undertaken only after the approach paper is complete in all respect.

Section 3. Lacunas in Proposed Philosophy or Principles

This section includes comments on the qualitative aspects of the proposed philosophy or principles for tariff determination. The submission below present a brief assessment of the philosophy or principles as proposed in the approach paper.

Submission 3.1 Scanty and Inadequate Detailing of Tariff Philosophy or Principles

As per the TOR, the first part of the approach paper is supposed to be devoted completely to tariff principles or philosophy. Hence, it was expected that paper would include detail elaboration and articulation of proposed principles. But it can be seen from paper that out of 302 pages of approach paper only 3 pages are devoted to enumeration of principles or philosophy (refer Chapter 6 of paper). This clearly indicates at the scanty and inadequate detailing of tariff philosophy or principles given in the approach paper.

Hence, the consultant has missed the point that principles and philosophy are crucial since they are the guiding post or foundations on which the regulations need to be built.

It could be argued that Chapter 7 also includes certain principles. But it is clear from the statement in Chapter 7 made by the consultant in the paper that the particular Chapter discusses various issues associated with bulk water tariff (refer second paragraph in the beginning of the said Chapter). The discussion on these issues included in the Chapter also clearly suggests that the same cannot be considered as proposal for tariff philosophy or principles.

Recommendations based on Submission 3.1:

1. The approach paper should include detailed and comprehensive proposal for tariff philosophy or principles and avoid giving scanty and inadequate details. It should form the major part of the first part of the approach paper.

Submission 3.2 Neglect to Progressive Principles

The regulator is supposed to protect the interest of various stakeholders as well as the public at large. In particular, the regulator should give special attention to the problems and needs of the poor and other disadvantaged sections of the society. Thus, regulation should cater to social policy considerations in the water sector. The MWRRA Act as well as water policy outlines some of these social policy considerations. The consultant has not only given scanty and inadequate details of tariff principles and philosophies, but the consultant has also neglected certain progressive principles in its proposal. Some of the progressive principles that are neglected in the approach paper are:

- a. **Equity:** The MWRRA Act emphasizes the need for judicious and equitable management, allocation and utilization of water resources. Equitable management also includes management of costs and tariffs. The approach paper does not include 'equity' as the main guiding principle in the list of principles enumerated in Chapter 6 of the paper. There is a cursory mention of the principle of 'no tariff shock to any class of consumer' in the said chapter, which we could be indirectly linked to the principle of 'equity'. But apart from this cursory mention, there is no attempt to separately and comprehensively discuss the issue of 'equity' in tariff regulations and concrete proposal for the same.

In Chapter 7 of the paper, the consultant discusses principle of 'ability to pay' vis-à-vis 'cost-based pricing'. In this discussion the consultant concludes by proposing that 'cost-based pricing' should be followed since it is most rationale and economically sound principle (refer Para 7.1.1 and 7.1.2 of paper). Hence, the consultant proposes to close the option of applying the 'ability to pay' principle in tariff regulations. Further, the consultant proposes that 'ability to pay' may be used to apportion costs between categories of users (refer Para 7.1.2 of paper). In the illustrative example for determination of tariff for three year control period, the consultant tries to incorporate this aspect by making provision for consideration of 'economic utilization' of water, with the assumption that 'economic utilization' is linked to 'ability to pay' (refer Para 10.3.2 of paper). But in practice the consultant restricts the application of the principle of 'ability to pay' to only broader categories of drinking water, industry and agriculture. So the consultant assumes all consumers of drinking water or all consumers of irrigation water are equal and have same capacity to pay the tariff. The consultant totally neglects the principle of 'equity' which is more important within each category of use and not just at the level of broader category of use. For example, all farmers do not have equal capacity to pay or all drinking water consumers do not have equal capacity to pay. The consultant ignores these crucial aspects of equity.

The consultant also ignores the need for applying the principle of equity at times of distress on certain water users arising due to drought, any other scarcity like through pollution or economic distress. This consideration is especially required in life-sustaining resource like water.

- b. **Life-line Water Services:** The State Water Policy (SWP) clearly states that in order to alleviate the impact of tariff charge on those who are unable to pay the complete charge, the State may allow cross-subsidies and allocate Government Funds (refer Para 4.4 of SWP). Thus, the SWP includes the social policy consideration of ensuring basic water services to the poor and disadvantaged sections (such as tribals, dalits, women, small farmers and others) even if they are not able to pay for the same (i.e. principle of 'ability of the water users to pay'). This makes it obligatory on the MWRRA to adhere to this policy consideration aimed at ensuring water to the poor and the disadvantaged section of the society.

Though, the approach paper discusses the issue of applying 'ability to pay' principle for water tariff, it concludes by leaving the issue out of the ambit of the current tariff regulation (with the assumption that the government may decide upon provision of subsidy to certain category of users). Lack of consideration of ensuring basic water services to the poor and disadvantaged sections at affordable rate in the current tariff regulations will make the regulations incomplete and lead to non-adherence of the policy and legal provisions.

The MWRRA Act states that the MWRRA should, 'determine and ensure that cross-subsidies between categories of use...are...offset by stable funding.....' While interpreting the particular provision the approach paper states that, 'One of the important functions of MWRRA is to establish a water tariff system, to fix the criteria for water charges at sub-basin, river basin and State level and to determine the cross-subsidies between categories.' (refer Para 2.3.1 of approach paper). Thus, MWRRA is obliged to give due consideration to the matter of life-line water services to poor and other disadvantaged sections. In this respect, the approach paper does not elaborate on the possible regulations through which it can address this particular social policy consideration.

In the international experiences on water tariff systems presented in the approach paper, there could have been more emphasis on the South African model of tariff system which provides free basic water to the poor and disadvantaged sections. But the approach paper fails to draw lessons from such innovative models that could benefit the vast populations of poor and marginalized sections in Maharashtra.

Though the final decision about the provision of subsidy is in the hands of the government, there is very much a need to integrate the regulations for determining the need and extent of such subsidies in the overall process of determining the water tariff. In absence of these regulations, the aspect of ensuring water services to the poor and disadvantaged sections will not gain importance and will remain ignored.

- c. **Environmental Considerations:** One of the objectives of the MWRRRA as mentioned in the preamble of the Act is to ensure sustainable management of the water resources in the state. Conservation of water resources and its quality is important for sustainable management of water resources. These prime considerations should be incorporated as part of the tariff regulations.

There is a clear direction from the MWRRRA Act that the MWRRRA is empowered to establish the tariff system for sustainable management of resources (read preamble in conjunction with sect. 11-d of Act). The tariff system is also supposed to ensure that total cost of maintenance of water resources is recovered. Thus, maintenance of water resources in good quality and quantity through tariff system has been clearly outlined as one of the obligatory functions of the MWRRRA. But the approach paper ignores to this interpretation of the legal provision and instead refers only to section 12 (5) of the Act which provides MWRRRA a supportive role in preservation of water quality. With this narrow interpretation the approach paper concludes that the Act does not empower MWRRRA to create penal provisions and instead the regulatory framework of MWRRRA should be in the form of incentives for water recycling and reuse technologies. Such a narrow interpretation does not serve the objective of the MWRRRA mentioned in the preamble of the Act. It should be noted that MWRRRA is empowered with the powers of civil court and hence can have powers of undertaking judicial proceeding related to pollution.

Further, it should also be noted that the State Pollution Control Boards (SPCB) have been less effective in ensuring control over water pollution. MWRRRA have been awarded the powers as are vested under the Code of Civil Procedure, 1908. SPCBs do not have such powers and hence they are handicapped in disposing cases of regulating pollution. In this context, the policy and legal framework of MWRRRA Act provides opportunity to evolve strong regulatory mechanisms for conservation of water. It should not be left to the voluntary option of obtaining incentives for water recycle and reuse. It should be very much part of the water tariff regulations.

It should also be noted that the particular section that provides supportive role to MWRRRA [sect 12(5)] finally concludes that. ‘...in doing so the principle that the person who pollutes shall pay shall be follow.’ Thus, it is obligatory on part of MWRRRA to incorporate these principles in the current tariff regulations being prepared. (This aspect is also elaborated in submission 4.3)

Another crucial aspect related to environmental consideration, is the need for allocation of water for ‘environmental’ purposes. Maintaining some minimum base flow in the river is one

such example of allocation of water for environmental purpose. 'Environment' is one among the various priority of water allocation identified in the State Water Policy (refer Para 4 of the policy). MWRRA Act also include 'environment' as one of the category of use of water (refer 2(f) of MWRRA Act). Thus, MWRRA is required to ensure water entitlement for environmental purposes. This means that environmental allocation should be considered as one of the category of use while apportioning the revenue requirement for water services. For example, costs at the head-works also need to be apportioned for the allocation of water for maintaining base flow in rivers. Such apportionment is necessary in recognition of the environmental allocation to be made. This apportioned revenue may be collected from other category of users or the government. In absence of such separate apportionment cost, there will be tendency to ignore the environmental allocations. This crucial aspect related to environmental consideration has been totally ignored by the consultant in the approach paper.

- d. **Transparency-Accountability-Participation-Capacity (TAP-C) Building:** The role of any regulator is to ensure protection and promotion of public interest. In doing so the regulator needs to ensure that provisions for transparency, accountability and participation (TAP) are built in the regulatory framework. Along with this, it is also necessary to make provisions in the regulatory framework for capacity building of stakeholders so that they are able to make use of the TAP provisions made in the regulatory framework. Hence, it was expected that the approach paper includes TAP-C as key principles to be followed in tariff determination and regulation. Unfortunately, Chapter 6, which specifically proposes principles of tariff system, provides inadequate detailing of principle of transparency and totally neglects principles of participation, accountability and capacity building. This is a serious lacuna considering the role of regulator to protect public interest, especially, the interest of the disadvantaged sections of society.

Recommendations based on Submission 3.2:

1. The approach paper should take cognizance of all progressive principles and philosophies in determination of tariff.
2. In particular, the paper should comprehensively detail out the principle of equity, life-line water services, environmental considerations and the principles of transparency-accountability-participation-capacity (TAP-C)

Submission 3.3 **No Reflection of Philosophy or Principles in Proposed Methodology for Tariff Determination**

Though the approach paper outlines some of the social policy considerations, it does not provide concrete proposals for regulations relating to these special considerations. Thus it is not clear from the paper on how the principles will be operationalised. Following are initial observations on some of the crucial aspects of the social policy considerations that lack the required attention in the approach paper:

- a. **Equity:** Though, the approach paper provides excerpts from various other study reports on the relation between equity and tariff, the same does not get reflected in the regulations proposed. E.g. the approach paper quotes that Maharashtra State Irrigation Commission Report, 1962, recommended that seasonal rates (i.e. uniform rates for all crops in a season) which were in vogue were to be replaced by crop rate system (i.e. water rates for individual type of crops). This was recommended to make water rates more equitable with reference to differential gross income derived from the crops (refer para 4.2 of paper). But the approach paper does not incorporate such and other aspects of equity in the final proposal for tariff regulations.
- b. **Other Principles:** Similarly, the approach paper fails to establish clear linkages between the proposed regulations (methodology/ terms and conditions) and other such principles enunciated in the paper. In particular, the concluding proposal in the approach paper does not reflect in totality how the principle of reliability, quality service, no tariff shocks and transparency will be made operational.

Recommendations based on Submission 3.3:

1. The principles or philosophies accepted in the approach paper shall be clearly linked with the regulations proposed. There should be clarity on how these principles are made operational. In particular all above-mentioned principles (including principles discussed in submission 3.3 and submission 3.2 as above) should be made clearly operational in the form of concrete regulations.

Section 4. Lacunas in Proposed Tariff Regulations

This section deals with the content level lacunas in the proposed regulations including the methodology used for determining tariff for control period. The section also includes the submission on the crucial issue of powers of MWRRA related to ‘rebate’ and ‘penalizing polluters’. The submissions are as follows.

Submission 4.1 Ad hoc Method of Determining Tariff for Three Year Control Period

As mentioned in the earlier submission, the approach paper does not include generic methodology for tariff determination. Rather it is narrowly focused on illustrating the method of determining tariff for three year control period starting from 2009. In this sense the approach paper is incomplete. However, here we would like to comment on the very method of arriving at tariff for the control period. Our analysis suggests that the method used in the illustrating example of arriving at tariff for control period is ad hoc and cannot stand the test of analytical soundness and accuracy.

Though, lack of data is a serious constraint posed before the task of determining tariff for the current period, there are crucial steps in the method applied by the consultant, which remains very ad hoc and unexplained. The ad hoc approach can be understood based on the analysis of the three main stages of tariff determination. These stages and the analysis of methodology in each stage are presented below:

- a. **Determination of Revenue Requirement for O&M:** For determination of revenue requirement for next three year control period, the consultant proposes the adoption of method of applying CAGR to past five year data of actual O&M expenses (M&R plus establishment costs) (refer para 9.6 and 9.7). Extrapolation of the figures of actual expense incurred in past is the fundamental basis of the proposal. The consultant has neither done any assessment of the actual O&M that may be required in the control period nor does the consultant propose a methodology for such an assessment.

Thus, the consultant assumes that whatever expenditure has been done in the past is appropriate and neglects the possibility of deterioration of quality of water resource assets due to inadequate allocation and expenditure of funds to O&M in the past. In contrary to this assumption, it is well-known that the O&M expenditure incurred in recent past is not sufficient to satisfy the actual need of O&M that is required for the sustainability of the assets. In fact, since the core mandate of MWRRA is to ensure sustainable management of water resources (refer preamble of MWRRA Act) it was expected that the consultant would put some light on the O&M expenses in recent past and its impact on the quality and sustainability of assets. But the consultant has ignored this aspect in the proposal for determination of revenue requirement.

The approach has some cursory references to the aspect of sufficiency of O&M costs. The approach paper (refer para 2.4 of paper) states that on aggregate basis (i.e. probably ignoring the issue of arrears) revenue collection from past five years is approximately matching with the O&M cost. Further, the approach paper (section 2.5.1) states that the tariff realized is insufficient to meet the O&M costs (though the data presented in this particular section is silent about the current status of recovery of O&M costs). In effect it is left to conclude from

these cursory remarks that the revenue collected or the O&M costs incurred is insufficient to meet the actual requirement of O&M.

In this context, the proposed method of applying CAGR to past expenditure and arriving at the future requirements of expenditure is based on ad hoc assumptions about the O&M requirements.

If we accept this method for the control period or if we try to derive a generic methodology for tariff determination from this example then the MWRRA will have no role to play a simple extrapolation of past figures by applying certain growth rate is all that is needed to determine revenue requirement and the tariff. Hence, the proposed method does not full-fill the requirement of the MWRRA Act, which requires the MWRRA to regulate tariff based on the requirements of prudent costs. In the current proposal there is no space for MWRRA to exercise its powers of prudence check on various costs and ensuring sustainability of assets. Thus, the method proposed for arriving at revenue requirement for control period is ad hoc.

- b. **Apportionment of Revenue Requirement:** According to the proposal in the approach paper, the revenue requirement calculated from the above-mentioned method is then distributed among industrial, drinking and agricultural category of water use. This apportionment of revenue requirement is done based on weightages defined by the perception of the value for qualitative factors like quality, reliability, economic use for each of the water use category (refer para 10.3.2 of the paper). The values for each of these factors are crucial because they determine the revenue requirement and hence tariff to be charged to various category of use. In the proposed method, the values of these factors for different category of use have been arrived at through mere perceptions and not through specific calculation or through any objective method. The consultant has made no attempts to explain the rationale behind the exact figures assumed for these values. Though, the consultant explains in the paper (refer para 10.4 of paper) the rationale behind the high, medium and low value to be allocated to each category of use, no attempt has been made to provide the rationale behind the exact figures of the value allocated to each category of use (refer figures given in table 10-2 of paper). It is actually these figures that determine the revenue and hence tariff to be charged to different category of users. But these crucial figures have not been arrived through an objective method, but they are assumed in ad hoc manner.

This ad hoc approach is evident from the fact that the consultant in the approach paper proposes on one hand that reliability factor for industry should be more than the same for agriculture and accordingly the consultant assigns value of 3 to industry and 2.5 to agriculture for reliability (refer Table 10-2 of paper). But on the other hand the consultant in the approach paper states that “reliability of water supply for agriculture is as important as for industry if not more, as the reliability of water supply has significant impact on the yield of the crop” (refer para 10.4, bullet no. 3 in paper). This highlights the contrary views presented by consultant and still taking ad hoc approach to assign higher value to industry. This clearly shows that the proposed method does not stand the test of consistency and reliability of outcomes.

Further, it should be noted that through proposed method it is expected that the share of revenue to be collected from each category of use is arrived by multiplying these identified weightages of each category with the identified total revenue requirement. Thus, this method of arriving at revenue share of each category of use does not take into consideration the

consumption of each category. This leads to the situation where lower the consumption of particular category higher is the revenue share per volume of water consumed by that category and vice-versa. Or in other words lower the consumption of certain category higher will be the tariff charged per volume of water consumed. For example, if for some reasons, the total consumption of agriculture water use reduces in three year period, than naturally the projections for future consumption will be lowered during next tariff revision, which will lead to increase in tariff per volume of water consumer by agriculture consumer. Thus leads to unnecessary burden on the low consuming category. This shows that the method proposed is not reliable and consistent.

- c. **Determining Tariff Per Volume of Water for Each Category:** The share of revenue for each category identified through above-mentioned method is then divided by the estimates of the future consumption (next 3 years) of each category of use to arrive at the tariff for water per volume for each category. In this method, the estimates for water consumption are again based on the application of CAGR to past data of actual consumption of water by each category of use.

Thus, the consultant in the approach paper assumes that the past data of measurement of water consumed by each category is correct and it also assumes that the rate of increase in the future consumption by each category will remain same as in the past.

This method of arriving at consumptions figure (and hence tariff) by extrapolation of past data after applying the same rate of growth as in past leaves no space for MWRRA to regulate. In particular, it neglects the crucial role of MWRRA in regulation through technical validation of past data of consumption and through systematic and participatory assessment of future consumption needs.

The consultant neither takes into considerations these crucial aspects of water consumption for arriving at tariff for control period nor does the consultant proposed any methodology for the same. Thus, the basis of arriving at tariff figures is ad hoc and does not address the various factors that may affect consumption figures.

It also needs to be pointed that in all the above stages the data source is not clearly mentioned. In most of the crucial data relating directly to the finally proposed method of tariff determination (refer Tables 9-1, 9-7, 9-8, 9-9, 9-12), the source is mentioned as 'MWRRA Data'. There is a need to provide the source of primary data. In absence of confidence in the data being provided there is a need to undertake validation of the data and technical validation of the process of compiling the data.

Overall, it can be seen that the method proposed for arriving at tariff for control period is full of various ad hoc approaches. This method does not stand the test of analytical soundness, accuracy and consistency. The method also does not accommodate numerous variable and factors that would affect tariff system. Most importantly the method does not lead to any space for monitoring and regulation by MWRRA and thus does not follow the letter and spirit of MWRRA Act (this aspect is highlighted in detail in next submission 4.2).

Recommendations based on Submission 4.1:

1. Considering the comments and analysis presented in this submission, it is necessary to re-work the approach paper so that ad hoc assumptions and conclusions are avoided. The

methodology evolved should stand the test of analytical soundness, accuracy, consistency and reliability.

2. It is also necessary to undertake technical validation of the data provided for evolving the methodology.

Submission 4.2 **Non-cognizance of MWRRA's Regulatory Role in Tariff Determination: Regulation of Costs, Expenditures and Quality**

One of the major functions of any independent regulatory authority (IRA) is to ensure efficacy in the costs and expenditures of utilities. This pertains to the core function of economic regulation. Following are some of the crucial lacunas in the approach paper regarding economic regulation:

- a. **No Space for Prudence Check:** The basic proposal in the approach paper is to determine tariff based on the application of CAGR to O&M costs incurred in the past as well as to consumption in the past. There is hardly any discussion or concrete proposal for how MWRRA will regulate the adequacy of the costs estimated for determining tariff. There is a need for evolving regulations that will provide space to the MWRRA to assess whether the costs estimated are prudent and will meet the requirements of maintaining the infrastructure in good condition and at the same time not over-burden the water users with unnecessary costs.
- b. **No Space for Regulating the Efficacy of Expenditure:** The prudent costs allowed by MWRRA while determining tariff should also match with efficacy in actual expenditures by the utility. This is highly important considering the past experience of various types of inefficiency and irregularities that creeps in the actual expenditures and procurements by the utility. The approach paper neither proposes any regulation nor discusses these crucial aspects of bringing a check on the efficacy of the expenditures by the utility out of the revenue generated from the tariff charged or collected.
- c. **No Space for Regulating the Service Quality Vis-à-vis Tariff Charged/ Collected:** Water tariff paid by the users is supposed to provide financial resources required to deliver the appropriate level of quality water services. Hence, from public interest point of view it is necessary to regulate quality of service vis-à-vis the tariff charged or collected. The approach paper has a very scanty discussion on the quality of service with almost no proposal for regulation of the service quality by MWRRA.

Recommendations based on Submission 4.2:

1. The methodology proposed needs to be re-worked so as to include the role of MWRRA as a regulatory agency, especially towards, prudence and other checks and monitoring of costs and expenses involved in tariff calculation as well as regulating the quality of services vis-à-vis the tariff charged.

Submission 4.3 **Excessive Focus on Rebate for Water Conservation/ Recycling Technologies and Neglect to Penalizing Powers for Pollution**

The approach clearly states that rebate and penalties would be essential aspects of enabling framework that will encourage consumers to adopt water conservation and water recycling techniques. But the concluding proposal in the approach is too biased towards provision of rebates to industries implementing water conservation and water recycling techniques. In comparison the proposal totally ignores the penalizing options available. Following are the comments:

- a. **Rebates in Tariff Detrimental to Financial Health of Utilities:** Incentives for water conservation and treatment through rebate in tariff would be detrimental. This is because the tariffs are already at lower side with a cap on future tariff hike due to the legal provision of recovery of only O&M costs from tariff. So rebate in situation where there is already limited source of revenue for running water services would be detrimental to long-term financial sustainability of water service operations. It should be noted in this context that MWRRA is obliged to ensure sustainable management of water resource, which also includes financial sustainability of water utilities (refer preamble and section 11(r) of MWRRA Act).
- b. **Rebates in Tariff Not Effective:** In India, we have wide-spread experience of failure of voluntary or incentive-based conservation measures. Incentives have been successful to some extent where subsidies with regard to capital cost of installations are provided (e.g. Solar Water Heaters) and where there are clear economic benefits. But incentives with respect to rebate in tariff would be ineffective. This is because the cost of water for industrial user will always remain low due to the legal provision of recovery of only O&M costs from tariff. Secondly, since the tariffs are already low it does not make economic sense to provide incentive through reduction in tariffs. Thus, incentives could be evolved through mechanism of subsidy for capital cost of the conservation technologies and not through tariff reduction.
- c. **No Economic Gains for Bulk Water Utility through Rebates in Tariff for Conservation/Treatment:** One important aspect that needs to be considered is that tariff charged to the bulk water users in the current context does not include the cost of effluent treatment. Hence, it is economically unviable to provide incentive by reducing tariff for promotion of effluent treatment. There are no economic benefits gained by the water utility that supplies bulk water due to effluent treatment plants installed at the polluters end. Hence, promotion of effluent treatment, though necessary, cannot be related to bulk water tariffs.
- d. **Economically Inappropriate to Provide Capital Subsidy through Tariff Not Based on Capital Recovery:** Rebates are required for capital costs of the conservation technologies that will be installed by industry. Such capital investment contributes towards the general capital assets related to water services. Hence, it could be argued that such investments by industries should be subsidized because the burden of capital investment on the utilities gets reduced. But such investments cannot be subsidies by rebate in water tariff because water tariff are based on O&M costs only and does not have the component of recovery of capital investments from industrial or other users. Hence, it is inappropriate to provide incentives for capital investments in conservation technologies through rebates in tariff that is based merely on O&M costs.

- e. **No Legal Basis for Rebate in Tariff:** The consultant in the approach argues that the legal basis for rebate is found in Section 7 of Water (Prevention and Control of Pollution) Cess Act, 1977 (refer para 5.10 of paper). But this basis used by the consultant is totally wrong and miss-guiding. It should be understood that the particular provision of the Water Cess Act is related to rebate on cess and not rebate on water tariff. This cess applied through Water Act is a very particular cess that is collected from industry as a contribution towards the operational cost of Pollution Control Boards (PCBs). So this cess has nothing to do with water tariff or with cost of provision of water service. The rebate in cess is appropriate in this particular is cess is based on the economic rationale that any investment by industry in affluent treatment will naturally lead to reduction in the administrative burden on PCBs and reduction in the cess required to be collected from industry for its own administrative costs. This rationale is not applicable in case of bulk water tariffs that will charged by water utilities because the tariff is suppose to recover only the O&M costs of provision of water services to industrial users. Hence, the legal basis for rebate on cess in Water Act is not applicable to rebate in tariff.
- f. **Legal Basis for Penalizing the Polluter Does Exists:** There is not a single mention of word ‘rebate’ or ‘incentive’ in provisions of MWRRRA Act related to responsibility of MWRRRA in water conservation and sustainability. In contrast, there is a clear policy guideline given to MWRRRA in the Act to adhere to the principle of ‘the person who pollutes shall pay’ (refer Sect. 12 (5) of Act). Even in presence of this policy guideline explicitly mentioned in the Act, the consultant in the approach paper maintains an excessive focus on the principle of ‘incentive through rebate’ instead of agreed principle of ‘the person who pollutes shall pay’. This is an attempt to miss-guide the stakeholders and reduce the regulatory authority to a body of ‘facilitator’ then a ‘regulator’.

It should be noted that, as per the preamble of the Act, MWRRRA is empowered to regulate entire water resources in the state to ensure sustainability of water resources. Further, MWRRRA has powers equivalent to civil court (refer Sect. 13 of Act) and also has powers to penalize in case of non-compliance of its own order as well as penalize those who contravene or attempt to contravene or abets to contravention of any of the provision of the Act or rule or regulations made by MWRRRA. Thus, MWRRRA has a clear guideline to adhere to the principle of ‘the person who pollutes shall pay’, has the powers to make regulations for matters related to the Act and also the powers to penalize for contravention of these regulations. Hence, in effect there is a strong legal basis for penal provisions in cases of pollution. The conclusion drawn by the consultant in the approach paper that MWRRRA does not have powers to penalize the polluter is incorrect (refer para 7.11 of paper).

It should also be noted that the State Pollution Control Boards (SPCB) have been less effective in ensuring control over water pollution. MWRRRA have been awarded the powers as are vested under the Code of Civil Procedure, 1908. SPCBs do not have such powers and hence they are handicapped in disposing cases of regulating pollution. Thus, a MWRRRA is an apex regulatory authority for all matters related to water regulation. SPCBs have the powers of entry and inspection under Sect. 94 of the Code of Criminal Procedure, 1973. Hence, MWRRRA in combination with SPCBs can effectively bring control on pollution of our water resources and full-fill the letter and the spirit of MWRRRA Act. The policy and legal framework of MWRRRA Act provides opportunity to evolve strong regulatory mechanisms for conservation of water.

Recommendations based on Submission 4.3:

1. MWRRA should conduct a detail review of its powers with respect to rebate and penalizing for pollution control.
2. Based on the arguments made in the above submission, MWRRA should simultaneously initiate process for evolving a framework for implementing the policy guideline of ‘the person who pollutes shall pay’
3. Based on the arguments made in the above submission, MWRRA should not link the issue ‘incentive for capital investments in conservation technologies’ with the ‘tariff based on O&M costs’. MWRRA should take a clear position on this aspect and issue a concrete direction in this regard.

Section 5. Interpretation of the Tariff Related Provision in MWRRA Act

There are certain crucial observations on the interpretation of the very provision of water tariff in MWRRA Act i.e. of Sect. 11(d) of MWRRA Act. Following is a submission based on detail study and analysis of this provision.

Submission 5.1 Establish Water Tariff System for All Water Users (Bulk as well as Retail)

The main provision pertaining to tariff in the MWRRA Act (refer Sect. 11(d) of the Act) reads, ‘to establish a water tariff system, and to fix the criteria for water charges at sub-basin, river basin and State level after ascertaining the views of the beneficiary public, based on the principle that the water charges shall reflect the full recovery of the cost of the irrigation management, administration, operation and maintenance of water resources project’. The current interpretation of this particular provision being done by MWRRA in the process of making regulations is that the MWRRA is empowered to determine only the bulk water tariff and not the retail water tariff. Hence, such an interpretation limits the regulatory purview of MWRRA only on bulk water supply. But this very interpretation of the provision needs to be re-visited considering the detail word-to-word interpretation of the provision. Following are some observations on the same:

- The first part of the provision empowers the MWRRA to establish entire tariff system, not limited to bulk water supply. The later part which suggests the level of sub-basin, river basin and the state can be applied only to the second part of the provision which empowers the MWRRA to fix criteria for water charges (based on the placement of comma and its grammatical interpretation). In this situation, the MWRRA is empowered to establish water tariff system for all water uses, bulk as well as retail.
- Further, the approach paper attempts to interpret the meaning of the term ‘sub-basin, river basin and State level’ in para 7.3 of the paper. According to this interpretation, the term relates to determining separate tariff for each basin and sub-basin based on the costs associated with that basin and sub-basin. This means that particular provision in the Act empowers MWRRA to determine basin and sub-basin wise tariffs instead of uniform tariff for all basins. In effect this provision has no relation to the powers of MWRRA to determine bulk or retail tariff. For example, if MWRRA opts to exercise this power then they are empowered to determine basin or sub-basin-wise tariff for all consumers in that basin and sub-basin and not just restricted to bulk consumers.
- If the objective of the particular provision was to limit the powers of MWRRA only to bulk water tariff then there would have been an explicit mention of the same. In absence of such a mention, MWRRA has been made responsible to establish tariff system for all water users, bulk as well as retail.

Based on the above arguments, it is clear that MWRRA cannot restrict the current process to bulk water pricing. Since, the MWRRA is empowered to establish tariff system for entire State and also mandated to regulate the water resources of entire State (refer preamble of the Act) it is necessary for MWRRA to at least develop a broader framework for tariff system within which other agencies responsible for distribution and management of water services to end-users can determine appropriate tariff in adherence to the principles and regulatory framework of MWRRA Act.

Recommendations based on Submission 5.1:

1. MWRRA should conduct a detail review of the letter and spirit of the tariff related responsibilities, functions and powers of MWRRA.
2. Based on the arguments made in the above submission, MWRRA should simultaneously initiate process for evolving 'Water Tariff System' for all water users, bulk as well retail.

* * *