



## DELHI ELECTRICITY REGULATORY COMMISSION

Vinayak Bhawan, 'C' Block, Shivalk, Malviya Nagar, New Delhi- 110017.

F.11(1936)/DERC/2021-22

### Tariff Petition No. 04/2022 (True-up part)

In the matter of: **Petition for approval of True-Up for FY 2020-21.**

BSES Yamuna Power Limited  
Through its: **CEO**  
Shakti Kiran Building  
Karkardooma  
Delhi-110 092

...Petitioner/Licensee

**Coram:**  
Hon'ble Justice (Retd.) Jayant Nath, Chairperson

### **ORDER**

[Date of Order: 19.07.2024]

M/s BSES Yamuna Power Limited (BYPL) has filed the instant Petition for approval of True-up of expenses upto FY 2020-21 and Aggregate Revenue Requirement (ARR) for FY 2022-23. The Petition was admitted by the Commission vide Order dated 17.03.2022. The Petition along with Executive Summary was uploaded on the website of the Commission and publicised through advertisement in newspapers for seeking response of the stakeholders. However, this Order pertains only to the approval of True-up of expenses upto FY 2020-21.

The comments and suggestions of the stakeholders including the submissions made during the virtual public hearing held on 12.05.2022 & 13.05.2022 and the arguments advanced by the Petitioner have been duly considered by the Commission.

In exercise of the powers vested under the Electricity Act, 2003 and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017, the Commission hereby passes this True-up Order signed, dated and issued on 19.07.2024.

(Justice (Retd.) Jayant Nath)  
Chairperson

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## LIST OF ABBREVIATIONS

Abbreviation	Explanation
ARR	Aggregate Revenue Requirement
A&G	Administrative and General
AAD	Advance Against Depreciation
ABT	Availability Based Tariff
ACD	Advance Consumption Deposit
AEEE	Alliance for an Energy Efficient Economy
AMR	Automated Meter Reading
APDRP	Accelerated Power Development and Reforms Program
AT&C	Aggregate Technical and Commercial
ATE	Appellate Tribunal for Electricity
BEE	Bureau of Energy Efficiency
BEST	Brihanmumbai Electric Supply and Transport
BHEL	Bharat Heavy Electricals Limited
BIS	Bureau of Indian Standards
BPTA	Bulk Power Transmission Agreement
BRPL	BSES Rajdhani Power Limited
BST	Bulk Supply Tariff
BTPS	Badarpur Thermal Power Station
BYPL	BSES Yamuna Power Limited
CAGR	Compounded Annual Growth Rate
CCGT	Combined Cycle Gas Turbine
CEA	Central Electricity Authority
CER	Centre for Energy Regulation
CERC	Central Electricity Regulatory Commission
CFL	Compact Fluorescent Lamp
CGHS	Cooperative Group Housing Societies
CGS	Central Generating Stations
CIC	Central Information Commission
CISF	Central Industrial Security Force
CoS	Cost of Supply
CPI	Consumer Price Index
CPRI	Central Power Research Institute
CPSUs	Central Power Sector Utilities
COVID	Corona Virus Disease
CSGS	Central Sector Generating Stations
CWIP	Capital Work in Progress
DA	Dearness Allowance
DDA	Delhi Development Authority
DERA	Delhi Electricity Reform Act
DERC	Delhi Electricity Regulatory Commission
DESL	Development Environenergy Services Limited

Abbreviation	Explanation
DIAL	Delhi International Airport Limited
DISCOMs	Distribution Companies (BRPL, BYPL, TPDDL & NDMC)
DMRC	Delhi Metro Rail Corporation
DPCL	Delhi Power Company Limited
DTL	Delhi Transco Limited
DVB	Delhi Vidyut Board
DVC	Damodar Valley Corporation
EHV	Extra High Voltage
EPS	Electric Power Survey
FBT	Fringe Benefit Tax
FERV	Foreign Exchange Rate Variation
FPA	Fuel Price Adjustment
GFA	Gross Fixed Assets
GIS	Geographical Information System
GoNCTD	Government of National Capital Territory of Delhi
GTPS	Gas Turbine Power Station
HEP	Hydro Electric Power
HPSEB	Himachal Pradesh State Electricity Board
HRA	House Rent Allowance
HT	High Tension
HVDS	High Voltage Distribution System
ICAR	Indian Agricultural Research Institute
IDC	Interest During Construction
IEX	Indian Energy Exchange
IGI Airport	Indira Gandhi International Airport
IPGCL	Indraprastha Power Generation Company Limited
JJ Cluster	Jhuggi Jhopadi Cluster
KSEB	Kerala State Electricity Board
LED	Light Emitting Diode
LIP	Large Industrial Power
LT	Low Tension
LVDS	Low Voltage Distribution System
MCD	Municipal Corporation of Delhi
MES	Military Engineering Service
MLHT	Mixed Load High Tension
MMC	Monthly Minimum Charge
MoP	Ministry of Power
MTNL	Mahanagar Telephone Nigam Limited
MU	Million Units
MYT	Multi Year Tariff
NABL	National Accreditation Board for Testing and Calibration of Laboratories
NAPS	Narora Atomic Power Station

Abbreviation	Explanation
NCT	National Capital Territory
NCTPS	National Capital Thermal Power Station
NDLT	Non Domestic Low Tension
NDMC	New Delhi Municipal Council
NEP	National Electricity Policy
NGO	Non Government Organisation
NHPC	National Hydroelectric Power Corporation
NPCIL	Nuclear Power Corporation of India Limited
NRPC	Northern Regional Power Committee
NTI	Non-Tariff Income
NTP	National Tariff Policy
O&M	Operations and Maintenance
OCFA	Original Cost of Fixed Assets
PGCIL	Power Grid Corporation of India
PLF	Plant Load Factor
PLR	Prime Lending Rate
PPA	Power Purchase Agreement / Power Purchase Adjustment
PPCL	Pragati Power Corporation Limited
PTC	Power Trading Corporation
PWD	Public Works Department
R&M	Repair and Maintenance
RAPS	Rajasthan Atomic Power Station
REA	Regional Energy Account
RoCE	Return on Capital Employed
ROE	Return on Equity
RRB	Regulated Rate Base
RTI	Right to Information
RWA	Resident Welfare Associations
SBI	State Bank of India
SDMC	South Delhi Municipal Corporation
SERC	State Electricity Regulatory Commission
SIP	Small Industrial Power
SJVNL	Satluj Jal Vidyut Nigam Limited
SLDC	State Load Despatch Centre
SPD	Single Point Delivery
SPUs	State Power Utilities
SVRS	Special Voluntary Retirement Scheme
TERI	The Energy and Resources Institute
THDC	Tehri Hydro Development Corporation
ToD	Time of Day
TOWMCL	Timarpur Okhla Waste Management Company (P) Limited
TPDDL	Tata Power Delhi Distribution Limited

Abbreviation	Explanation
TPS	Thermal Power Station
UI	Unscheduled Interchange
UoM	Unit of Measurement
WACC	Weighted Average Cost of Capital
WC	Working Capital
WPI	Wholesale Price Index

**A1 INTRODUCTION**

1.1 This Order relates to the Petition filed by BSES Yamuna Power Limited (BYPL) (hereinafter referred to as 'BYPL' or the 'Petitioner') for True-Up of FY 2020-21 for Distribution Business in terms of Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as 'Tariff Regulations, 2017') and Delhi Electricity Regulatory Commission (Business Plan) Regulations, 2019 (hereinafter referred to as 'Business Plan Regulations, 2019').

**BSES YAMUNA POWER LIMITED (BYPL)**

1.2 BSES Yamuna Power Limited (BYPL) is a company incorporated under Companies act, 1956 and is engaged in the business of Distribution and Retail Supply of Electricity within its area of supply (as defined in the License) in the National Capital Territory (NCT) of Delhi.

**DELHI ELECTRICITY REGULATORY COMMISSION**

1.3 Delhi Electricity Regulatory Commission (hereinafter referred to as 'DERC' or the Commission') was constituted by GoNCTD on 3/03/1999 and it became operational from 10/12/1999.

1.4 The Commission's approach to Regulation is driven by the Electricity Act, 2003, the National Electricity Plan, the National Tariff Policy and the Delhi Electricity Reform Act 2000 (hereinafter referred to as 'DERA'). The Electricity Act, 2003 mandates the Commission to take measures conducive to the development and management of the electricity industry in an efficient, economic and competitive manner, which inter alia includes formulation of Tariff Regulations and Tariff determination.

**STATE ADVISORY COMMITTEE MEETING**

1.5 The "State Advisory Committee (SAC)" have been re-constituted and notified the same vide Gazette Notification No.F.7(37)/DERC/DS/2016-19/C.F.No.5624/253 dated 23/07/2020, comprising of Chairperson and Member of DERC and Other Members of SAC (including their nominees).

- 1.6 The 20<sup>th</sup> State Advisory Committee Meeting was held (virtually) on 29/06/2022. Apart from the Chairperson, Member and other senior officers of the Commission, the 20<sup>th</sup> SAC Meeting witnessed participation from DMRC, MCD, NISE, DESL, NABL, IEX, TERI, AEEE, Department of Health & Family Welfare, GoNCTD, CER, Labour Department and ICAR. The SAC was also attended by officers of the Commission.
- 1.7 The issue which was deliberated during the meeting is listed below: -

**Table 1. 1: Issues Discussed in 20<sup>th</sup> State Advisory Committee Meeting**

Sr. No.	Issues Discussed
a.	Tariff Petition for True up of FY 2020-21 for GENCOs, TRANSCO and DISCOMs

### **MULTI YEAR TARIFF REGULATIONS**

- 1.8 The Commission issued Tariff Regulations, 2017 vide Gazette notification dated 31/01/2017 specifying Terms and Conditions for Determination of Tariff for Transmission of Electricity under the Multi Year Tariff (MYT) framework. Further the operational norms for Distribution utilities have also been approved by the Commission in Business Plan Regulations, 2019 under Tariff Regulations, 2017 for the period FY 2020-21 to FY 2022-23.

### **FILING OF PETITION FOR TRUE-UP OF FY 2020-21**

#### **FILING AND ACCEPTANCE OF PETITION**

- 1.9 BYPL filed its Petition for the approval of Truing up of Expenses upto FY 2020-21 before the Commission on 15/12/2021.
- 1.10 The Petition was analyzed & various defects in the Petition were communicated to the Petitioner vide letter dated 28/12/2021. Thereafter, Petitioner submitted additional documents vide letter dated 31/12/2021. It was observed that the Petitioner had still not submitted the complete information. The Petitioner was again informed to submit the remaining information vide letter dated 25/01/2022. The Petitioner submitted additional information vide letter dated 31/01/2022.
- 1.11 The Commission admitted the Petition for True up of ARR for FY 2020-21 vide its Order dated 17/03/2022 respectively, subject to clarifications / additional information, if any, which would be sought from the Petitioner from time to time.

Copy of the Admission Orders dated 17/03/2022 is enclosed as *Annexure I* to this Order.

- 1.12 The complete copy of the True-up Petition filed by the Petitioner along with additional information was uploaded on website of the Commission ([www.derc.gov.in](http://www.derc.gov.in)) and the Petitioner.
- 1.13 The Executive Summary and one-page snapshot Summary of True-up of FY 2020-21 was also prepared and uploaded on Commission's website ([www.derc.gov.in](http://www.derc.gov.in)) for quick glance of Tariff Petitions and for ease to consumers.

#### **INTERACTION WITH THE PETITIONER AND PUBLIC HEARING**

- 1.14 The Order has referred at numerous places about various actions taken by the "Commission". It may be mentioned for the sake of clarity, that the term "Commission" in most of the cases refers to the officers of the Commission for carrying out the due diligence on the Petition filed by the Petitioner for obtaining and analyzing information/clarifications received from the Petitioner and submitting all issues for consideration by the Commission.
- 1.15 The Commission relied upon the analysis conducted by various concerned Divisions of the Commission for preparation of the Order.
- 1.16 A preliminary scrutiny/analysis of the Petition submitted by the Petitioner was carried out. Additional information/clarifications were sought from the Petitioner as and when required. The Commission and the Petitioner discussed key issues raised in the Petition, which included details of Long Term & Short Term Power Purchase, Sales, Billing, Collection, Capital expenditure and capitalisation plan, allocation of expenses into Wheeling and Retail Supply Business, loss reduction trajectory, liability towards SVRS expenditure, etc.
- 1.17 The Commission also conducted multiple validation sessions with the Petitioner during which discrepancies in the Petition and additional information as required by the Commission were sought. Subsequently, the Petitioner submitted replies to the issues raised and provided details and documentary evidence to substantiate its claims regarding various submissions.
- 1.18 The Commission decided to conduct Public Hearing for issuance of Tariff Order related to True up of FY 2020-21 and communicated the same through Public Notice

published in leading newspapers on 31/03/2022 and also uploaded the same on Commission's website. Stakeholders were given additional time-period till 25/04/2022 or date of Public Hearing, whichever is later for submitting comments/suggestions on Tariff Petition filed by the utilities.

- 1.19 A soft copy of the Petition was made available in CD form on payment of Rs. 25/- per CD or a copy of the Petition was also made available for purchase from the Petitioner head-office on working day till 25/04/2022 between 11 A.M. to 4 P.M. on payment of Rs.100/- either by Cash or by Demand Draft/Pay Order.
- 1.20 In order to extend help to the stakeholders in understanding the ARR Petition and filing their comments, officers of the Commission viz. Joint Director (Tariff-Engineering), Joint Director (Tariff-Finance), Joint Director (Engineering), Joint Director (Performance Standards & Engineering), Deputy Director (Tariff-Economics) and Deputy Director (Tariff-Engineering) were nominated for discussion on the ARR Petitions. This was duly mentioned in the Public Notices published by the Commission.
- 1.21 Considering the COVID-19 situation prevalent at that time, the Commission decided to conduct Public Hearing virtually on 12/05/2022 & 13/05/2022 on Tariff Petitions for True Up of FY 2020-21.
- 1.22 Accordingly, the Commission scheduled a Virtual Public Hearing on Tariff Petitions for True Up of FY 2020-21 on 12/05/2022 & 13/05/2022 to take a final view with respect to various issues concerning the principles and guidelines for Tariff determination.
- 1.23 The Commission also received written comments from stakeholders. The comments of the stakeholders were also forwarded to the Petitioner who responded to the comments of the stakeholders with a copy of its replies to the Commission.
- 1.24 The issues and concerns raised by various stakeholders have been examined by the Commission. The major issues made by the stakeholders, the responses of the Petitioner thereon and the views of the Commission, have been summarized in Chapter A2.

- 1.25 The Commission has therefore considered the inputs/comments received from various stakeholders along with the due diligence conducted by the officers of the Commission in arriving at its final decision.

#### PUBLIC NOTICE

- 1.26 The Commission published Public Notice in the following newspaper on 31/03/2022 inviting comments/suggestions from stakeholders on the Tariff Petitions filed by the Petitioner latest by 25/04/2022 or the date of Public Hearing, whichever is later:

(a)	Hindustan Times (English)	:	31/03/2022
(b)	The Times of India (English)	:	31/03/2022
(c)	The Hindu (English)	:	31/03/2022
(d)	The Indian Express (English)	:	31/03/2022
(e)	Navbharat Times (Hindi)	:	31/03/2022
(f)	Punjab Kesari (Hindi)	:	31/03/2022
(g)	Virat Vaibahv (Hindi)	:	31/03/2022
(h)	Roznama Rashtriya Sahara (Urdu)	:	31/03/2022
(i)	Educator (Punjabi)	:	31/03/2022

- 1.27 Public Notice was also uploaded on Commission's website [www.derc.gov.in](http://www.derc.gov.in).

- 1.28 The Petitioner also published a Public Notice indicating salient features of its Petition for inviting comments from the stakeholders and requesting to submit response on the Petition latest by 25/04/2022 or the date of Public Hearing, whichever is later, in the following newspapers on the respective dates mentioned alongside:

(a)	Hindustan Times (English)	:	05/04/2022
(b)	Mint (English)	:	05/04/2022
(c)	Hindustan (Hindi)	:	06/04/2022
(d)	Punjabi Tribune (Punjabi)	:	07/04/2022
(e)	The Inquilab (Urdu)	:	07/04/2022

- 1.29 The Commission issued Public Notice in the following newspapers (on dates mentioned alongside), indicating the date and time of Virtual Public Hearing scheduled on 12/05/2022 & 13/05/2022 for comments by stakeholders on the Tariff Petition filed by the Petitioner latest by 13/05/2022 and also indicated the conducting of Virtual Public Hearing.

(a)	Hindustan Times (English)	:	25/04/2022
(b)	The Times of India (English)	:	25/04/2022
(c)	The Hindu (English)	:	25/04/2022

(d)	The Indian Express (English)	:	25/04/2022
(e)	Navbharat Times (Hindi)	:	25/04/2022
(f)	Punjab Kesari (Hindi)	:	25/04/2022
(g)	Virat Vaibahv (Hindi)	:	25/04/2022
(h)	Roznama Rashtriya Sahara (Urdu)	:	25/04/2022
(i)	Educator (Punjabi)	:	25/04/2022

1.30 Public Notice related to process for Virtual Public Hearing (VPH) was also uploaded on Commission's website. The platform for VPH was as follows:

Dates	12/05/2022 & 13/05/2022
Timings	11:00 AM to 01:00 PM and 02:00 PM to 05:00 PM
Last date for registration	9/05/2022 at 03:00 PM
Platform	Google Meet
Email ID for Registration	<a href="mailto:dercpublichearing@gmail.com">dercpublichearing@gmail.com</a>

#### LAYOUT OF THE ORDER

1.31 This Order is organized into following Chapters:

- a) **Chapter A1** provides details of the Tariff setting process and the approach of the Order.
- b) **Chapter A2** provides brief of the comments of various stakeholders, the Petitioner's response and views of the Commission thereon.
- c) **Chapter A3** provides details/analysis of the True up of FY 2020-21 and impact of past period true up based on judgement of Hon'ble Supreme Court & Hon'ble APTEL, if any, Review Order of the Commission, if any, and its directives on the matter.

1.32 The Order contains following Annexures, which are an integral part of the Tariff Order:

- a) **Annexure I** - Admission Order.
- b) **Annexure II** - List of the stakeholders who submitted their comments on True-up of expense for FY 2020-21.
- c) **Annexure III** – List of Stakeholders/consumers who attended the virtual public hearing.
- d) **Annexure IV to VI** – Hon'ble Supreme Court Orders.

**APPROACH OF THE ORDER****APPROACH FOR TRUE UP OF FY 2020-21**

1.33 The Commission in its Business Plan Regulations, 2019 has indicated that Regulations shall remain in force for a period of three (3) years, as follows:

*“1(2) These Regulations shall remain in force for a period of 3 (three) years i.e., for FY 2020-21, FY 2021-22 and FY 2022-23, unless reviewed earlier.”*

1.34 The Commission in its Tariff Regulations, 2017 has specified that Regulations shall be deemed to have come into effect from 1<sup>st</sup> February, 2017, as follows:

*“(4) These Regulations shall be deemed to have come into force from 1<sup>st</sup> February, 2017 and shall remain in force till amended or repealed by the Commission. “*

1.35 Accordingly, ARR for FY 2020-21 has been Trued up as per Tariff Regulations, 2017 and Business Plan Regulations, 2019.

**A2 RESPONSE FROM STAKEHOLDERS**

- 2.1 Summary of objections/suggestions from stakeholders, response of DISCOMs (viz. New Delhi Municipal Council (NDMC), BSES Rajdhani Power Limited (BRPL), Tata Power Delhi Distribution Limited (TPDDL), BSES Yamuna Power Limited (BYPL), and the Commission's view.

**INTRODUCTION**

- 2.2 Section 64(3) of the Electricity Act, 2003, stipulates that True-up under Section 62 of the Electricity Act, 2003 for the Distribution Licensees on consideration of all objections/suggestions received from the public and the response of the DISCOMs response thereon to the objections/suggestions of stakeholders, issue a Tariff Order accepting the applications with such modifications or such conditions as applicable may be specified in the order.
- 2.3 The Commission has on examination of the issues took into consideration the comments/ suggestions offered by the various stakeholders in their written statements and also the response of the Petitioners thereon.
- 2.4 The comments and the suggestions of stakeholders, and the Petitioners' replies/response thereon the summarized views of the Commission are appended under various subheads.

**ISSUE 1: PUBLIC HEARING AND OBJECTION FILING PROCESS****STAKEHOLDERS' VIEW**

- 2.5 DISCOMs Petitions are voluminous consisting of 2500 pages documents & 30 days time duration provided for submitting comment is not sufficient. The Commission is requested to grant more time in public hearing to submit detailed reply as per Petition filed by DISCOM.
- 2.6 The Commission may publish all the comments received on Tariff Petitions on its website, as the Delhi Development Authority (DDA) did in case of the suggestions for MPD.
- 2.7 Petitions along with the Petitioner's audited accounts should be made available to the public and can be downloaded by anyone.
- 2.8 Objections of consumers should be decided on merit. If they are not accepted, their

- basis and reasons should be kept in public domain.
- 2.9 The Commission is requested to provide an opportunity of personal hearing in these matters. Offline Public Hearing should also be conducted.
- 2.10 Regulatory Assets and Fixed Charges should be mentioned in Executive summary.
- 2.11 Executive summary must be standardized so that the minimum information at a glance is made available.
- 2.12 Petition should be strictly filed according to the Regulations & should be signed by the Head of the Regulatory Department of the DISCOMs.
- 2.13 Three power DISCOMs i.e. TPDDL, BRPL and BYPL should be merged and there should be one power distribution company.
- 2.14 NIC issued email id should be used by all Central/State Governments & their Organization and usage of Gmail id is contravention to State Policy.
- 2.15 Public hearing recording should be uploaded on DERC website.
- 2.16 Public hearing was not conducted for draft DERC (Forum for redressal of Grievances of Consumers and Ombudsman) Regulations, 2018. The Appointment of CGRF and Ombudsman Chairman must be carried out with public hearing and not in a shoddy and hush manner.
- 2.17 Methodology of Tariff Order is not correct. Liability should not be on consumers.
- 2.18 Delhi government is an equal partner in the Distribution Company. Does it agree with the data furnished in the Petition?

## PETITIONERS' SUBMISSION

### TPDDL

- 2.19 As regards to stakeholder comment on conducting physical Public Hearing & display of all comments on its website, the Commission may decide on the same.  
Procedure for virtual public hearing is uploaded at the website of DERC. The path for the same is <http://www.derc.gov.in/notices/public-notice> .
- 2.20 The basis and reasons for the decisions of the Commission are provided in the Tariff Order issued for the relevant year.
- 2.21 Other queries doesn't pertain to TPDDL.

### BYPL

- 2.22 The stakeholder's plea may be duly considered by the Commission.

- 2.23 With regards to the comments of the stakeholder that only NIC issued email id should be used by all Central/State Governments and their Organizations, it is submitted that we are not in a position to reply on this comment.
- 2.24 The Audited Accounts duly approved and signed by the Board of the Petitioner is submitted along with the Petition for True-up of FY 2020-21 to the Commission. The entire Petition along with the Petitioner's audited accounts are available in the public domain and can be downloaded by anyone desirous of doing so from the website of the Commission.
- 2.25 With regard to the comment on merging of utilities, it is submitted that DISCOMS were awarded licenses for taking over the management and operations of Power Distribution in various parts of Delhi. Thus, there was public-private partnership for the three Distribution Businesses in Delhi, viz. BRPL, BYPL and TPDDL.
- 2.26 ARR Petition is filed strictly in terms with the provisions of Tariff Regulations, 2017. There is no such mandate that the ARR Petition has to be signed by the Head Regulatory Department of DISCOM. Any person who is authorized by the company under Delegation of Powers can sign the ARR Petition.
- 2.27 The stakeholder has submitted comments on draft DERC Forum for Redressal of Grievances of Consumers and Ombudsman) (First Amendment) Regulations, 2021 which does not pertain to the ARR Petition.

**BRPL**

- 2.28 Delhi Government nominated persons are the Board Member of the DISCOM. The Audited Accounts are finalized after approval of all the Board Member.
- 2.29 The stakeholder has submitted comments on draft DERC Forum for Redressal of Grievances of Consumers and Ombudsman) (First Amendment) Regulations, 2021, which does not pertain to the ARR Petition.
- 2.30 With regard to the comment on merging of utilities, it is submitted that DISCOMS were awarded licenses for taking over the management and operations of Power Distribution in various parts of Delhi. Thus, there was public-private partnership for the three Distribution Businesses in Delhi, viz. BRPL, BYPL and TPDDL.
- 2.31 Other issue does not pertain to the ARR Petition. However, the stakeholder's plea may be duly considered by the Commission.

**NDMC**

2.32 The party is not in NDMC area.

**COMMISSION'S VIEW**

- 2.33 The Commission endeavors to issue Tariff Orders as per provisions of the Electricity Act, 2003.
- 2.34 The Commission vide its Public Notice dated 31/03/2022 sought comments/suggestions on Petitions for True-Up of Expenses for FY 2020-21 filed by Generating Companies, Transmission Licensee and Distribution Licensees by 25/04/2022 to take a final view on issues concerning the principles and guidelines for Tariff determination.
- 2.35 For ease of consumers, Executive Summary of Tariff Petitions which is a 10 to 15 pages document & highlights salient features of the Tariff Petition was uploaded on Commission's website. Further, a one-page snapshot summary of True-up of FY 2020-21 was also prepared and uploaded at the DERC website for quick glance of the Tariff Petitions.
- 2.36 The Commission decided to conduct Public Hearing for issuance of Tariff Order related to True-up of FY 2020-21 and communicated the same through Public Notice published in leading newspapers on 31/03/2022 and also uploaded the same on Commission's website. Stakeholders were given additional time period till 25/04/2022 for submitting comments/suggestions on Tariff Petition filed by the utilities.
- 2.37 A soft copy of the Petition was made available in CD form on payment of Rs. 25/- per CD or a copy of the Petition was also made available for purchase from the respective Petitioner head-office on working day till 25/04/2022 between 11 A.M. to 4 P.M. on payment of Rs.100/- either by cash or by demand draft/pay order.
- 2.38 In order to extend help to the stakeholders in understanding the ARR Petition and filing their comments, Six officers of the Commission viz. Joint Director (Tariff-Engineering), Joint Director (Tariff-Finance), Joint Director (Engineering), Joint Director (Performance Standards & Engineering), Deputy Director (Tariff-Economics) and Deputy Director (Tariff-Engineering) were nominated for discussion on the ARR

- Petitions. This was duly mentioned in the Public Notices published by the Commission.
- 2.39 Considering the COVID-19 situation prevalent at that time, the Commission decided to conduct Virtual Public Hearing on 12/05/2022 & 13/05/2022 on Tariff Petitions for True Up of FY 2020-21.
- 2.40 Various Stakeholders requested the Commission to extend last date of Submission of Comments / suggestions on Tariff Petitions filed by various Utilities by at least four to five weeks as the same are voluminous and requires more time to study and preparation of comments.
- 2.41 Based on request received from various stakeholders to extend last date of submission of comments / suggestions on Tariff Petitions, the last date of receiving Comments / Suggestions which was earlier till 25/04/2022 was extended till 13/05/2022.
- 2.42 Accordingly, the Commission scheduled a Virtual Public Hearing on Tariff Petitions for True Up of FY 2020-21 on 12/05/2022 & 13/05/2022 to take a final view with respect to various issues concerning the principles and guidelines for Tariff determination.
- 2.43 The Commission received written comments from stakeholders. The comments of the stakeholders were also forwarded to the Petitioner who responded to the comments of the stakeholders with a copy of its replies to the Commission.
- 2.44 The issues and concerns raised by various stakeholders have been examined by the Commission. The major issues made by the stakeholders, the responses of the Petitioner thereon and the views of the Commission, have been summarized in Chapter A2.
- 2.45 The Commission therefore has provided sufficient time & considered the inputs/comments received from various stakeholders along with the due diligence conducted by the officers of the Commission in arriving at its decision.
- 2.46 The Commission determines the ARR for the DISCOMs as per the provisions of the applicable Regulations. The Petitioners submitted the audited accounts to substantiate their claims which is also made part of their Petition. The Tariff Petitions are duly scrutinized and admitted only if found in order as per the DERC

(Comprehensive Conduct of Business) Regulations, 2001. The Petitioners furnished clarifications/additional information, as and when required by the Commission.

- 2.47 The Commission appointed C&AG Empanelled Auditors for Regulatory Audit of DISCOMs i.e. NDMC, BRPL, BYPL & TPDDL for True-up of FY 2020-21. The Regulatory Audit assignment for FY 2020-21 was awarded to Shridhar & Associates for NDMC & TPDDL, Grand Mark & Associates for BRPL and Adroit & Co. for BYPL. Based on their reports and prudence check by the Commission and after considering various components of cost mentioned in the Petitions, the True-up Order is issued with due analysis and justification.

## **ISSUE 2: BUSINESS PLAN & SOP REGULATION**

### **STAKEHOLDERS' VIEW**

- 2.48 As per Performance data, BRPL has achieved 99.91% to 100 % Collection Efficiency in their Petition, which seems incorrect.
- 2.49 DERC has not prepared Business Plan Regulations, 2017 and 2019 with due diligence and DISCOMs are getting benefitted.
- 2.50 Best Parameters of other states DISCOMs should be made benchmark for all Delhi DISCOMs.

### **PETITIONERS' SUBMISSION**

#### **TPDDL**

- 2.51 Formation of Regulations in accordance with the Act is the sole prerogative of the Commission. The Commission may like to decide on the same as it may deem fit.

#### **BYPL**

- 2.52 The Commission while fixing the O&M norms in Business Plan Regulation, 2017 has given the detailed reasons in SOR. Further, the facts and figures mentioned by stakeholder pertains to other DISCOMs, hence, we are not in a position to respond to the same.
- 2.53 The Commission in November, 2019 had issued the Public Notice along with Draft Business Plan Regulations requesting the stakeholders to provide the comments on the Draft Regulations within the specified time limit. The stakeholders including consumers were provided the opportunity to make their respective objections/suggestion on the draft including specified operational targets. Pursuant

to the receipt of comments from various stakeholders, the Commission had notified the Business Plan Regulations, 2019 applicable for the Tariff period FY 2020-21 to FY 2022-23 on 27/12/2019.

- 2.54 Further, on 29/01/2020, the Commission issued an Explanatory Memorandum providing the basis and justification while finalization of the norms determined in Business Plan Regulations, 2019.
- 2.55 The Commission issues Tariff Order only after prudence check of the Petitions submitted by the DISCOMs and after considering each element of the cost projected in the Petitions with due analysis and ensuring proper justification. The Petitioner furnished clarifications/additional information, as and when required by the Commission.

#### **BRPL**

- 2.56 The Commission in November, 2019 issued the Public Notice along with Draft Business Plan Regulations requesting the stakeholders to provide the comments on the Draft Regulations within the specified time limit. The stakeholders including consumers were provided the opportunity to make their respective objections/suggestion on the draft including the specified operational targets.
- 2.57 The Commission uploaded the draft of Business Plan Regulations, 2019 on its website and had invited comments from stakeholders through Public Notices published in leading newspapers, which was also uploaded on the Commission's website. Pursuant to the receipt of comments from various stakeholders, the Commission had notified the Business Plan Regulations, 2019 applicable for the tariff period FY 2020-21 to FY 2022-23 on 27/12/2019.
- 2.58 Further, on 29/01/2020 the Commission had issued an Explanatory Memorandum providing the basis and justification while finalization of the norms determined in DERC (Business Plan) Regulations, 2019.
- 2.59 Accordingly, the Commission has issued the Business Plan Regulations after incorporating comments of all the stakeholders.
- 2.60 The Commission issue Tariff Order only after prudence check of the Petitions submitted by the DISCOMs and after considering each element of cost projected in the petitions with due analysis and ensuring proper justification. The Petitioner

furnished clarifications/additional information, as and when required by the Commission. Further, DISCOM submits Performance data to the Commission on periodical basis.

2.61 In accordance with Regulation 61 of the Electricity Act, 2003, the State Commission specified terms and conditions for determination of Tariff. In terms of Regulation 4 of Tariff Regulations, 2017, as follows:

*“The following parameters shall be contained in the Business Plan Regulations:*

*(1) Rate of Return on Equity,*

*(2) Margin for rate of interest on Loan,*

*(3) Operation and Maintenance Expenses,*

*(4) Capital Investment Plan,*

*(5) Mechanism for sharing of incentive-disincentive mechanism,*

*(6) Allocation of overhead expenses incurred on account of Administrative Expenditure out of Operation and Maintenance Expenses for creation of Capital Asset,*

*(7) Generating Norms:*

.....

*(8) Transmission Norms:*

.....

*(9) Distribution norms:*

*(a) Distribution Loss Target;*

*(b) Collection Efficiency Target;*

*(c) Targets for Solar and Non Solar RPO;*

*(d) Contingency limit for Sale through Deviation Settlement Mechanism (Unscheduled Interchange) transactions*

*(e) The ratio of various ARR components for segregation of ARR into Retail Supply and Wheeling Business.”*

#### **NDMC**

2.62 The stakeholder does not fall in NDMC’s licensed area of supply.

#### **COMMISSION’S VIEW**

2.63 The Commission is guided by Principles of Electricity Act, 2003 and ensures to

safeguard interest of consumers & ensures recovery of the cost of electricity in a reasonable manner. The relevant extract of the said Regulation is as follows:

*“61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-*

*...*

*(d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;”*

2.64 Further, the Electricity Tariff is determined in accordance to provisions of Section 62 of Electricity Act, 2003 as stated below:

*“62. (1) The Appropriate Commission shall determine the tariff in accordance with provisions of this Act for –*

*(a) supply of electricity by a generating company to a distribution licensee:*

*Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;*

*(b) transmission of electricity;*

*(c) wheeling of electricity;*

*(d) retail sale of electricity.”*

2.65 The Commission in exercise of powers conferred under Section 181 read with Section 61 and Section 86(1)(b) of the Electricity Act, 2003 (Act 36 of 2003) notified DERC (Business Plan) Regulations, 2019. The said Regulations shall remain in force for a period of 3 (three) years i.e., for FY 2020-21, FY 2021-22 and FY 2022-23, unless reviewed earlier.

2.66 A transparent public consultation process before enactment of any Regulations keeping in mind the interest of consumers of Delhi, Distribution Licensees, Transmission Licensee and GENCOs. The DERC (Business Plan) Regulations, 2019 were notified by the Commission after following due process of law, as per the Electricity Act, 2003. The draft DERC (Business Plan) Regulations, 2019 was uploaded

- on DERC website and stakeholders' comments were invited via Public Notice and comments received from the stakeholders were considered in the final Business Plan Regulations approved by the Commission. After considering the comments of all stakeholders, the Commission notified DERC (Business Plan) Regulations, 2019 on 27/12/2019. These Regulations are applicable upto FY 2022-23.
- 2.67 Further, on 29/01/2020, the Commission had issued an Explanatory Memorandum explaining the rationale and objective behind every issue of Draft Business Plan on which comments can be given.
- 2.68 A detailed methodology for computing the target for Distribution Losses has been explained in the explanatory memorandum issued by the Commission for the draft Business Plan Regulations, 2017. For instance, Electric Power Transmission & Distribution Losses of various countries from the World Bank website for top 50 countries were compared over a period of 2003 to 2014 & analysis is mentioned in the statement of Reasons on Business Plan Regulations 2017. Even the Transmission & Distribution Losses are benchmarked against various states/ Private Distribution Companies like Torrent-Ahmedabad (Gujarat), Noida Power Company (Uttar Pradesh) and Maharashtra in the Statement of Reasons on Business Plan Regulations, 2017.
- 2.69 The stakeholder view that DISCOMs are getting benefited is not correct and Transmission & Distribution Losses are already benchmarked against DISCOMs of other states. There is also provision of penalties on DISCOMs for non-compliance to the following parameters:
- a) Renewable Purchase Obligations- Promotion of Green Energy
  - b) Sustained deviation- Grid Discipline
  - c) Additional UI changes- Grid Discipline
  - d) Dis-incentive / MOD violation penalties- Optimization of PPC
  - e) Distribution Loss Targets- Reduction of losses
  - f) Collection Efficiency – Improvement of Revenue Collection
- 2.70 Based on above, the Business Plan Regulations, 2017 & Business Plan Regulations, 2019 is competitive in nature with Incentive/ Dis-incentive based on the performance of DISCOMs against the targets set by the Commission. If any Utility doesn't meet the Targets as per the Norms defined in Business Plan Regulations, 2019 then penalty has

been levied in the past against the DISCOMs, as follows:

**Table 2. 1: DISCOM wise penalty levied from FY 2017-18 to FY 2019-20 (Rs. Cr.)**

Parameters	BRPL			BYPL			TPDDL			NDMC			
	FY 18	FY 19	FY 20	FY 18	FY 19	FY 20	FY 18	FY 19	FY 20	FY 18	FY 19	FY 20	
Non- Compliance to RPO		8.89	14.62	6.24	7.22	8.97		3.16		0.28	0.34	0.63	
Additional UI	3.19	4.42	8.73	2.03	2.61	3.95	1.98	3.46		0.02			
Sustained		12.37	8.82		2.19	1.46		3.44				4.52	
Sale of Power in UI above 5%	0.67	18.86	23.36			1.18	5.48			2.64	0.92	4.15	
Dis-incentive / MOD violation penalties											2.21		
Impact of Regulation of	0.06												
Distribution Loss Targets										28.5		3.69	
Under achievement of Collection										21	42.51		
Cash transactions above Rs. 4000/-					0.02			0.02		0.82	0.02		
<b>Total</b>		<b>103.99</b>			<b>35.87</b>			<b>17.54</b>			<b>112.25</b>		

2.71 Further, various penalties have been imposed in the instant Order which are discussed in Chapter 3 of this True-up order.

### ISSUE 3: ADHOC O&M EXPENSES

#### STAKEHOLDERS' VIEW

2.72 Calculation of O&M expenses is based on Adhoc data without scientific basis and the same should be reversed.

2.73 The O&M expenses were arbitrarily increased from Business Plan Regulations, 2017 to Business Plan Regulations, 2019, which will be continued till year 2023.

2.74 Benchmarking of Operations for efficiency gain should be as per competition within the Industry.

2.75 O&M expenses are doubtful and need to be disallowed. Disallowance of Rs. 150 Crore is clearly visible in O&M Expenses of BYPL.

2.76 The normative O&M expenses needs to be revisited with strict prudence check to

- determine all such charges.
- 2.77 O&M charges includes 7<sup>th</sup> Pay commission enhancement charges and annual enhancement charges and hence no further expenses can be allowed over O&M expenses.
- 2.78 O&M expenses allowed by the Commission, seem to have been prepared considering 7<sup>th</sup> CPC. Hence, O&M expenses needs to be revisited with strict prudence check.
- 2.79 O&M expenses and Working Capital should be allowed to DISCOMs as per norms defined in Business Plan Regulations, 2019.
- 2.80 Savings in interest on Working Capital can be more than Rs. 100 Crores for all three DISCOMs if receivable are reduced by 15 days.
- 2.81 Loss on sale of retired Assets should be on account of DISCOMs.
- 2.82 Verify extraordinary O&M expenses of DISCOMs i.e. Legal Expenses and incremental GST impact.
- 2.83 The allowed O&M Charges should be based on ckt/km length of the Distribution Lines & should not be decided arbitrarily.
- 2.84 The old method of O&M Charges based on value of Assets should be adopted since present O&M charges were decided in arbitrary manner resulting in increased O&M expenses.
- 2.85 Legal charges cannot be allowed under O&M expenses. Corporate social responsibility should also be borne from profits of DISCOM.

## PETITIONERS' SUBMISSION

### TPDDL

- 2.86 The normative O&M expenses has been set by the Commission in accordance with the Tariff Regulations, 2017 and Business Plan Regulations, 2019. Accordingly, O&M expenses are claimed and allowed to DISCOMs as per norms defined in Business Plan Regulations 2019.
- 2.87 Legal expense is not part of normative O&M expense, and allowed separately by the Commission as per Regulation 23 of Business Plan Regulations, 2019, as follows:
- “23(7) The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:*

*Provided that the legal expenses on account of cases filed against the Orders or Regulations of the Commission before any Court and the legal claims (compensation/penalty) paid to the consumer, if any, shall not be allowed.”*

- 2.88 The Business Plan Regulations, 2019 provides that  
*“6(3) The impact of difference of amount on account of actual implementation of Seventh Pay Revision and Interim Relief already considered for determination of norms for O&M Expenses, if any, shall be allowed separately in line with the methodology adopted for computation of norms for O&M Expenses, at the time of True up of ARR for relevant Financial year subject to prudence check.”*
- 2.89 Working Capital to DISCOMs is allowed in line with the Tariff Regulations, 2017 as also provided to Generation and Transmission Companies.
- 2.90 CSR is a statutory liability and any change in statutory levy is uncontrollable in the hands of the DISCOMs.

#### **BYPL**

- 2.91 The Petitioner, in its ARR Petition, has claimed O&M expenses for FY 2020-21 in accordance with the Regulation 23 of Business Plan Regulations, 2019.
- 2.92 Further, Regulation 4(3) read with Regulation 87/ 92 of the Tariff Regulations, 2017 provides that Utilities shall be allowed O&M Expenses on normative basis as specified by the Commission in its Business Plan Regulations for the respective Control Period. Accordingly, O&M expenses for FY 2020-21 are claimed in accordance with the norms under Regulation 23 of Business Plan Regulations, 2019.
- 2.93 O&M expenses for a financial year is determined and approved by the Commission on normative basis as per Regulation 23 (1) of the Business Plan Regulations 2019 based on Actual Assets installed at the site and its maintenance to provide services to the consumer. O&M Expenses vary as per the consumer mix i.e., Domestic/Non Domestic/Industrial etc. & supply at different voltage levels i.e., LT/11kV/33kV/66kV. The relevant extract of the Business Plan Regulation, 2019 is reproduced here as follows:

**“23. OPERATION AND MAINTENANCE EXPENSES**

(1) Normative Operation and Maintenance expenses in terms of Regulation 4(3) and Regulation 92 of the DERC (Terms and Conditions for Determination

of Tariff) Regulations, 2017 for the Distribution Licensees shall be as follows:

**Table 9: Norms for O&M Expenses for BYPL for the Control Period**

Particulars	Unit	2020-21	2021-22	2022-23
66 kV Line	Rs. Lakh/ckt. km	4.857	5.043	5.236
33 kV Line	Rs. Lakh/ckt. km	4.857	5.043	5.236
11kV Line	Rs. Lakh/ckt. km	2.036	2.114	2.195
LT Line system	Rs. Lakh/Ckt. km	9.173	9.524	9.890
66/11 kV Grid S/s	Rs. Lakh/MVA	1.157	1.201	1.247
33/11 kV Grid S/s	Rs. Lakh/MVA	1.157	1.201	1.247
11/0.415 kV DT	Rs. Lakh/MVA	2.534	2.631	2.732

“

- 2.94 The Commission in Regulation 23 (6) of Business Plan Regulations, 2019 has provided that Distribution Licensee may claim the expenses for raising loan for Working Capital and Regulatory Assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence. Accordingly, such expenses are claimed in the Petition for True Up for FY 2020-21. Further, Working Capital requirement is determined by the Commission in line with the Regulation 84(4) of the Tariff Regulations, 2017, as follows:

*“WORKING CAPITAL*

*84. The Commission shall calculate the Working Capital Requirement for:*

*....*

*(4) Distribution Licensee as follows:*

*(i) Working capital for wheeling business of electricity shall consist of ARR for two months of Wheeling Charges*

*(ii) Working capital for Retail Supply business of electricity shall consist of:*

*(a) ARR for two months for retail supply business of electricity*

*(b) Less: Net Power Purchase costs for one month*

*(c) Less: Transmission charges for one month; and”*

- 2.95 The Legal expense and incremental GST impact is claimed in accordance with Business Plan Regulations, 2019 and Tariff Regulations, 2017.

- 2.96 The Commission has approved consumption at substation as per Regulation 23(2) of Business Plan Regulations, 2019. The Regulation 23(2) is stated as below:

*“(2) The Distribution Licensee shall be allowed own (Auxiliary) consumption including e-vehicle charging stations installed at Distribution Licensee offices*

*and sub-stations, at Zero Tariff for actual recorded consumption subject to a maximum of 0.25% of total sales excluding own consumption to its retail consumers for the relevant financial year as part of O&M expenses for the relevant year:*

*(3) Actual recorded own (Auxiliary) consumption in excess of 0.25% of total sales excluding own consumption to its retail consumers for the relevant financial year, shall be billed at Non Domestic Tariff of respective year's Tariff Schedule and shall form part of revenue billed and collected for the same year."*

- 2.97 Distribution business is a regulated business under the aegis of the Commission and the right to avail a statutory remedy is also a right guaranteed under Article 14 and 19 of the Constitution. The right to do business under Article 19 (1) (g) includes the right to avail of statutory legal remedies to protect and safeguard the business which is part and parcel of the right to do business. Moreover, the Electricity Act, 2003, allows the Petitioner the right to avail its statutory remedies under section 111 and other applicable provisions. Therefore, all prudently incurred legal expenses without any distinction should be allowed as an expense in the ARR.
- 2.98 Further, the Commission while determining the norms for O&M expenses in Business Plan Regulations, 2019 has not considered legal expenses as the same shall be allowed based on prudence check at the time of true of ARR. Hence, the Petitioner has made its claim of Legal Expenses as an additional expense as provided for in Business Plan Regulations, 2019.
- 2.99 Further, with respect to stakeholder comment on incremental GST impact, it is submitted that the factor of prevailing Service Tax @ 12% to 15% till June, 2017 and GST @18% from July, 2017 onwards has diluted the impact for one year and three months i.e. from April, 2016 to June, 2017, while deriving the norms of O&M expenses.
- 2.100 Further, as per Business Plan Regulations, 2019, the Commission has allowed the GST charges on normative basis for FY 2020-21 by considering an escalation factor of 3.83% on the average value of FY 2017-18 to FY 2018-19. However, the Commission, while deriving the normative rates for O&M expenses, has considered the GST impact from July, 2017 to April, 2019 as the GST rate is applicable from July, 2017 which has

diluted the impact for one year and three months i.e. from April, 2016 to June, 2017. Accordingly, the Petitioner has claimed the incremental GST charges impact over and above the actual GST paid during FY 2020-21. In order to bring the parity of the O&M expenses being incurred by the Licensee with the norms in the Business Plan Regulations, 2019, incremental GST impact is being claimed which is the difference between the actual GST paid during the year and the impact of GST/service tax present in the norm for the year.

- 2.101 In regard to the stakeholder comment on 7<sup>th</sup> Pay Commission arrears, it is submitted that the Petitioner has claimed the incremental impact of 7<sup>th</sup> Pay Commission during FY 2020-21 as provided in Regulation 23(6) of Business Plan Regulations, 2019.
- 2.102 Further, the Commission while fixing the O&M norms in Business Plan Regulation 2017 & 2019 has given the detailed reasons in respective explanatory memorandum. In the Statement of reasons (SOR), it is stated that while fixing the norms of O&M expenses, the interim relief for 7<sup>th</sup> Pay Commission has been considered as given to the employees of the Licensee while determination of norms for O&M Expenses and any impact of difference of actual amount on account of actual of Seventh Pay Revision and such interim relief, if any, will be considered at the time of True up of ARR for relevant Financial year subject to prudence check.
- 2.103 Tariff Regulations, 2017 provides the methodology regarding De-capitalization of Assets before and after useful life. Said Regulations further provides for allowance of claim on account of loss/gain on such retired assets. Hence, the claim is made by the Petitioner in terms of the applicable Regulations.
- 2.104 Distribution business is a regulated business under the aegis of the Commission and the right to avail a statutory remedy is also a right guaranteed under Article 14 and 19 of the Constitution. The right to do business under Article 19 (1) (g) includes the right to avail of statutory legal remedies to protect and safeguard the business which is part and parcel of the right to do business. Moreover, the Electricity Act, 2003, allows the Petitioner the right to avail its statutory remedies under section 111 and other applicable provisions. Therefore, all prudently incurred legal expenses without any distinction should be allowed as an expense in the ARR.
- 2.105 Further, the Commission while determining the norms for O&M expenses in Business

Plan Regulations, 2019 has not considered legal expenses as the same shall be allowed based on prudence check at the time of true of ARR. Hence, the Petitioner has made its claim of Legal Expenses as an additional expense as provided for in Business Plan Regulations, 2019.

- 2.106 Regulation 45 Tariff Regulations, 2017 provides for the methodology regarding De-capitalization of Assets before and after useful life, as follows:

*“45. Loss or Gain due to de-capitalisation of asset based on the directions of the Commission due to technological obsolescence, wear & tear etc. or due to change in law or force majeure, which cannot be re-used, shall be adjusted in the ARR of the Utility in the relevant year.”*

- 2.107 Thus, the Petitioner has claimed the loss due to retirement of assets as per Audited Accounts for FY 2020-21 as it pertains to meters which were replaced due to incompatibility to read kVA parameters.

- 2.108 Regulations further provides for allowance of claim on account of loss/gain on such retired assets. The claim is made by the Petitioner in terms of the applicable Regulations.

- 2.109 As regard to Additional O&M Expenses – Uncontrollable Expenses, it is submitted that additional O&M expenses has been claimed in accordance with Regulation 87 of Tariff Regulations, 2017 which states as under:

*“87.*

*...*

*Provided further that the water charges, statutory levy and taxes under O&M expenses if indicated separately in the audited financial statement shall not form part of Normative O&M expenses.”*

*Also, Regulation 11 of DERC Tariff Regulations, 2017 states as under:*

*“11. The Distribution Licensee shall submit Annual Tariff Petition, at least, one hundred and fifty (150) days prior to the end of relevant financial year which shall contain:*

*...*

*(9) Actual and expected additional expenses on account of O&M beyond the*

*control of Distribution Licensee for the ensuing & previous year respectively;  
...*

Thus, in accordance with the above regulations, the Petitioner has claimed the additional O&M expenses which are uncontrollable in nature and not covered in the normative O&M expenses.

## BRPL

2.110 O&M expenses for a financial year is determined and approved by the Commission on normative basis as per Regulation 23 (1) of the Business Plan Regulations, 2019 based on Actual Assets installed at the site and its maintenance to provide services to the consumer. The relevant extract of the Business Plan Regulation, 2019 is reproduced here as follows:

### “23. OPERATION AND MAINTENANCE EXPENSES

(1) Normative Operation and Maintenance expenses in terms of Regulation 4(3) and Regulation 92 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensees shall be as follows:

**Table 8: Norms for O&M Expenses for BRPL for the Control Period**

Particulars	Unit	2020-21	2021-22	2022-23
66 kV Line	Rs. Lakh/ckt. km	3.855	4.002	4.156
33 kV Line	Rs. Lakh/ckt. km	3.855	4.002	4.156
11kV Line	Rs. Lakh/ckt. km	1.150	1.194	1.239
LT Line system	Rs. Lakh/ckt. km	6.148	6.384	6.629
66/11 kV Grid S/s	Rs. Lakh/MVA	1.033	1.073	1.114
33/11 kV Grid S/s	Rs. Lakh/MVA	1.033	1.073	1.114
11/0.415 kV DT	Rs. Lakh/MVA	2.563	2.661	2.763

“

2.111 The working capital requirement for a financial year is determined by the Commission in line with the regulation 84(4) of the DERC Tariff Regulations 2017, relevant excerpt is reproduced here as follows:

### “WORKING CAPITAL

84. The Commission shall calculate the Working Capital Requirement for:

....

(4) Distribution Licensee as follows:

(i) Working capital for wheeling business of electricity shall consist of ARR for

*two months of Wheeling Charges*

*(ii) Working capital for Retail Supply business of electricity shall consist of:*

*(a) ARR for two months for retail supply business of electricity*

*(b) Less: Net Power Purchase costs for one month*

*(c) Less: Transmission charges for one month; and”*

- 2.112 The per unit rates for normative O&M computation in Business Plan Regulations, 2019 was specified by the Commission after due diligence of the data submitted by Petitioner. Hence, the Commission is allowing the O&M expenses as per norms defined in Business Plan Regulation, 2019.
- 2.113 The Petitioner has claimed Legal expense as per Tariff Regulations, 2017.
- 2.114 In regard to stakeholder comment on Loss on sale of retired assets, it is submitted that Tariff Regulations, 2017 provides for the methodology regarding de-capitalization of assets before and after useful life. Regulations further provides for allowance of claim on account of loss/gain on such retired assets. The claim is made by the Petitioner in terms of the applicable Regulations.
- 2.115 With respect to stakeholder comment on incremental GST impact, it is submitted that the factor of prevailing Service Tax @ 12% to 15% till June, 2017 and GST @18% from July, 2017 onwards has diluted the impact for one year and three months i.e. from April, 2016 to June, 2017, while deriving the norms of O&M expenses. In order to bring the parity of the O&M expenses being incurred by the Licensee with the norms in the Business Plan Regulations 2019, incremental GST impact is being claimed which is the difference between the actual GST paid during the year and the impact of GST/service tax present in the norm for the year.

#### **NDMC**

- 2.116 The stakeholder does not fall in NDMC's licensed area of supply.

#### **COMMISSION'S VIEW**

- 2.117 The Commission conducts prudence check on the issues related to O&M expenses that are submitted by the utilities for approval of O&M expenses during a control period. The period of allowance/ disallowances for additional O&M expense are available in Chapter-3 (True-up of ARR) of Tariff Order.
- 2.118 As regards to stakeholder comment on Legal Charges, it is submitted that the

Distribution Licensee may claim legal expense as per Regulation 23 (7) of *Business Plan Regulations, 2019*, which will be subjected to prudence check at the time of True up of Petition.

#### **ISSUE 4: PHYSICAL VERIFICATION OF ASSETS**

##### **STAKEHOLDERS' VIEW**

- 2.119 Physical verification of Assets & True up of CAPEX of DISCOMs since privatization has not been completed under long term tenure of various DERC officers and same should be completed in a time bound manner by Sept, 2022.
- 2.120 The Petition for capitalization of assets for each MYT period is pending.
- 2.121 Physical verification of Regulatory Assets & verification of related party transaction from 2002 to 2021 to be completed urgently.
- 2.122 DERC could not complete GIS compliant physical verification of Assets since 2003.

##### **PETITIONERS' SUBMISSION**

###### **TPDDL**

- 2.123 Physical verification has already been completed by the Commission from FY 2005-06 to FY 2018-19. Physical verification for FY 2019-20 has been initiated by the Commission.
- 2.124 The Commission is requested to provide impact of Physical verification in the ensuing Tariff Order.

###### **BYPL**

- 2.125 BYPL agrees with the suggestion of the stakeholder that Commission must make Physical Verification of the Assets, True-up of capital expenses and the Commission is requested to consider the same.
- 2.126 Other comments of the stakeholders pertain to other Distribution Licensee and therefore, we are not in a right position to respond to the same.

###### **BRPL**

- 2.127 Comments of the stakeholders pertain to other Distribution Licensee, and therefore, we are not in a right position to respond to the same.

###### **NDMC**

- 2.128 The Party is not in NDMC area.

##### **COMMISSION'S VIEW**

- 2.129 The Commission endeavours to issue Tariff Orders as per provisions of the Electricity Act, 2003.
- 2.130 The Distribution Licensees (BRPL, BYPL & TPDDL) have claimed Capital Expenditure of Rs. 10,736 Cr. for the period from FY 2004-05 to FY 2015-16 against which the Commission has provisionally approved Rs. 8,930 Cr. in its previous Tariff Orders. The balance is under scrutiny before the Commission on account of physical verification by Consultants/in-house.
- 2.131 The Commission has engaged consultants for Capex Review & capitalization of the DISCOMs. External Consultants are engaged to verify the year-wise capitalization from FY 2004-05 to FY 2016-17. While verifying the year-wise capitalization, the Consultant have to examine 100% of the documents related to tendering, evaluation, purchase orders, store documents, road restoration receipts, invoice and payments etc. for all the LT, HT & EHV schemes capitalized, and comment on compliance with the competitive bidding guidelines of the Commission as well as reasonableness of costs at which equipment have been procured. Also, examine procurement contracts representing 100% of the amount capitalized in miscellaneous schemes, and comment on compliance with the competitive bidding guidelines of the Commission as well as reasonableness of costs at which equipment has been procured, analyse various components of capitalization such as labour expense, material expense, A&G and employee expense, road restoration charges, IDC etc., with respect to approvals, guidelines and instructions issued by the Commission from time to time. Further Consultants has to physically verify 100% EHV, HT and LT schemes. The Consultant has submitted the Reports. The Commission has finalized the said reports considering the comments of DISCOMs. Accordingly, the impact of the physical verification of assets is provided in the current Financial Year whose impact has been added in the Regulatory Assets till True up of FY 2020-21.
- 2.132 Further, the Commission has also undertaken the physical verification of Assets post FY 2016-17 internally through its staff consultants appointed for this specific assignment. The said physical verification was completed for FY 2017-18 whose impact has been provided in the Tariff Order dated 30/09/2021. For FY 2018-19 onwards, physical verification is under process and the impact of the same. Further,

as soon as year wise capitalization is completed by the Commission, the effect of the reports will be provided in the subsequent True up orders.

## **ISSUE 5: POWER PURCHASE COST & ENERGY SALES**

### **STAKEHOLDERS' VIEW**

- 2.133 Energy Purchase Cost under the Long Term Power Purchase Agreement should be optimized.
- 2.134 As per DISCOMs, Tariff rate should be increased because of the shortage of coal which is not acceptable.
- 2.135 PPAC should be adjusted in Tariff and there should not be separate head for PPAC.
- 2.136 DISCOMs shall open LC or make payment through NEFT for payment to Generators within 3 days of receipt of bill to avail 2% rebate.
- 2.137 Projections based on de-growth under certain segments on the basis of COVID-19 duration appears to be under reporting and needs to be realistic in view of improved Economic Situations.
- 2.138 Energy Sales should be verified during Prudence check.
- 2.139 Short-term & other available options should be considered for optimizing the power purchase costs to meet the energy requirements of DISCOMs. Further, Surplus Hydro RE Power should be sold over exchanges.
- 2.140 Cash flow of DISCOMs should be eased so that power can be purchased and there are no outages.
- 2.141 Redevelop Badarpur Thermal Power Station (BTPS) as Joint Venture with NTPC and BHEL as Ultra Mega Power Plant (UMPP).

### **PETITIONER'S SUBMISSION**

#### **TPDDL**

- 2.142 All CERC approved available options in short term market are utilized by the DISCOMs to meet the Energy requirements.
- 2.143 In order to meet the peak demand of FY 2022-23, sufficient quantum of Power is planned to be purchased from the Power Exchanges and Short Term Contracts. However, as per current PPAC mechanism allows pass through of costs linked to the power procurement/sale from Long Term sources excluding variations, if any, related to any Short Term Power purchase/ sale.

- 2.144 TPDDL agrees with suggestion of Stakeholder that Cash flow of DISCOMs should be eased so that power can be purchased and there are no outages.
- 2.145 Also, Business Plan Regulation, 2019 allow Suo Moto levy of PPAC by Distribution Licensee limited to 8.75%. A Petition is required to be file Petition and seeking approval of the Commission for the recovery of balance Power Purchase Cost variation. This increases the time for recovery of PPAC and at times it gets subsumed in the True-Up Tariff Order. This delays the cash flow for DISCOMs, increases the carrying cost impact and consequently, may increase the applicable Tariff.
- 2.146 The Commission is requested to suitably amend the current PPAC mechanism for Automatic pass through of 100% variation in fuel and Power Procurement Cost.
- 2.147 Stakeholder comment regarding BTPS & Investment is Generation is not related to Tariff petition.

**BYPL**

- 2.148 BYPL continuously endeavor to optimize its Power Portfolio by buying/selling competitive rate electricity at Power Exchange as per applicable Regulations/Order of the Commission.
- 2.149 The concept of normative rebate is based on the assumption that the system is perfect and business is conducted as usual. However, the impact of Covid-19 pandemic, which is also acknowledged as Force Majeure condition by the Commission, there was a steep decline in the revenue collection by the Petitioner and they could not make payment of Power Purchase bills to any of the Generating Company and Transmission Licensee through LC. Therefore, the Petitioner has requested the Commission to not consider normative rebate.
- 2.150 Energy sales estimated for FY 2022-23 is based on prevailing trend of energy consumption and the reason of the same has been submitted in Petition.
- 2.151 COVID-19 affected the normal human life as well as caused slowdown in various sectors in Economy. The lockdown due to COVID-19 has severely affected the demand of Power in FY 2020-21 and FY 2021-22 and, therefore, Energy Sales of FY 2020-21 and FY 2021-22 was not considered for projecting sales for FY 2022-23. In order to estimate the energy sales for FY 2022-23, the Petitioner has considered FY 2019-20 as base year for projections instead of FY 2021-22 and applied growth factor

on FY 2019-20. Therefore, demand forecast is based on the assumption that the past consumption growth trend will continue in the future also excluding FY 2020-21 and FY 2021-22..

- 2.152 The source wise details of electricity and charges during a year is part of the ARR Petition
- 2.153 With respect to Stakeholder's concern regarding exploring options to invest in Generation and redevelopment of BTPS, it is submitted that it is not under the purview of the DISCOMs and is under the purview of Central /State Government.

#### **BRPL**

- 2.154 The Petitioner takes a number of steps in order to reduce the burden of high cost of Power on consumers by trying to surrender costly Power. The Petitioner based on its Demand-Supply scenario has requested Hon'ble Power Minister of Delhi to surrender/re-allocate the quantum of power.
- 2.155 Further, with regard to the comment on optimization of Power purchase cost, it is submitted that Power Purchase cost for the Generating Stations is considered on the basis of the Generation Tariff approved by CERC.
- 2.156 As regards to stakeholder comment on verification of Energy Sales, it is submitted that the Commission approves the sales of the Petitioner after prudence check and verification of database of the Petitioner.
- 2.157 Further, determination of Electricity Tariff to be charged from consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.
- 2.158 BRPL continuously endeavors to optimize its Power Portfolio by buying/selling competitive rate electricity at Power Exchange as per applicable Regulations/Order of the Commission.
- 2.159 With respect to Stakeholder's concern regarding exploring options to invest in Generation and redevelopment of BTPS, it is submitted that it is not under the purview of the DISCOMs and is under the purview of Central /State Government.

#### **NDMC**

- 2.160 The Party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.161 The Long-Term Power Purchase Agreements (PPA) are entered into by the Petitioner

considering the overall average projected demand of the consumers and likely growth in the demand vis-à-vis the likely availability of Power from various sources. The surplus/shortfall in Power availability arising due to difference in demand during peak hours and non-peak hours including seasonal variations are required to be sold /purchased by the Petitioner on need basis. The Commission has directed the Petitioner to optimize such short-term transactions and maintain transparency in its short-term power purchases and sales.

- 2.162 The Commission has specified in DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, as well as in earlier Tariff Orders, that the Merit Order Despatch principle should be adhered strictly by the Distribution Licensees in power procurement, and there is also an incentive and disincentive mechanism for sale of surplus power to maximise the revenue from the sale of surplus power. Further, as per the provision of Business Plan Regulations, 2017 and Business Plan Regulations, 2019, the contingency limit for the sale of power under UI mechanism shall be limited to 5% of the gross power purchased by the Distribution Licensee to bring efficiency in their scheduling of power.
- 2.163 The Commission has already approved various Power Purchase Agreements (PPA) entered into by the utilities for procurement of power from long term sources. The Commission has also directed the DISCOMs vide its letter dated 21/10/2009 that they should endeavour to provide uninterrupted power supply to the consumers in their respective areas. The licensees shall ensure that electricity which could not be served due to any reason what-so-ever (including maintenance schedule, break-downs, load shedding etc.) shall not exceed 1% of the total energy supplied by them in any particular month except in cases of force-majeure events which are beyond the control of the Licensees.
- 2.164 The Commission had projected Power Purchase Cost net of the rebate as per the provisions of *DERC (Terms and Condition for Tariff Determination) Regulations, 2017*. The power purchase cost is allowed to the distribution licensee after considering maximum normative rebate available for each generating stations.
- 2.165 The provision for reallocation of power among Delhi DISCOMs has been made in DERC (Terms and Condition for Tariff Determination) Regulations, 2017 as follows:

*"121.. (4) The gap between the average Power Purchase Cost of the power portfolio allocated and average revenue due to different consumer mix of all the distribution licensee:*

*Provided that the Commission may adjust the gap in power purchase cost by reassigning the allocation of power amongst the distribution licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi by Ministry of Power, Government of India."*

2.166 The rebate on payment of bills of GENCO and Transmission Utilities is determined in accordance with Regulation 138 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, as follows:

*" For payment of bills of the generating entity and the transmission licensee through letter of credit on presentation or through NEFT/RTGS within a period of 2 days of presentation of bills by the generating entity or the transmission licensee, a rebate of 2% shall be allowed :*

*Provided that in case payments are made on any day after 2 days and within a period of 30 days of presentation of bills by the generating entity or the transmission licensee, a rebate of 1% shall be allowed."*

2.167 As regard to stakeholder comment on no outages, DERC held an Emergency Meeting on 9/10/2021 to take stock of the situation arising out of current Coal & Gas shortage which led to non-availability of 24X7 Power in Delhi and Electricity prices soaring to extraordinary high levels at Power Exchanges. Accordingly, various relaxations were granted to NDMC, BRPL, BYPL, and TPDDL with immediate effect in order to ensure 24X7 supply of power to the consumers of Delhi, GTPS was directed to declare its availability on any alternative fuel, ensuring additional 270 MW of power in order to bridge the Gap between the current demand-supply and MoP, Gol, was requested to urgently intervene in the matter and facilitate adequate supply of fuel to the Power Plants in order to avoid any Outage and maintain continuous supply of Power to the Delhi State.

2.168 As pro-active measure, the Commission conducted Summer Preparedness Meeting with DISCOMs (BRPL, BYPL, TPDDL and NDMC), DTL, GENCOs and SLDC on

- 16/03/2022 and a detailed strategy was discussed to evaluate the Preparedness of the Utilities for upcoming summers.
- 2.169 Further, during the Power crisis due to coal shortage and supply in FY 2022-23, the Commission held an Emergency Meeting on 29/04/2022 with State Load Despatch Centre (SLDC), Delhi Transco Limited (DTL), DISCOMs (NDMC, BRPL, BYPL & TPDDL) and State GENCOs (IPGCL & PPCL) to take stock of the current Power crisis expected to be arising out of current Coal Shortage and Skyrocketing Short Term Power Prices.
- 2.170 In an endeavor to mitigate such Power Crisis and safeguard the interest of the Consumers & Distribution Licensees, the Commission vide its letter dated 29/04/2022, as an interim measure, allowed intra DISCOM Banking facility, overlapping of Banking & Bilateral Transactions, pass-through of Additional Deviation & Sustain Deviation Charges etc. with immediate effect till 31/07/2022 or till further orders. Further, SLDC, DISCOMs & DTL were directed to maintain Grid Discipline, Availability of Transmission & Distribution Network and 24X7 supply of power to the consumers of Delhi.
- 2.171 In compliance to Hon'ble Delhi High Court Order dated 1/06/2022 in Writ Petition No. 5340 of 2022 filed by BSES DISCOMs and Writ Petition No. 6735 of 2022 filed by TPDDL, MoP, GoI vide its Office Memorandum dated 28/06/2022 reallocated around 500 MW of Delhi's share to Haryana and balance 228 MW was continued to be utilized by Delhi till 31/10/2022. The impact of Reallocation of power of Dadri-II is majorly to BRPL resulting into loss of approx. 373 MW of Power to BRPL.
- 2.172 Still there has been blending with Imported Coal in various Central Sector Generating Stations, regulated by Central Electricity Regulatory Commission (CERC), from which Delhi is sourcing Power. For instance, Aravali Jhajjar, Farakka-I, Dadri-II, Kahalgaon-I still have blending with Imported Coal ranging from 10% to 20% which has increased the cost of Coal from around Rs. 5000/ MT in the months of Mar '22 to around Rs. 8000/ MT in the months of Apr '22 to Jul '22. Also, ECR of Gas Power Plants have increased 3 to 4 times.
- 2.173 The Commission took following steps after re-allocation of 500 MW of Delhi's share in NTPC Dadri-II to Haryana to mitigate the impact of the same and provide un-interrupted 24x7 power supply to consumers of Delhi:

- a) Re-allocation of Power of Aravali Jhajjar from TPDDL to BRPL: Immediately, after MoP Office Memorandum dated 28/06/2022 wherein they reallocated Dadri-II 500 MW of power of Delhi's share to Haryana and balance 228 MW was continued to be utilized by Delhi till 31/10/2022, the Commission issued an Order on 30/06/2022 and Temporary reallocated 125 MW of Power of Aravali Jhajjar from TPDDL to BRPL w.e.f. 1/07/2022 till 31/10/2022. It was done because the impact of Reallocation of power of Dadri-II was mainly to BRPL resulting into loss of 373 MW of their Power.
- b) Relaxation in Directives due to Power Crisis: The Commission vide its letter dated 2/08/2022, based on the requests of DISCOMs and due diligence thereafter, extended certain relaxations till 31/10/2022 which were earlier valid 31/07/2022 and were allowed during the period of Power Crisis of April 2022. Such extension of relaxations will catalyse DISCOMs in meeting consumer demand 24x7.
- c) Petition No. 34 of 2022: The Commission vide its Order dated 18/08/2022 has accorded In-principal approval to BRPL and BYPL to initiate the process for procurement, under Section 63 of the Electricity Act, 2003, of 500 MW of Power applicable for next 7 years
- 2.174 Further, for long-term Power Tie-up, the Commission granted 'In-principal' approval for 255 MW Wind Solar Hybrid Power for 25 years to TPDDL vide Order dated 27/07/2022.
- 2.175 For Short Term Power (STP) tie-up, the Commission granted 'In-principal' approval to various LOIs such as 675 MW STP purchase for BRPL vide Order dated 25/02/2022 in Petition no. 13/2022, 200 MW STP purchase vide Order dated 13/04/2022 in Petition no. 21/2022, 200 MW STP purchase vide Order dated 11/05/2022 in Petition no. 27/2022 , upto 200 MW Short Term Power from Teesta Urja Ltd.-III vide letter dated 30/05/2022, 300 MW RTC conventional Short Term Power, 150 MW Non-Solar Power, 25 MW HPO Tender in Petition no. 22 & 23/2022 for TPDDL vide Order dated 29/04/2022.

## ISSUE 6: RENEWABLE PURCHASE OBLIGATION & NET METERING

### STAKEHOLDERS' VIEW

- 2.176 TPDDL purchased Rs. 129 Crore worth RPO certificate in FY 2019-20. Consumer should not be burdened to pay for paper certificate in lieu of Renewable Energy.

- 2.177 No relaxation should be given to DISCOM for non-compliance to RPO.
- 2.178 Introduce platform for electricity trading between consumers.
- 2.179 Green Tariff should be implemented in Delhi also.
- 2.180 Distribution Companies should be given an option of purchasing Renewable Power to avoid purchase of REC.
- 2.181 Excess power from Net Metered consumers be purchased at Average Power Purchase Cost (APPC) as determined by CERC instead of present mandated higher cost.
- 2.182 Renewable Power option should be made available to the consumers.
- 2.183 Solar Energy generation scheme at Residential Houses should be provided incentives.
- 2.184 Solar Energy should be used & installation of Solar panels on Roof should be promoted.
- 2.185 Solar Power should be promoted. DERC can make policies to promote Solarization.

#### **PETITIONERS' SUBMISSION**

##### **TPDDL**

- 2.186 TPDDL in collaboration with a Blockchain Technology Partner, has conducted a pilot project to test the technical viability and value proposition of P2P energy trading at the identified sites, and for prosumers and consumers within their network and develop a suitable business model for Blockchain enabled Peer to Peer (P2P) energy trading in Delhi. This was in a sandbox environment without any actual financial transaction or Energy trade. Everything is virtual.
- 2.187 The Pilot project helped in putting together recommendations to DERC to consider a bespoke Network Tariff and trading rules to promote the P2P trading of electricity from Roof Top Solar PV in Delhi.
- 2.188 Benefits of P2P Trading to Prosumers are given below:
- a) Increased earnings from his excess solar energy
  - b) Faster payments
  - c) Increased earnings
  - d) Satisfaction
  - e) Priority Trading Model
- 2.189 Sections 61(h) and 86(e) of Electricity Act mandated promotion of Renewable Energy

- by the Appropriate Commission. The National Tariff Policy, 2016 in its objectives, also lists the promotion of Generation of Electricity through Renewable Sources.
- 2.190 The Petitioner seeks to enhance the Renewable Energy consumption amongst the consumer base on voluntary basis. They also encourage procurement of Renewable Power amongst their consumers through supply of 100% Renewable Power on payment of Green Power Tariff in the form of surcharge which will be in addition to applicable Retail Tariff as approved by the Commission from time to time.
- 2.191 Green Power Tariffs would not have negative impact on the existing Retail Tariffs but would operate as Cost plus model in the form of surcharge over existing Retail Tariffs and would be totally voluntary in nature. The extra charges for procurement of Renewable Power being charged from specific customers would not increase the cost to be borne by other consumers. TPDDL would be buying power at economical rates leading to reduction of Power Purchase Costs and Tariffs. The Renewable power thus provided to the consumers would help avoid buying RECs to comply the RPO targets.
- 2.192 CERC defines Average Power Purchase Cost (APPC) as “Pooled Cost of Purchase” which is the weighted average pooled price at which the Distribution Licensee has purchased the Electricity including cost of self-generation, if any, in the previous year from all the energy suppliers Long-Term and Short-Term, but excluding those based on Renewable Energy sources.
- 2.193 APPC at the National level has been worked out by CERC as Rs. 3.85/kWh while for Delhi APPC is Rs. 4.11/unit for FY 2021-22. In our licensed area, the surplus power from Net-Metering is purchased at around Rs. 5.5/kWh.
- 2.194 Net metering was required to promote and facilitate installations of Rooftop Solar PV system mainly for self-consumption, hence it is proposed to keep the Tariff / compensation rate for surplus energy exported by such systems to Grid at such a level that there should not be adverse impact of the same on other Electricity consumers. TPPDL agrees to the suggestion and it is in overall consumer interest as well as the financial viability of the Power sector.
- 2.195 As regard to stakeholder comment on Solar energy scheme at Residential Houses, it is submitted that this is the prerogative of the GoNCTD.

**BYPL**

- 2.196 As regard to stakeholder comment pertaining to Electricity Trading, it is submitted that the issue pertains to other DISCOMs & the observations may be duly addressed by them.
- 2.197 Purchase of RECs burden the DISCOMs and ultimately consumers with no Actual Power. It is always prudent to procure Renewable Energy which fulfills RPO instead of procuring REC Certificate. However, setting of RPO Targets and its associated deferment is prerogative of the Commission to consider.
- 2.198 Moreover, various other states have relaxed the RPO Target in view of delayed RE Project and outbreak of COVID pandemic. Following states relaxes/ carry forward the RPO Target:
- a) The Punjab State Electricity Regulatory Commission (PSERC) has approved the carry forward of the shortfall in the compliance of RPO in FY 2019-20 to FY 2020-21.
  - b) The Gujarat Electricity Regulatory Commission (GERC), in a recent ruling, directed MPSEZ Utilities Private Limited (MUPL) to make up for the past shortfall (FY 2017-18) in solar RPO within the FY 2020-21.
  - c) The Bihar Electricity Regulatory Commission (BERC) has approved the request of the Bihar State Power Holding Company Limited (BSPHCL) to carry forward the shortfall in its RPO for the FY 2019-20 to FY 2020-21. BERC further added that the power company could purchase either solar power or solar RECs to fulfil the RPO shortfall for FY 2019-20.
  - d) The Rajasthan Regulatory Commission pointed out that the DISCOMs had made every effort to comply with RPO targets and had signed a sufficient number of PPAs under which the required quantum of Electricity could have been obtained. The regulatory authority pointed out that even though the DISCOMs signed an adequate number of PPAs in the past, the Generation in terms of energy was not to the expected level. Consequently, there was a shortfall in RPO compliance. The Commission noted that there was no case to initiate action against the DISCOMs or impose a penalty as they had tried their best to comply with the targets. The Commission directed the DISCOMs to assess the energy requirements more realistically in advance and sign the

PPAs accordingly in the future. It also asked the DISCOMs to make up for the RPO shortfall in the next three years.

- 2.199 The Petitioner is making consistent efforts for the last few years to procure Renewable Energy to meet RPO targets as specified by the Commission. The Petitioner has arrangements for purchasing Non-Solar Power from Delhi based Plants such as DMSW, SDMC. In addition to the existing sources the petitioner has executed PPAs with Renewable Energy Developer through SECI for Wind Power. However, there are various external factors which might affect the Petitioner to comply with RPO targets like COVID- 19, delay in Scheduled Commercial Operation Date by RE-developers, halt in REC trading and other factors which are beyond the control of the Licensee.
- 2.200 Therefore, in view of the above, various efforts have been made by the Petitioner in meeting the RPO Targets and all above mentioned constraints which are beyond the control of the Licensee and should be allowed carry forward/waiver of RPO Target of FY 2020-21. The Commission is requested to consider the same while issuing the Tariff Order.
- 2.201 BYPL is continuously exploring the avenues of procuring actual Renewable Power from Solar and Non-Solar sources.
- 2.202 With regard to the suggestion for Green Power Tariff, it is submitted that determination of Electricity Tariff to be charged from a consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003
- 2.203 The Petitioner purchases excess energy by Net Metering consumer as per Regulation 9(7) of DERC (Net Metering for Renewable Energy) Regulations, 2014. Petitioner is obligated by the aforesaid Regulation. The Regulation 9(7) is quoted below:
- “At the end of each Financial Year, any net energy credits, which remain unadjusted, shall be paid for by the distribution licensee to the consumers as per the rates notified by the Commission from time to time.”*
- 2.204 As enquired in reference to the Solar Power to all, the Government has set a target of installing 40 GW of Grid connected Rooftop Solar capacity in the Country including Delhi and National Capital Region (NCR) by year 2022. As per the Delhi Solar Policy, 2016 notified by Government of NCT of Delhi, target has been set for installation of

- 2 GW of solar power by year 2025 in Delhi.
- 2.205 The Government is promoting development of Solar Energy in the Country by providing various fiscal and promotional incentives such as Accelerated Depreciation, waiver of Inter State Transmission System (ISTS) charges and losses, financing solar Rooftop Systems as part of home loan, and permitting Foreign Direct Investment up to 100 per cent under the automatic route.
- 2.206 Further, currently there is no such provision in the Tariff Order which makes a Renewable Power purchase by a consumer optional and for the consumer who is willing to purchase the Renewable Power to be charged at the rate at which it is purchased.
- 2.207 The Petitioner in FY 2020-21 have undertaken the initiatives towards solarization, as follows:
- a) Implementation of rooftop solar projects for residential customers,
  - b) Setting up of Energy Innovation Hub,
  - c) Digital Platform for Energy Management,
  - d) Development of Mobile Application under Consumer Behavior study,
  - e) Maintenance of 13 rooftop PV plants at office locations,
  - f) Service for Dashboard related to RE Generation Forecasting, etc.
- 2.208 The above initiative aims to improve the consumer experience, efficiency & lowers the cost of service. As the expenses incurred on such new initiatives are not the part of normative O&M expenses, therefore, such expenses are claimed in additional O&M expenses for FY 2020-21.
- 2.209 As regard to stakeholder comment on Solar energy scheme at Residential Houses, it is submitted that the stakeholder comment is not related to the instant Petition. However, the Petitioner is actively engaged in publicizing the Solar Generation scheme along with benefits and incentives provided by appropriate Authorities under the scheme.
- 2.210 With regard to stakeholder comment on providing Renewable Power option to consumer, it is submitted that the Commission has provided renewable Purchase Obligations for DISCOMs. Accordingly, the petitioner signed Long Term /Short Term contracts with RE generators. The petitioner is also facilitating the growth of Net

Metering connections in its area of supply.

**BRPL**

- 2.211 As regard to stakeholder comment pertaining to Electricity Trading, it is submitted that the issue pertains to other DISCOMs & the observations may be duly addressed by them.
- 2.212 Purchase of RECs Certificate burden the DISCOMs and ultimately consumers with no Actual Power. It is always prudent to procure Renewable Energy which fulfills RPO instead of procuring REC Certificate. However, setting of RPO Targets and its associated deferment is prerogative of the Commission to consider.
- 2.213 Moreover, various other states have relaxed the RPO Target in view of delayed RE Project and outbreak of COVID pandemic. Following states relaxes/ carry forward the RPO Target:
- a) The Punjab State Electricity Regulatory Commission (PSERC) has approved the carry forward of the shortfall in the compliance of RPO in FY 2019-20 to FY 2020-21.
  - b) The Gujarat Electricity Regulatory Commission (GERC), in a recent ruling, directed MPSEZ Utilities Private Limited (MUPL) to make up for the past shortfall (FY 2017-18) in solar RPO within the FY 2020-21.
  - c) The Bihar Electricity Regulatory Commission (BERC) has approved the request of the Bihar State Power Holding Company Limited (BSPHCL) to carry forward the shortfall in its RPO for the FY 2019-20 to FY 2020-21. BERC further added that the power company could purchase either solar power or solar RECs to fulfil the RPO shortfall for FY 2019-20.
  - d) The Rajasthan Regulatory Commission pointed out that the DISCOMs had made every effort to comply with RPO targets and had signed a sufficient number of PPAs under which the required quantum of Electricity could have been obtained. The regulatory authority pointed out that even though the DISCOMs signed an adequate number of PPAs in the past, the Generation in terms of energy was not to the expected level. Consequently, there was a shortfall in RPO compliance. The Commission noted that there was no case to initiate action against the DISCOMs or impose a penalty as they had tried

their best to comply with the targets. The Commission directed the DISCOMs to assess the energy requirements more realistically in advance and sign the PPAs accordingly in the future. It also asked the DISCOMs to make up for the RPO shortfall in the next three years.

- 2.214 Therefore, in view of the above, various efforts have been made by the Petitioner in meeting the RPO Targets and all above mentioned constraints which are beyond the control of the Licensee and should be allowed carry forward/waiver of RPO Target of FY 2020-21. The Commission is requested to consider the same while issuing the Tariff Order.
- 2.215 The Petitioner purchases excess energy by Net Metering consumer as per Regulation 9(7) of DERC (Net Metering for Renewable Energy) Regulations, 2014. Petitioner is obligated by the aforesaid Regulation. The Regulation 9(7) is quoted below:
- “At the end of each Financial Year, any net energy credits, which remain unadjusted, shall be paid for by the distribution licensee to the consumers as per the rates notified by the Commission from time to time.”*
- 2.216 As regard to stakeholder comment on Solar energy scheme at Residential Houses, it is submitted that the stakeholder comment is not related to the instant Petition. However, the Petitioner is actively engaged in publicizing the Solar Generation scheme along with benefits and incentives provided by appropriate Authorities under the scheme.
- 2.217 BRPL is continuously exploring the avenues of procuring actual Renewable Power from Solar and Non-Solar sources. Further, in order to encourage Renewable Power, BRPL has already procured 41 MU of Solar Power from Power Exchange during FY 2020-21 through GTAM.
- 2.218 With regard to the suggestion for Green Power Tariff, it is submitted that determination of Electricity Tariff to be charged from a consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.
- 2.219 As enquired in reference to the Solar Power to all, the Government has set a target of installing 40 GW of Grid connected Rooftop Solar capacity in the country including Delhi and National Capital Region (NCR) by year 2022. As per the Delhi Solar Policy, 2016 notified by Government of NCT of Delhi, target has been set for installation of

2 GW of Solar Power by year 2025 in Delhi.

- 2.220 The Government is promoting development of Solar Energy in the country by providing various fiscal and promotional incentives such as accelerated depreciation, waiver of Inter State Transmission System (ISTS) charges and losses, financing solar Rooftop Systems as part of home loan, and permitting Foreign Direct Investment up to 100 per cent under the automatic route.

#### **NDMC**

- 2.221 The stakeholder does not fall in NDMC's licensed area of supply.

#### **COMMISSION'S VIEW**

- 2.222 The Electricity Act, 2003 entrusts on the appropriate Commission the responsibility for the promotion of co-generation and generation based on Renewable Energy Sources (RES). The policy framework of the Government of India also stresses on the encouragement of Renewable Energy Sources keeping in view the need for energy security and reducing the carbon footprint. Section 86 (1) (e) of the Electricity Act 2003 states:

*"The State Commission shall discharge the following functions:*

*Promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee"*

- 2.223 The Commission in pursuance of the same has mandated the Renewable Purchase Obligation to be met through the purchase of energy from Renewable Energy Sources/or purchase of Renewable Energy Certificates (RECs) to ensure that RPOs are met in the most optimum manner.
- 2.224 Ministry of Power (MoP), Gol vide its Order dated 14/06/2018 specified the RPO targets till FY 2021-22. The Commission has considered the RPO targets (a year later targets) in DERC (Business) Plan Regulations, 2019, as specified by MoP, Gol.
- 2.225 The renewable power is available at competitive rates and DISCOMs are encouraged to enter long term PPAs with various Renewable Energy Generation companies. The Power Purchase Agreement with Generating Companies are valid till the term of PPA.

- 2.226 The Commission has promoted Net Metering in Delhi through framework of Net Metering Regulations in 2014 and issued guidelines in 2019 related to Virtual Net Metering (VNM) and Group Net Metering (GNM). 178 MW of Solar Roof Top through Net Metering, VNM & GNM has been installed in Delhi till Q1 FY 2022-23.
- 2.227 Further, penalties for non-compliance to RPO has been illustrated at Table No. 2.2 of DISCOM wise penalty levied from FY 2017-18 to FY 2019-20.
- 2.228 In order to further encourage embedded Generation in the Electricity Distribution Network without any Transmission Losses (STUs & CTU) and Distribution Losses at appropriate voltage level, the Commission issued amendments to DERC (Group Net Metering and Virtual Net Metering for Renewable Energy) Guidelines, 2021 to promote Renewable Energy by including Service Line cum Development (SLD) and network augmentation in the scope of respective DISCOMs till additional capacity doesn't exceed 75 MW, 50 MW, 30 MW and 10 MW for BRPL, TPDDL, BYPL and NDMC respectively as applicable for VNM/ GNM projects.
- 2.229 The Commission has noted the suggestion of stakeholders regarding Green Tariff & Peer to Peer Energy Trading.
- 2.230 The Commission notified DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulation, 2021 wherein RPO targets for Obligated Entities (i.e. Distribution Licensees, Open Access consumers and Captive users) are specified for period from FY 2020-21 up to FY 2022-23.
- 2.231 The DISCOMs have submitted that they have procured the Renewable Energy from Power Exchanges in last six months through Green Term Ahead Market (GTAM). GTAM being a new product shall be explored for procuring Renewable Power. The Commission continually provides Regulatory support in exploring new products for purchase of Renewable Energy as a step in promoting clean sources of energy in the interest of consumer.

## **ISSUE 7: AT&C LOSSES**

### **STAKEHOLDER'S VIEW**

- 2.232 BRPL has already achieved 7.17% Distribution Losses in FY 2020-21 & considering Distribution Losses for FY 2022-23 as 7.9% is unjustifiable & must be denied by DERC. There is no incentive to improve this number as this is fully compensated in ARR.

- 2.233 DERC should disallow incentives for DISCOMs showing higher Target for Distribution Loss in Tariff Petition and then showing less in Actual to claim incentives.
- 2.234 Reduced AT&C losses in last 14 years is not matching with reduction in Power Tariff for all those years.
- 2.235 The direction of Hon'ble APTEL to rework AT&C losses for FY 2011-12 in EP 5 of 2020-21 dated 26/07/2021 was in excess of jurisdiction and cannot be implemented. The existing AT&C loss level based on MYT Regulations shall prevail.
- 2.236 Collection efficiency should be 100%.
- 2.237 Distribution loss target should be fixed at 5%.
- 2.238 Distribution loss of 7.9% for FY23 is very high in comparison to that of Chinese companies.
- 2.239 The Collection of 0.7% in excess of 100% collection efficiency is claimed in the Petition but it is also stated that 200 MUs could not be collected. These are contrary claim in the Petition & Bad debt claim should be rejected.
- 2.240 Incentive of over achievement of Collection Efficiency and Distribution Loss Target should be provided to consumers.

#### PETITIONER'S SUBMISSION

##### TPDDL

- 2.241 The case regarding reworking of AT&C loss for FY 2011-12, is sub-judice in Hon'ble APTEL.
- 2.242 The Tariff Regulations, 2017 provides that  
*"Target for Collection Efficiency shall be fixed on the basis of actual performance, past targets and other relevant factors/measures/information of the Distribution Licensee for a Control Period in the Business Plan Regulations."*
- 2.243 Accordingly, the Distribution loss targets are fixed by the Commission for the entire period of applicability of Business Plan Regulations and are determined based on the base year performance of the DISCOM. Once the targets are approved by the Commission, the same are not revisited till the end of the above said period.
- 2.244 Hence, Distribution loss reduction targets and eligibility for incentives on actual achievement are decided by the Commission as per Business Plan Regulations, 2017 and Tariff Regulations, 2017 after prudence check at the time of True-Up.

2.245 As regard to stakeholder comment on Bad Debt, it is submitted that TPDDL has not claimed any amount related to bad debt.

2.246 Other query does not pertain to TPDDL.

#### BYPL

2.247 The Distribution Loss of 8.50 % is the target fixed by the Commission for the Petitioner in Regulation 25 of Business Plan Regulations, 2019. Further, any financial impact on underachievement & overachievement is as per Regulation 25 of Business Plan Regulations, 2019, as follows:

#### *“25. TARGET FOR DISTRIBUTION LOSS*

*(1) The Distribution Loss target in terms of Regulation 4(9)(a) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution licensees shall be as follows:*

*Table 15: Target for Distribution Loss for the Control Period*

Table 15: Target for Distribution Loss for the Control Period				
Sr. No.	Distribution Licensee	2020-21	2021-22	2022-23
1	BSES Rajdhani Power Ltd.	8.10%	8.00%	7.90%
2	BSES Yamuna Power Ltd.	9.00%	8.75%	8.50%
3	Tata Power Delhi Distribution Ltd.	7.90%	7.80%	7.70%
4	New Delhi Municipal Council	9.00%	8.75%	8.50%

*Regulation 25(4) of the Business Plan Regulations, 2019-*

*“(4) Any financial impact due to Overachievement on account of Distribution Loss target by the distribution licensee for the relevant year shall be shared between the Distribution Licensee and Consumers as follows:*

*i. in case actual Distribution Loss is between the loss target and loss target minus  $[50\% \times (\text{Previous Year Target} - \text{Current Year Target})]$  for the relevant year shall be shared in the ratio of 2/3rd to Consumers and 1/3rd to the Distribution Licensee;*

*ii. in case actual Distribution Loss is less than loss target minus  $[50\% \times (\text{Previous Year Target} - \text{Current Year Target})]$  for the relevant year shall be shared in the ratio of 1/3rd to Consumers and 2/3rd to the Distribution Licensee.*

*Explanation -*

*Previous Year Distribution Loss Target - PYT*

*Current Year Distribution Loss Target - CYT*

*CASE 1: If Actual Loss > CYT, 100% of the distribution loss is to Distribution Licensee*

*CASE 2: If  $CYT > Actual > [CYT - 50\% * (PYT - CYT)]$ , 1/3rd of the incentive is to Distribution Licensee and 2/3rd of the incentive is to Consumers.*

*CASE 3: If  $Actual < [CYT - 50\% * (PYT - CYT)]$ , incentive upto  $[CYT - 50\% * (PYT - CYT)]$  is to be shared as 1/3rd to the Distribution Licensee and 2/3rd to the Consumers.*

*Remaining incentive is to be shared as 2/3rd to the Distribution Licensee and 1/3rd to the Consumers.”*

- 2.248 Petitioner in its ARR petition has considered target for Distribution Loss as approved by the commission in its Business Plan Regulations, 2019. Further, BYPL has aggressively reduced its Distribution Loss from 63 % to 7.98% from Jul '02 to Mar '21 which is among highest in the country. The benefit of the same is passed on to the consumers in the ARR Petition.
- 2.249 By virtue of the billing lag which is inherent in an annual Tariff re-determination, even if the collection efficiency were assumed to be 100%, even then the actual collection would still be in the range of 99% to 99.25%.
- 2.250 Accordingly, the Petitioner has made its detailed submission w.r.t Distribution Loss Target and Collection Efficiency Target in its ARR Petition along with detailed analysis.
- 2.251 In SOR of Business Plan Regulation 2019, the Commission has stated that while determining the Distribution Loss trajectory for the Control period, it reviewed the actual loss targets as already achieved by the Distribution Licensees. Based on the trajectory as allowed in the Business Plan Regulations, 2017 and the current performance, the Commission determined the trajectory for FY 2020-21 to FY 2022-23.
- 2.252 The Distribution Loss target specified for Petitioner is 8.75% and 8.50% for FY 2021-22 and FY 22-23 respectively. The Petitioner has overachieved its Distribution Loss Target during FY 2020-21 i.e; 7.98% against target of 9.00 % and the benefit of the same is shared with the consumers in the ARR Petition in accordance with Regulation 25 of DERC Business Plan Regulations, 2019.
- 2.253 Tariff Regulations, 2017 and Business Plan Regulations, 2019 provides the

methodology for computation of Collection efficiency and the incentive sharing mechanism on account of overachievement of the specified operational targets.

- 2.254 Accordingly, the Petitioner has claimed incentive on overachievement of Distribution Losses in accordance to Regulation 25(4) of the Business Plan Regulations, 2019 against the targets defined in regulation 25(1) of the Business Plan Regulations, 2019.

#### BRPL

- 2.255 Petitioner in its ARR petition has considered target for Distribution Loss as approved by the commission in its Business Plan regulations, 2019. It may be noted that BRPL has aggressively reduced its Distribution Loss from 47.1 % to 7.17% from July'02 to March'21 which is among highest in the country. The benefit of the same is passed on to the consumers in the ARR Petition.
- 2.256 The Commission has finalized the targets for Distribution loss and Collection Efficiency in its Business Plan Regulations, 2019. Also, incentive on account of any overachievement w.r.t Collection Efficiency and Distribution Loss is shared with the consumers in accordance with the provisions of Tariff Regulations, 2017 and Business Plan Regulations, 2019.
- 2.257 The Distribution Loss of 7.9% is the target fixed by the Commission for the Petitioner in Regulation 25 of Business Plan Regulations, 2019. Further, any financial impact on underachievement & overachievement is as per Regulation 25 of Business Plan Regulations, 2019, as follows.

#### *"25. TARGET FOR DISTRIBUTION LOSS*

*(1) The Distribution Loss target in terms of Regulation 4(9)(a) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution licensees shall be as follows:*

**Table 15: Target for Distribution Loss for the Control Period**

Sr. No.	Distribution Licensee	2020-21	2021-22	2022-23
1	BSES Rajdhani Power Ltd.	8.10%	8.00%	7.90%
2	BSES Yamuna Power Ltd.	9.00%	8.75%	8.50%
3	Tata Power Delhi Distribution Ltd.	7.90%	7.80%	7.70%
4	New Delhi Municipal Council	9.00%	8.75%	8.50%

*Regulation 25(4) of the Business Plan Regulations, 2019-*

*"(4) Any financial impact due to Overachievement on account of Distribution*

*Loss target by the distribution licensee for the relevant year shall be shared between the Distribution Licensee and Consumers as follows:*

*i. in case actual Distribution Loss is between the loss target and loss target minus  $[50\% * (\text{Previous Year Target} - \text{Current Year Target})]$  for the relevant year shall be shared in the ratio of 2/3rd to Consumers and 1/3rd to the Distribution Licensee;*

*ii. in case actual Distribution Loss is less than loss target minus  $[50\% * (\text{Previous Year Target} - \text{Current Year Target})]$  for the relevant year shall be shared in the ratio of 1/3rd to Consumers and 2/3rd to the Distribution Licensee.*

*Explanation -*

*Previous Year Distribution Loss Target - PYT*

*Current Year Distribution Loss Target - CYT*

*CASE 1: If Actual Loss > CYT, 100% of the distribution loss is to Distribution Licensee*

*CASE 2: If  $CYT > \text{Actual} > [CYT - 50\% * (PYT - CYT)]$ , 1/3rd of the incentive is to Distribution Licensee and 2/3rd of the incentive is to Consumers.*

*CASE 3: If  $\text{Actual} < [CYT - 50\% * (PYT - CYT)]$ , incentive upto  $[CYT - 50\% * (PYT - CYT)]$  is to be shared as 1/3rd to the Distribution Licensee and 2/3rd to the Consumers.*

*Remaining incentive is to be shared as 2/3rd to the Distribution Licensee and 1/3rd to the Consumers.”*

## **NDMC**

2.258 The party is not in NDMC area.

## **COMMISSION'S VIEW**

2.259 The target for Distribution Losses has been benchmarked with following parameters:

- a) Distribution Losses trajectory of previous years for DISCOMS;
- b) Performance of various Indian Distribution companies
- c) Electric Power Transmission and Distribution Losses for Top 50 countries from the World Bank website

The detailed methodology for computing Distribution losses is mentioned at Sr. No. D (4) of Explanatory Memorandum - Draft DERC (Business Plan) Regulations, 2019 uploaded at Commission's website.

2.260 The target for Distribution losses for the control period from FY 2020 till FY 2023 is

specified as Regulation 25 of DERC (Business Plan) Regulations, 2019. The amount of over achievement/under achievement on the distribution loss target shall be computed as per formula specified in the Regulation 159 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.

- 2.261 The DISCOMs are given an incentive if the Distribution Losses are reduced below the target fixed. If the losses are more than the target fixed, the loss above the target fixed is full to the account of the DISCOMs. The targets every year are progressively decreasing and it is expected that DISCOMs will achieve them. If the DISCOMs do not achieve the target, the financial impact will be to the account of the DISCOMs alone and will get reflected in the true-up of ARR of the respective DISCOMS.
- 2.262 The Actual Distribution Losses of DISCOMs, as submitted by them during True up of the Petitions, for FY 2020-21 is 7.17%, 7.98%, 8.43% & 7.15% for BRPL, BYPL, NDMC & TPDDL respectively which is far below the National Average Loss Level i.e. 20.93% in FY 2019-20 (*source: Report on performance of Power Utilites 2019-20*).
- 2.263 The details of actual incentive/disincentive given to the DISCOMs for over and underachievement of AT&C loss target are available in Chapter A3 (True-up of ARR) of the respective year Tariff Orders which are available at Commission website ([www.derc.gov.in](http://www.derc.gov.in)).
- 2.264 The Commission is of the view that Distribution Loss is an inherent loss in the System which can be minimized up to the technical permissible limit, whereas the losses also include the theft which can be controlled by DISCOMs.
- 2.265 The Distribution Losses are applicable on Open Access consumers in line with clause 8.5.1 of the Tariff Policy 2016 as stated under:

“8.5.1 ...

*A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross-subsidy surcharge.*

*... While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which requires the open access to be introduced in a time-bound manner, is used to bring about competition in the*

*larger interest of consumers.”*

- 2.266 The Cross-Subsidy Surcharge and the Additional Surcharge to be levied from consumers, who are permitted open access. However, a consumer shall avail open access only if the payment of all the charges leads to a benefit to them.
- 2.267 The stakeholders views regarding resetting of Distribution Loss Target of Distribution Licensees will be considered appropriately for next control period and stakeholders are requested to submit their comments when sought by the Commission on the Draft Regulations for the next control period.

## **ISSUE 8: DISTRIBUTION INFRASTRUCTURE**

### **STAKEHOLDERS' VIEW**

- 2.268 The infrastructure of DISCOM is getting outdated and Infrastructure development activities should be increased.
- 2.269 Electricity poles, Substations infrastructure is in bad shape. Overhead cables should be removed and should be laid underground.
- 2.270 Consumption of Power in Substation is very high.
- 2.271 The consumption of power in Sub-station, own-consumption of DISCOM are shown very high.
- 2.272 Underground cables are not required. For fault rectification, entire road is excavated which causes inconvenience to Public.
- 2.273 Smart Meter do not serve the purpose in terms of its cost and Cost benefit analysis and their funding is a direct burden on consumer.
- 2.274 Meters were changed forcefully in the past, due to which maintenance cost is increasing.
- 2.275 All new cables should be laid in housing societies.
- 2.276 Why DISCOM denied connections to consumer with 11kW meter load and asked them to pay for installation of new transformer.
- 2.277 Defective/burnt meters should be sent to NABL laboratories for testing and consumers should not be harassed as thief.
- 2.278 Street light maintenance charge of Rs. 9 / kM is totally unjustifiable.
- 2.279 Street light maintenance charges should be reduced. The maintenance charges received from Municipal Corporation should be included in NTI.

- 2.280 Street light is already part of O&M expenses and should be paid through CKT-KM basis and actual tax paid should be allowed without any profit on it.

### PETITIONER'S SUBMISSION

#### TPDDL

- 2.281 Maintenance charges for street light maintenance is already offered as Non-Tariff Income.
- 2.282 Other queries does not pertain to TPDDL.

#### BYPL

- 2.283 As regards to stakeholder comment on income from Street Light Maintenance, it is submitted that the responsibility of maintaining street light is not contained in the Distribution License of the Petitioner. The Electricity Act, 2003 does not mandate the Distribution Licensee to maintain Street Lights. Further, as per Section-42 of Delhi Municipal Corporation Act, 1957, it is the responsibility of MCD to maintain Street lighting system which is reproduced below:

*"42. Obligatory functions of the Corporation....*

*(o) the lighting, watering and cleansing of public streets and other public places;...*

*(w) the maintenance and development of the value of all properties vested in or entrusted to the management of the Corporation;"*

- 2.284 With the unbundling and restructuring of Delhi Vidyut Board (DVB) into corporate entities and privatisation of Distribution Business, the past legacy of maintenance of public lighting was passed on to the Petitioner though the maintenance of public lighting is not their function.
- 2.285 The Commission while deliberating on the issue of Street Light maintenance charges has in the Tariff Order dated 31/08/2017 directed that the incentive earned on account of street light maintenance shall be allowed to be retained by the Petitioner.
- 2.286 Therefore, Petitioner is maintaining Street Lights not as an obligation under Licensed Business or a part thereof but on behalf of road owning agencies, viz. MCD, NHAI, PWD in the areas comprising East and Central Delhi.
- 2.287 Further, the Commission in its Order dated 5/03/2004 and 22/09/2009 while stipulating the incentive/disincentive mechanism for maintaining streetlights has

stated that the incentive or disincentive would not be a pass-through in the calculation of the ARR. The Commission in the Tariff Order dated 23/07/2014 had clarified that the incentive earned on account of street light maintenance shall be allowed to be retained by the Petitioner if the same is indicated separately in the audited financial statement. Accordingly, the street light maintenance charges is offered as part of Non-Tariff Income.

**BRPL**

2.288 As regards to stakeholder comment on income from Street Light Maintenance, it is submitted that the responsibility of maintaining street light is not contained in the Distribution License of the Petitioner. The Electricity Act, 2003 does not mandate the Distribution Licensee to maintain Street Lights. Further, as per Section-42 of Delhi Municipal Corporation Act, 1957, it is the responsibility of MCD to maintain Street lighting system which is reproduced below:

*“42. Obligatory functions of the Corporation....*

*(o) the lighting, watering and cleansing of public streets and other public places;...*

*(w) the maintenance and development of the value of all properties vested in or entrusted to the management of the Corporation;”*

2.289 With the unbundling and restructuring of Delhi Vidyut Board (DVB) into corporate entities and privatisation of Distribution Business, the past legacy of maintenance of public lighting was passed on to the Petitioner though the maintenance of public lighting is not their function.

2.290 The Commission while deliberating on the issue of Street Light maintenance charges has in the Tariff Order dated 31/08/2017 directed that the incentive earned on account of street light maintenance shall be allowed to be retained by the Petitioner.

2.291 Therefore, Petitioner is maintaining Street Lights not as an obligation under Licensed Business or a part thereof but on behalf of road owning agencies, viz. MCD, NHAI, PWD in the areas comprising East and Central Delhi.

2.292 As regards to stakeholder comment on consumption of Power in sub-station, it is submitted that the Commission has approved consumption at substation as per Regulation 23(2) of Business Plan Regulations, 2019. The Regulation 23(2) is stated

as below:

*“(2) The Distribution Licensee shall be allowed own (Auxiliary) consumption including e-vehicle charging stations installed at Distribution Licensee offices and sub-stations, at Zero Tariff for actual recorded consumption subject to a maximum of 0.25% of total sales excluding own consumption to its retail consumers for the relevant financial year as part of O&M expenses for the relevant year:*

*(3) Actual recorded own (Auxiliary) consumption in excess of 0.25% of total sales excluding own consumption to its retail consumers for the relevant financial year, shall be billed at Non Domestic Tariff of respective year’s Tariff Schedule and shall form part of revenue billed and collected for the same year.”*

#### **NDMC**

2.293 The party is not in NDMC area

#### **COMMISSION’S VIEW**

2.294 The installation of smart meters has been mandated in the revised National Tariff Policy dated 28/01/2016 issued by MoP, GoI. Accordingly, the Commission has accorded ‘In-principle’ approval to the proposal of DISCOMs for installation of Smart Meters, in phased manner.

2.295 The Central Electricity Authority (CEA) notified Measures relating to *Safety and Electric Supply Regulations, 2010* as amended from time to time. The Commission in its *DERC (Supply Code and Performance Standards) Regulations, 2017* has directed the Distribution Licensee and the consumers to follow the provision of the Safety and Electric Supply Regulations. Accordingly, the bare conductors are being replaced with the cables in a phased manner by the Distribution Licensees on case to case basis.

2.296 The domestic connections shall be installed as per procedure specified in Chapter-3 of *DERC (Supply Code and Performance Standards) Regulations, 2017*. For delay in energizing connection, the License shall be liable to pay the applicant compensation as per regulation 11 (v) of said order. Relevant clause as stated below:

*“11 (V). In case the Licensee fails to provide the connection to an applicant*

*within the prescribed time lines, the Licensee shall be liable to pay the applicant compensation as specified in Schedule-I of the Regulations.”.*

2.297 During the prudence check, the details for capitalisation of meters on different heads were sought as per format including the replacements of meters attributable to the Distribution Licensee and the consumer.

2.298 The Regulation 24 of Business Plan Regulations, 2019 outlays the tentative Capital Investment Plan including investment on smart meters for the petitioners. The relevant clause of said Regulation is as follows:

*“ 5. The Distribution Licensee shall submit an application including details of actual Capitalisation on quarterly basis for physical verification and true up of capital cost within 1 (one) month of the completion of the relevant quarter”.*

*In line with said regulation, the petitioner submits the details of actual capitalization on quarterly basis.”*

2.299 The formation and implementation of capitalization plan may be referred from section A3: True up upto FY 2020-21 under the head of capital expenditure and capitalization.

2.300 The Commission has considered the submission that the expenses on account of street light maintenance is separate than the normal O&M expenses. However, the contract for maintenance of the street light has been given to the Petitioner due to its distribution business. Accordingly, the Commission has considered the net amount from Street Light Maintenance as part of Non-tariff income of the Petitioner.

## **ISSUE 9: TRUE-UP OF PAST CLAIMS**

### **STAKEHOLDERS' VIEW**

2.301 True Up for FY 2020-21 should be completed urgently:

- i) Distribution Loss Target and Collection Efficiency for FY 2020-21.
- ii) Non-Tariff Income
- iii) Rebate on Power Purchase Cost
- iv) Sale of Surplus Power
- v) RPO Obligation
- vi) O&M Charges
- vii) Communication Expenses

- viii) Loss on Sale of retired assets
  - ix) Legal Expenses
  - x) Income from Street Light Maintenance
  - xi) Commission on Collecting Electricity Duty
- 2.302 Old DVB dues should be recovered.
- 2.303 Rs. 372 Crore with carrying cost should be reduced from assets of the DISCOMs as this amount was transferred to DISCOMs in December, 2001 before privatization.
- 2.304 DISCOM's response to observations shall be reviewed by the Commission as DISCOMs projected huge Revenue gap every year.
- 2.305 Why BYPL keeps filing same claims again and again.

### **PETITIONER'S SUBMISSION**

#### **TPDDL**

- 2.306 DISCOMs books of accounts are duly checked/audited by CAG empanelled Statutory Auditors to present a true and fair view in accordance with various Laws. Further, prudence checks towards the True up is also done by the Commission and the Auditors appointed by them.
- 2.307 Other Queries does not pertain to TPDDL.

#### **BYPL**

- 2.308 As regards the stakeholder's comments on True-up of FY 2020-21, it is submitted that the Petitioner has filed the True-up Petition in terms of the provisions of the Tariff Regulations, 2017 and Business Plan Regulations, 2019.
- 2.309 The Petitioner has already provided the detailed justifications, clarification and computation with respect to each claim as sought in its Petition for scrutiny.
- 2.310 The Commission considers the merits of the submissions made by the Petitioner, analyses the legitimacy of the same as per the applicable Regulations and allows/disallows the submissions based on such principles. The concerns of the stakeholder would be addressed in the Tariff Determination process to the extent not contrary to the Binding Regulations and Statutory Framework.
- 2.311 BYPL claims its legitimate entitlements in terms of DERC Regulations/Orders/ or Orders of Superior Court in its ARR Petition. If these entitlements are not considered by the Commission in the Tariff Order for the Financial Year, the same is sought by

- BYPL under past claims Chapter in the ARR Petition.
- 2.312 Timely Implementation of APTEL orders by the Commission is in overall interest of the consumers and the sector as a whole. Hon'ble APTEL has observed in its various judgments that its judgment/ Orders are to be implemented promptly, in cases, where its judgments have been passed and no stay Order has been granted by the Hon'ble Supreme Court. Even the mere pendency of an appeal against APTEL judgment is not an excuse for its delay in implementation or non-implementation.
- 2.313 Regarding Petitioner's claim for implementation of APTEL Judgments and past period claims, it is submitted that, only after detailed deliberation on the issues, Hon'ble APTEL vide its various judgments has issued specific directions to the Commission which the Commission is legally bound to implement. Accordingly, the Petitioner in its Petition has prayed for implementation of various Judgments passed by the Hon'ble APTEL and allowance of its entitlement in the Tariff Order. Further, the issue wise detailed submissions along with computation of financial impact are provided in ARR/True-up Petition.
- 2.314 Delay in recognition of past period issues and allowance of the claims violates principles of Tariff determination under Section 61, 62 and 64 of Electricity Act, 2003 which attracts substantial amount of carrying cost to be borne by the consumer which can be avoided if the claims are allowed to the Petitioner in a timely manner.
- 2.315 As regard to Distribution Loss Target and Collection Efficiency for FY 2020-21, it is submitted that the Commission finalised the Distribution Loss targets and Collection Efficiency in its Business Plan Regulations, 2019 after seeking comments and suggestions from the stakeholders.
- 2.316 The per unit rates for normative O&M computation in Business Plan Regulations, 2019 was specified by the Commission after due diligence of the data submitted by Petitioner. Further, we would like to submit that a Public hearing was conducted by the Commission and after considering the contentions, submissions and suggestions by the stakeholders, Business Plan Regulations, 2019 was finalised.
- 2.317 As regard Rate of Interest on Loan, it is submitted that the rate of interest on loan is dependent upon various factors which are the resultant of aspects beyond the control of the Petitioner. The Commission has specified the norms for determination

- of cost of debt based on SBI MCLR in Tariff Regulations, 2017 and Business Plan Regulations, 2019. Accordingly, the Petitioner has made its submissions along with all requisite information for due consideration of the Commission.
- 2.318 As regards the stakeholder comment on 7<sup>th</sup> Pay Commission arrears, it is submitted that the Petitioner has claimed the incremental impact of 7<sup>th</sup> Pay Commission during FY 2020-21 as provided in Regulation 23(6) of Business Plan Regulations, 2019.
- 2.319 Distribution Business is a regulated business under the aegis of the Commission and the right to avail a statutory remedy is also a right guaranteed under Article 14 and 19 of the Constitution. The right to do business under Article 19 (1) (g) includes the right to avail of statutory legal remedies to protect and safeguard the business which is part and parcel of the right to do business. Moreover, the Electricity Act, 2003, allows the Petitioner the right to avail its statutory remedies under section 111 and other applicable provisions. Therefore, all prudently incurred legal expenses without any distinction should be allowed as an expense in the ARR.
- 2.320 Further, the Commission while determining the norms for O&M expenses in Business Plan Regulations, 2019 has not considered legal expenses as the same shall be allowed based on prudence check at the time of true of ARR. Hence, the Petitioner has made its claim of Legal Expenses as an additional expense as provided for in Business Plan Regulations, 2019.
- 2.321 In regard to stakeholder comment on Communication Expenses, it is submitted that these expenses which are incurred by the Petitioner pursuant to the directions of the Commission post finalization of the norms of O&M expenses and hence legitimate expenses are allowed to be recovered in the ARR.
- 2.322 As regards the stakeholder's view for consideration of bad debt recovered as Non-Tariff Income, it is submitted that any amount recovered as bad debts is an energy income and has been rightly considered by the Commission as part of revenue collected during the year and is utilized towards meeting the ARR for the year. Since such income has already been considered as revenue available towards ARR, treating it as Non-Tariff Income would tantamount to double accounting of Income. Therefore, the Income on account of bad debts recovered is allowed to be reduced from Non-Tariff Income of the relevant year.

2.323 The Commission in Regulation 23 (6) of Business Plan Regulations, 2019 has provided that Distribution Licensee may claim the expenses for raising loan for Working Capital and Regulatory Assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence. Accordingly, such expenses are claimed in the Petition for True Up for FY 2020-21. Further, Working capital requirement is determined by the Commission in line with the Regulation 84(4) of the DERC Tariff Regulations, 2017.

#### **BRPL**

2.324 BRPL agrees to the concern raised by the Stakeholder on Truing-up of capital cost since the first Multi Year Tariff period. The Commission is requested to kindly consider Truing Up of Capital Cost of past periods.

2.325 The Commission has finalized the targets for Distribution loss and Collection Efficiency in its Business Plan Regulations, 2019. Also, incentive on account of any overachievement w.r.t Collection Efficiency and distribution loss is shared with the consumers in accordance with the provisions of Tariff Regulations, 2017 and Business Plan Regulations, 2019.

2.326 As regards the stakeholder's view for consideration of bad debt recovered as Non-Tariff Income, it is submitted that any amount recovered as bad debts is an energy income and has been rightly considered by the Commission as part of revenue collected during the year and is utilized towards meeting the ARR for the year. Since such income has already been considered as revenue available towards ARR, treating it as Non-Tariff Income would tantamount to double accounting of Income. Therefore, the Income on account of bad debts recovered is allowed to be reduced from Non-Tariff Income of the relevant year.

2.327 In regard to stakeholder comment on Communication Expenses, it is submitted that these expenses which are incurred by the Petitioner pursuant to the directions of the Commission post finalization of the norms of O&M expenses and hence legitimate expenses are allowed to be recovered in the ARR.

#### **NDMC**

2.328 The stakeholder does not fall in NDMC's licensed area of supply.

#### **COMMISSION'S VIEW**

- 2.329 Finalization of Capital Expenditure and Capitalisation of the DISCOMs is under process. Pending completion of True up exercise for capitalisation, the Commission has approved the capitalisation on provisional basis so that the future consumers are not burdened with past costs.
- 2.330 The matter related to past period claims have been appropriately dealt in the relevant section of subsequent chapters.
- 2.331 The impact of various Judgements of Hon'ble APTEL & review Orders of the Commission has been appropriately considered in this Tariff Order during True-up of FY 2020-21 currently.

#### **ISSUE 10: REGULATORY ASSETS**

##### **STAKEHOLDER'S VIEW**

- 2.332 Tariff on actual cost should be ensured so that past dues are liquidated and new ones not accumulated.
- 2.333 Commission should come with plan for timely Liquidation of Regulatory Assets with carrying costs.
- 2.334 It is requested to liquidate the Regulatory Assets, withdraw the 8% surcharge levied and ensure that such dues are not accumulated further.
- 2.335 What are the Regulatory Assets and their carrying costs as of now.
- 2.336 Govt. should pay for the liquidation of Regulatory Assets along with interest and save consumers from Tariff hike.
- 2.337 Forensic Audit of all DISCOMs should be carried out to arrive at the correct figure of Regulatory Assets.
- 2.338 Regulatory Assets should not be created further, Tariff should be cost reflective and mechanism need to be devised in order to clear the Regulatory Assets.
- 2.339 It needs to be clarified if the Revenue Gap of Rs. 5948 Crores for TPDDL till FY 2021-22 is to be recovered from consumers and also if Rs. 1980 crores is separate from this amount or included in this amount. DERC should provide a roadmap for clearing of these dues.
- 2.340 Carrying cost on Regulatory Asset should be reduced.
- 2.341 How will the accumulation of such huge amount for recovery with interest benefit a common man and what Tariff hike can be expected.

- 2.342 DERC is requested to make the Tariff equal to cost of supply to solve problem of Regulatory Assets/Revenue Gap.
- 2.343 Regulatory Assets are soaring & should be eliminated. Levy of 8% cess is not justified as its tax on future Generations. Tariff shall be raised.

#### **PETITIONER'S SUBMISSION**

##### **TPDDL**

- 2.344 Regulatory Assets got created due to non-cost reflective Tariff for previous years which has now piled up to Rs. 5948 Crores till FY 2021-22 which is to be recovered from the consumers. The amount of Rs. 1980 crores is not included in the amount of Rs. 5948 cores and is a separate one.
- 2.345 Thus, in order to fund the Regulatory assets TPDDL is availing loans from the market and paying interest on the same to the Banks/FIs. To overcome the problem of further creation of Regulatory Assets, the Commission had introduced Regulatory Surcharge of 8% so that the interest burden can be met out to save the consumers from further accumulation of interest. However, current 8% surcharge is not sufficient to recover even the interest cost of Regulatory Assets and it should be enhanced to atleast 15%.
- 2.346 TPDDL agrees with the suggestion that the Tariff should be cost reflective i.e. Tariff should be determined to recover the entire ARR requirement to avoid any creation/accumulation of further Regulatory Asset in a year as the funding of the Regulatory Asset results in carrying cost burden on the consumers.
- 2.347 Need for timely liquidation of the Regulatory Assets has been emphasized in the amendments to the National Tariff Policy. Even in past, DISCOMs have been advocating at various Forums for time bound recovery of Regulatory Assets.
- 2.348 Funding of the Regulatory Assets results in carrying cost burden on the consumers. Hence, in the interest of the consumers and financial viability of the power sector, TPDDL proposes hike in Surcharge to atleast 15% along with cost reflective Tariff to recover the past accumulated Revenue Gap and its carrying cost.
- 2.349 Absence of clear cut roadmap for the liquidation of Regulatory Asset severely impacts the future lending rates. Hence, the Commission is requested to provide a road map for early liquidation of Regulatory Assets.

2.350 It is the discretion of the Govt. to take over the liability of liquidation of Regulatory Assets.

**BYPL**

2.351 We agree with the stakeholder's suggestion that no new Regulatory Asset should be created by adopting the cost reflective Tariff and mechanism need to be devised in order to clear the Regulatory Assets.

2.352 The Commission has acknowledged the fact in past Tariff Orders and Press Releases that in absence of cost-reflective Tariff, huge Regulatory Assets has been created and has adversely affected the borrowing capacity and the credit rating of the DISCOMs.

2.353 The Commission vide its Tariff Order dated 13/07/2012 had introduced the concept of 8% Regulatory surcharge (on fixed & energy charges) for liquidation of accumulated Revenue Gap.

2.354 The rationale given by the Commission in its Tariff Order is as under:

*"5.9 The revenue deficit for FY 2012-13 of the three DISCOMs is Rs 1402.32 Crore While, the accumulated revenue deficit till FY 2010-11 (along with carrying cost) is Rs 6919 Crore Keeping in view the significant deficit with all three DISCOMs and in an attempt to make tariffs cost reflective, the Commission has decided to revise the tariff for all consumer categories in order to enable the DISCOMs to at least recover the approved revenue requirement for FY 2012-13.*

*5.10 For meeting carrying cost of the revenue gap till FY 2010-11 and liquidation of revenue gap, the Commission has decided to introduce a surcharge of 8% over the revised tariff."*

2.355 However, the surcharge of 8% as levied is not enough to recover even the entire carrying cost on created Regulatory Assets. In case, exemption from payment of Regulatory Surcharge is allowed to the stakeholder, not only BYPL cash flow status will further deteriorate, the burden of such exemption will fall on other consumers along with applicable carrying cost.

2.356 There is huge unrecognized Regulatory Asset on account of various APTEL Orders in favour of DISCOMs pending implementation by the Commission. We request that the Commission for implementation of various APTEL judgments which are either not

challenged by DERC before the Hon'ble Supreme Court or where there is no stay from Hon'ble Supreme Court and allow the impact in this Tariff Order without further delay.

2.357 BYPL from time to time has also been drawing the attention of the Commission regarding precarious financial crisis faced by it in the absence of cost reflective Tariff and time bound recovery of accumulated Regulatory Asset.

**BRPL**

2.358 We agree to the stakeholder's suggestion that Regulatory Assets should not be created. Further, Tariff should be cost reflective and mechanism need to be devised in order to clear the backlog.

2.359 The Commission has acknowledged the fact in past Tariff Orders and Press Releases that in absence of cost-reflective Tariff, huge Regulatory Assets has been created and has adversely affected the borrowing capacity and the credit rating of the DISCOMs.

2.360 BRPL from time to time has also been drawing the kind attention of the Commission regarding precarious financial crisis faced by it in the absence of cost reflective Tariff and time bound recovery of accumulated Regulatory Asset.

2.361 There is huge unrecognized Regulatory Asset on account of various APTEL Orders in favour of DISCOMs pending implementation by the Commission. We request that the Commission for implementation of various APTEL judgments which are either not challenged by DERC before the Hon'ble Supreme Court or where there is no stay from Hon'ble Supreme Court and allow the impact in this Tariff Order without further delay. This will lead to the determination of actual Regulatory Asset (recognized and unrecognized) and accordingly an appropriate methodology may be devised to clear the backlog.

2.362 The Commission vide its Tariff Order dated 13/07/2012 had introduced the concept of 8% Regulatory surcharge (on fixed & energy charges) for liquidation of accumulated Revenue Gap.

2.363 The rationale given by the Commission in its Tariff Order is as under:

*"5.9 The revenue deficit for FY 2012-13 of the three DISCOMs is Rs 1402.32 Crore While, the accumulated revenue deficit till FY 2010-11 (along with carrying cost) is Rs 6919 Crore Keeping in view the significant deficit with all*

*three DISCOMs and in an attempt to make tariffs cost reflective, the Commission has decided to revise the tariff for all consumer categories in order to enable the DISCOMs to at least recover the approved revenue requirement for FY 2012-13.*

*5.10 For meeting carrying cost of the revenue gap till FY 2010-11 and liquidation of revenue gap, the Commission has decided to introduce a surcharge of 8% over the revised tariff."*

- 2.364 However, the surcharge of 8% as levied is not enough to recover even the entire carrying cost on created Regulatory Assets. In case, exemption from payment of Regulatory Surcharge is allowed to the stakeholder, not only BRPL cash flow status will further deteriorate, the burden of such exemption will fall on other consumers along with applicable carrying cost. Further, determination of Electricity Tariff to be charged from a certain category of consumers is the sole prerogative of the Commission under Section 61, 62 and Section 45 of the Electricity Act, 2003

#### **NDMC**

- 2.365 The stakeholder does not fall in NDMC's licensed area of supply.

#### **COMMISSION'S VIEW**

- 2.366 Recovery of accumulated revenue gap, Regulatory Asset as envisaged in clause 8.2.2 of Tariff policy is as under:

*"Carrying cost of Regulatory Assets should be allowed to the utilities.*

*Recovery of Regulatory Assets to be time-bound and within a period not exceeding three years at the most, preferably within the control period.*

*The use of the facility of Regulatory Assets should not be retrospective.*

*In case when Regulatory Asset is proposed to be adopted, it should be ensured that the ROE should not become unreasonably low in any year so that the capability of a licensee to borrow is not adversely affected."*

- 2.367 The Appellate Tribunal for Electricity (APTEL) has also reiterated the above policy in its judgment dated 11/11/2011 (OP 1 of 2011).
- 2.368 The Commission in terms of the National Tariff Policy and in accordance with the APTEL judgment and has allowed carrying cost to DISCOMs. For liquidation of the past accumulated revenue gap, the Commission introduced a surcharge of 8% over

the Tariff, in Tariff Order dated 13/07/2012, and has been fixing Tariff every year to a reasonable level to provide additional revenue to DISCOMs and also to reduce the burden of carrying cost on the consumers of Delhi. Desired level of dedication could not take place due to petitioner burden on account of implementation of Hon'ble APTEL Judgment and Review Orders. It will be reviewed in future Tariff Orders.

- 2.369 The build-up of the revenue gap commenced in 2009-10 when power purchase costs went up substantially and the rate of sale of surplus power steeply declined due to stringent frequency controls imposed by CERC.
- 2.370 The Tariff Order for FY 2010-11 was not issued due to court proceedings. Therefore, while the tariff increase from FY 2011-12 onwards has to some extent offset the incremental increase in revenue gap, however, cumulative revenue gap along with applicable carrying costs still remained uncovered. Thus, the formula evolved by the Commission i.e., including carrying costs in the ARR every year, for tariff determination and using 8% surcharge for liquidating the principal over time is expected to liquidate the Regulatory Assets in a reasonable period of 6 to 8 years.
- 2.371 The Commission has submitted before Hon'ble Supreme Court of India in Civil Appeal No. 884 of 2010 that additional surcharge of 8% shall liquidate the principal amount of the accumulated revenue gap within 6 to 8 years.
- 2.372 The Commission determines the ARR for the DISCOMs as per the provisions of Regulation 154 & 155 of *Tariff Regulations, 2017* along with *Business Plan Regulation, 2019*, as follows.

*"REGULATORY ASSETS*

*154. The accumulated revenue gap, if approved by the Commission in the relevant Tariff Order shall be treated as*

*Regulatory Assets:*

*Provided that such revenue gap shall be computed on the basis of excess of ARR over Revenue approved after true up of the relevant financial year.*

*155. Carrying cost on average balance of accumulated revenue gap shall be allowed to the Utility at carrying cost rate approved by the Commission in the ARR of the relevant financial year:*

*Provided that average balance of accumulated revenue gap shall be*

*determined based on opening balance of accumulated revenue gap and half of the Revenue Gap /Surplus during the relevant year.”*

- 2.373 The Commission in its Tariff Order has provided the break-up of the major components considered for projecting costs of supply during FY 2022-23, like power purchase cost, O&M costs, CAPEX, financing cost, the gap in true-up of FY 2019-21 and carrying cost for the Regulatory Assets etc. This forms the basis for the projection of the gap/surplus between present requirement in terms of ARR and revenue available at existing tariff. It is in the consumer's overall interest, that the gap between these two figures is filled by determining the tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer. The Tariff Order is issued after prudence check of the Petitions submitted by the DISCOMs as per relevant Regulations.

#### **ISSUE 11: PENSION TRUST**

##### **STAKEHOLDERS' VIEW**

- 2.374 Section 86 of Electricity Act 2003, do not have provisions of Pension Trust in the Regulation. The Adhoc provisions since 2011-12 without audit are beyond mandate. Further, provision of Rs. 1506 cr. for FY 2022-23 is biased and should not be made part of Tariff exercise.
- 2.375 Despite non-compliance in audit, Adhoc provisions for pension fund continued since FY 2011-12.
- 2.376 Pension Trust Surcharge should be withdrawn/ removed/ discontinued.
- 2.377 DVB Employees Pension Trust surcharge increased from 3.3% to 7% and further expected to be increased thereafter which is additional burden on consumer.
- 2.378 Consumer are not party to Agreement between DVB Employees & GoNCTD and passing the surcharge burden on consumers should be withdrawn.
- 2.379 Why Pension Trust charge of erstwhile DVB employees are levied to consumers.
- 2.380 Pension Trust Surcharge should not be collected from Electricity consumers which will be beneficial to consumers due to reduction in Tariff.
- 2.381 Huge amount of liabilities of outstanding amount of erstwhile DVB employees is remaining and no proper accounting has been done so far. This Issue should be

settled.

2.382 Pension fund should be abolished as its duty of the Govt. to pay them.

### **PETITIONER'S SUBMISSION**

#### **TPDDL**

2.383 The Pension Trust was mandated to get an annual actuarial valuation of its corpus to ascertain its solvency on a year on year basis. Till date, Pension Trust has not conducted the actuarial valuation in terms of the statutory framework ordained for the functioning and funding of the Pension Trust.

2.384 The Commission had even directed the Delhi Government to have a forensic audit of the Pension Trust conducted, which has not been done till date. The responsibility solely lies with Delhi Govt. and it should meet the shortfall in the Trust at any stage and ensure benefits of the pensioners. This will ensure that electricity consumers are not directly impacted with this burden.

2.385 While Tariff has remained same for Delhi DISCOMs in past 6 years, the Pension Trust surcharge has increased from 3.7% to 7% resulting in Tariff increase for the end consumer.

2.386 The Petitioner agrees to the suggestion of Stakeholder and requests the Commission to discontinue the Pension Trust surcharge as responsibility of funding pension is with GoNCTD.

2.387 Electricity Tax is levied by MCD in accordance with its Delhi Municipal Corporation Act. Distribution Companies and the Commission have no role in deciding the percentage of Electricity Tax to be levied.

#### **BYPL**

2.388 With regard to comment on levy of Electricity Tax, it is submitted that the Distribution licensee collects Electricity Tax/Duty on Electricity consumption on behalf of MCD which is levied under statutory mandate of Section 3 of the Delhi Municipal Corporation (Assessment and Collection of Tax on the Consumption, sale or supply of electricity) Bye laws 1962.

2.389 With regard to comment on levy of Pension Trust Surcharge, it is submitted that in Tariff Order dated 31/08/2017, the Commission had decided to levy an Additional Surcharge for recovery of Pension Trust funding of erstwhile DVB

Employees/Pensioners from September '17 onwards as per recommendation of GoNCTD vide their letter dated 26/07/2017. The rationale given by the Commission in its Tariff Order is as under:

*“2.298 The Commission vide letter dated 08.12.2016 has requested GoNCTD for conducting a forensic audit of Pension Trust for authentication of the data of pension disbursement from FY 2002-03 to till date to ascertain the actual liability of Pension Trust. The Commission has considered the amount of Rs. 693 Crore sought for FY 2017-18 by the Pension Trust on an ad-hoc basis recommended by GoNCTD vide it's letter dated 26.07.2017.”*

2.390 As a result, the Commission vide its Commission vide its Tariff Order dated 31/08/2017 had notified a surcharge of 3.70% towards the recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD, and the same was revised to 3.80% in Tariff Order dated 28/03/2018. Thereafter, the Commission vide its Tariff Order dated 28/08/2020 has revised this surcharge to 5% and the same has increased to 7% vide its Tariff Order dated 30/09/2021.

2.391 Further, the Commission vide its Tariff Order dated 30/09/2021 also directed the Petitioner to deposit the actual amount collected through the said surcharge directly into a specified bank account. The relevant extract of the directive issued in this regard is extracted below:

*“The above Tariff Rates shall be subject to following Additional Surcharges to be applied only on the basic Fixed Charges and Energy Charges excluding all other charges e.g., LPSC, Arrears, Electricity Tax/Duty, PPAC, Load Violation Surcharge, etc. for the consumers of BRPL, BYPL & TPDDL:*

*(a) 8% towards recovery of accumulated deficit, and,*

*(b) 7% towards recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD.*

...

**A6: DIRECTIVES**

*6.2 The Petitioner shall directly deposit the amount of pension trust surcharge collected from the consumer as per the tariff schedule in the following bank account, of Pension trust:*

1	A/C No.	10021675545
2	MICR No.	110002103
3	Bank	State Bank of India
4	IFSC Code	SBIN0004281
5	Name	DVB-ETBF-2002
6	Branch	Rajghat Power House, New Delhi-110002

”

2.392 BYPL is complying with the aforesaid directive of the Commission by billing and collecting the Pension Surcharge for servicing the liabilities, pension of the Pension Trust.

#### BRPL

2.393 With regard to comment on levy of Electricity Tax, it is submitted that the Distribution Licensee collects Electricity Tax/Duty on Electricity consumption on behalf of MCD which is levied under statutory mandate of Section 3 of the Delhi Municipal Corporation (Assessment and Collection of Tax on the Consumption, sale or supply of electricity) Bye laws 1962.

2.394 DISCOM is levying Pension Trust Surcharge charge as per the surcharge rate determined by the Commission in its Tariff Order.

2.395 With regard to comment on levy of Pension Trust Surcharge, it is submitted that in Tariff Order dated 31/08/2017, the Commission had decided to levy an Additional Surcharge for recovery of Pension Trust funding of erstwhile DVB Employees/Pensioners from September '17 onwards as per recommendation of GoNCTD vide their letter dated 26/07/2017. The rationale given by the Commission in its Tariff Order is as under:

*“2.298 The Commission vide letter dated 08.12.2016 has requested GoNCTD for conducting a forensic audit of Pension Trust for authentication of the data of pension disbursement from FY 2002-03 to till date to ascertain the actual liability of Pension Trust. The Commission has considered the amount of Rs. 693 Crore sought for FY 2017-18 by the Pension Trust on an ad-hoc basis recommended by GoNCTD vide it's letter dated 26.07.2017.”*

2.396 As a result, the Commission vide its Commission vide its Tariff Order dated 31/08/2017 had notified a surcharge of 3.70% towards the recovery of Pension Trust

Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD, and the same was revised to 3.80% in Tariff Order dated 28/03/2018. Thereafter, the Commission vide its Tariff Order dated 28/08/2020 has revised this surcharge to 5% and the same has increased to 7% vide its Tariff Order dated 30/09/2021.

2.397 Further, the Commission vide its Tariff Order dated 28/08/2020 directed the Petitioner to deposit the actual amount collected through the said surcharge directly into a specified bank account, on a monthly basis. The relevant extract of the directive issued in this regard is extracted below:

*“Tariff Schedule*

*7. The above tariff rates shall be subject to following additional surcharges to be applied only on the basic Fixed Charges and Energy Charges excluding all other charges e.g., LPSC, Arrears, Electricity Tax/Duty, PPAC, load violation surcharge, etc. for the consumers of BRPL, BYPL & TPDDL:*

*8% towards the recovery of an accumulated deficit, and,*

*3.80% towards the recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD.*

*Directives:*

*6.2 The Petitioner shall directly deposit the amount of pension trust surcharge collected from the consumer as per the tariff schedule in the following bank account, of Pension trust*

1	A/C No.	10021675545
2	MICR No.	110002103
3	Bank	State Bank of India
4	IFSC Code	SBIN0004281
5	Name	DVB-ETBF-2002
6	Branch	Rajghat Power House, New Delhi-110002

*...”*

2.398 Accordingly, the Petitioner has been complying with the above directive of the Commission.

#### **NDMC**

2.399 The stakeholder does not fall in NDMC’s licensed area of supply.

#### **COMMISSION’S VIEW**

- 2.400 The Pension Trust was established as a part of Transfer Scheme Rules, 2001 framed under Delhi Electricity Reform Act, 2000 (DERA) and the Tripartite Agreement executed by GoNCTD with Unions of employees and Associations of officers of the erstwhile DVB. In terms of the aforesaid Rules and Tripartite Agreement, the Pension Trust was funded at the time of unbundling of the DVB by way of one lump sum payment by GoNCTD. Subsequent contributions from the date of unbundling have to be made to the Pension Trust by the successor entities of DVB. The Commission has been releasing ad-hoc payments in DTL Tariff orders from FY 2011-12 onwards up to FY 2015-16. Further, in the Tariff Order dated August'2017, the Commission has directed the DISCOM's for submitting the reconciliation statement and deposit the amount directly to the pension trust, instead of the past practice of routing it through DTL.
- 2.401 Section 86 of the Electricity Act, 2003, which defines functions of State Commission, does not provide for issuing Regulations of Pension Trust. The fact has also been appreciated by the Hon'ble APTEL in Appeal No. 238 of 2013 (Mahendra Gupta & Others Vs DERC), wherein it has held that "the learned State Commission has no jurisdiction to go into disputes between the Appellants and the Pension Trust with regard to release of terminal benefits in their favour. The grievances of individual employees/appellants relating to service matters relating to the terminal benefits including pension are not under the jurisdiction of the State Commission". The Commission reiterates its view that it is beyond its jurisdiction to regulate the Pension Trust or to frame Regulations in this regard.
- 2.402 The Commission vide letter no. F.17(44)/Engg./DERC/201213/C.F. No.3481/3320 dated 11/09/2012 has issued Statutory Advice under Section 86(2) of the Electricity Act, 2003 to Govt. of NCT of Delhi to constitute an Oversight Committee to look into the issues related to pensioners of erstwhile DVB. The subject matter is presently sub-judice before Hon'ble High Court of Delhi and the parties to the dispute should expedite the matter before the court and explore other avenues for settlement of the dispute.
- 2.403 The Commission has already made provision on the Ad-hoc basis of Rs.150 Crore, Rs.160 Crore, Rs.400 Crore, Rs. 470 Crore, Rs. 573 Crore, Rs. 573 Crore, Rs. 694 Crore,

Rs. 792 Crore, Rs. 839 Crore and Rs. 937 Crore, Rs. 1506 Crore for FY 2011-12, FY 2012-13, FY 2013-14, FY 2014-15, FY 2015-16, FY 2016-17, FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22 respectively in applicable Tariff Orders for passing on to the Pension Trust to avoid undue hardship to the pensioners till all issues concerned with Pension Trust are settled by the Courts/Delhi Govt.

- 2.404 The Commission vide letter dated 8/12/2016 and 13/7/2020 has requested GoNCTD for conducting a forensic audit of Pension Trust for authentication of the data of pension disbursement from FY 2002-03 to till date to ascertain the actual liability of Pension Trust.
- 2.405 The Hon'ble Supreme Court in the matter of NDPL Vs. GoNCTD & Ors. in Civil Appeal no. 4269 of 2006 (Judgment dated 3/05/2010) had inter alia held that any liability towards DVB employees and existing pensioners are the responsibility and liability of the successor utility or employer.

## ISSUE 12: OPEN ACCESS

### STAKEHOLDERS' VIEW

- 2.406 SLDC determines the cross subsidy surcharge for different categories of Open Access consumers based on uniform ABR for all levels EHT/HT/LT. The Commission is requested to determine and levy CSS separately on EHT/HT category based on respective ABRs.
- 2.407 Additional Surcharge be determined based on credible data related to stranded capacity, open access volume and further demonstrated by the DISCOMs so that the stranded capacity is on account of Open Access.
- 2.408 As per agreed principles by GoNCTD, DMRC shall be treated as special category of consumer recommending Tariff on Actual Cost of Supply (ACoS) without Surcharge & Cross Subsidy Surcharge.
- 2.409 Cost of Supply should be decided based on ACoS plus reasonable margin.
- 2.410 Continue with existing security deposit for DMRC.
- 2.411 ToD surcharge should not be applicable on DMRC, keeping in view nature of operations, which does not allow any flexibility of shifting of loads. DMRC peak hours is 8-10 AM, 5-8 PM & they cannot reduce consumption during peak hours.
- 2.412 kVAh billing should be maintained on lag only principles.

- 2.413 Fixed charges of approx. Rs. 61 Crore is 8-10% of cost paid by DMRC, as per agreed principles, DMRC should be exempted from Fixed Charges as DISCOMs Distribution network is not used by DMRC.
- 2.414 DMRC should be exempted from 8% Regulatory Surcharge.
- 2.415 DMRC should be considered as Integrated contract demand and penalty may be applicable if cumulative demand is breached
- 2.416 DISCOMs proposing Levy of penalty on harmonics, DISCOMs should educate/aware HT/EHT consumers so that they can take steps to minimize harmonics voluntarily at their level.

### PETITIONER'S SUBMISSION

#### TPDDL

- 2.417 Tariff determination and Tariff design for all consumer categories is the sole prerogative of the Commission. Further, DMRC is covered under Tariff of Public Utility and is given benefit of lower Tariff along with other public utilities in comparison to other industrial consumers.
- 2.418 Regulatory surcharge is levied to recover the carrying cost of Regulatory assets built up during the last 14 years due to non-cost reflective Tariff. DMRC was also part of the consumers when the Tariff was non-cost reflective and hence should not be exempted from the Regulatory surcharge
- 2.419 The present ToD Tariff is applicable since last 6 years and hence, TPDDL requests the Commission to review its performance basis the load curves noticed during the summer months [April – September] and winter months [October – March] in its Distribution Area which is as follows:
1. Two distinct peaks and two distinct off-peak periods are noticed in the load curves for summer as well as winter months.
  - 2. Summer:**
    - a. Peak Periods: 0000 – 0100 hrs, 1300 – 1700 hrs. and 2100 – 2400 hrs;
    - b. Off-peak Period: 0300 – 0900 hrs.
  - 3. Winter:**
    - a. Peak Periods: 0600 – 1200 hrs, and 1700 – 2200 hrs;
    - b. Off-peak Period: 0000 – 0400 hrs.

- 2.420 As regard to stakeholder comment regarding “lag only” metering, it is submitted that Consumer equipment and installation are not provided with appropriate and adequate capacitor installations but mostly with use of fixed capacitors, bulk compensation on HT in fixed mode, use of substandard controllers having erratic and inconsistent performance, thereby leading to additional Reactive (lead) Power Charges, which is causing undesirable unwarranted burden on TPDDL. During winter season, there is hardly any reactive injection, and due to high capacitive injection by high end consumers, the voltage becomes very high and sometimes so much so that it becomes difficult to control the same.
- 2.421 The reactive compensation is effective when it is nearer to the load and the extra reactive compensation by industrial consumers cannot be used / compensated against extra Reactive Energy drawl by Agricultural section.
- 2.422 The most effective remedy to remove such anomaly is to introduce kVAh billing in lag as well lead mode i.e. kVARh consumption in the leading power factor mode has to be taken in account as consumption. Introduction of kVAh metering and Tariffs in lead as well lag mode will also encourage the consumers to reduce their Electricity bill by ensuring that they do not draw Reactive Power and switch over to using efficient devices with proper Power Factor correctors or will install only appropriate capacitors at their premises.
- 2.423 Therefore, to ensure better quality and reliable supply of Power for the consumers, it is proposed to charge even the leading Power Factor cases on kVAh basis so that the injection by high end consumers (more than 30 kVA) is as per their actual requirement and proper voltage is maintained for all the consumers.
- 2.424 As regard to stakeholder comment on harmonic distortion, it is submitted that the presence of harmonic distortion is highly detrimental to the health of Electrical Network. Bulk consumers of electricity have higher capability to inject current harmonics in the network by virtue of large nonlinear loads. The Forum of Regulators has specified such group of customers as “Designated customers” based on their potential to inject harmonics in the Electrical Network. The end users and utilities share responsibility for limiting harmonic current injections and voltage distortion at the point of common coupling.

- 2.425 Regulation 8 of DERC (Supply Code and Performance Standards) Regulations, 2017, also talks of penal charges on non-compliance which are to be notified by the Commission. This Regulation is reproduced below for ready reference:
- “(5) Failure to comply with the permissible limits of Harmonics after inspection as in sub-regulation (3) above may attract penal charges, as may be notified by the Commission from time to time.”*
- 2.426 Accordingly, the Commission is requested to direct all the HT/EHT consumers to install Power Quality meters in accordance to CEA (Technical Standards for Connectivity of the Distributed Generation Resources) Amendment Regulations, 2019 and also specify the periodicity for sharing the recorded data of PQ meters with the DISCOMs as stipulated in the Amended Regulations of CEA.
- 2.427 The Generation capacity remains stranded because of consumers moving to open access. TPDDL has signed PPA’s with Generators for meeting the Power requirement of consumers which is leading to Generating Stations being backed down/ plants scheduled to their technical minimum/ on reserve shutdown while paying their fixed cost because of consumers moving to open access. On similar lines, CTU and STU transmission charges are also stranded charges which are paid by other Non-open Access consumers. Further, using normative fixed cost of Generating Station for determination of Additional Surcharge will not be correct as the payments towards the same is not done on normative basis, the payment is done towards the plant availability and energy scheduled. Additionally, with increase in RPO, additional surcharge is bound to increase. Hence the methodology used by Commission is correct and needs no moderation in the same.
- 2.428 As regards to stakeholder’s comment on determination of Additional Surcharge based on credible data, it is submitted that IEX can also explore/ directly take up this matter with Delhi GENCOs & other gas stations to help provide economic gas for running the plants throughout the year with less variable cost since they operate in Gas Trading Business through their platform. This will help in Generating Power at normative Fixed Costs rather than actual higher fixed costs. Further, it will help in reducing stranded capacity & additional surcharge for Open Access consumers.

**BYPL**

- 2.429 In view of the role of DMRC as a Public Utility service, BYPL has special consideration for maintaining quality of power supply to DMRC. BYPL endeavours to maintain the uninterrupted Power supply to all its consumers including DMRC. To maintain this level of quality Power supply, associated costs (i.e. other than Power Purchase cost) are also borne by the Petitioner, which needs to be factored in Tariff Determination for supply to DMRC and other consumers.
- 2.430 In order to provide reliable power supply to all consumers and to meet the continuously increasing peak demand, BYPL has entered into long term Power Purchase Agreements (PPAs) with various Central Govt. /State Govt. owned Generating stations & IPPs. In addition to this, the Petitioner also Purchases Power from other sources such as Energy Exchanges, Bilateral & Banking arrangements etc, to meet the Energy demand/rate variations. Thus, the cumulative cost of Power procurement from all these sources is applicable to all consumers of BYPL including DMRC.
- 2.431 It is submitted that that BYPL has proposed ToD peak Surcharge and Rebate to at least 30% in the ARR petition so that objective of ToD may be fulfilled by attracting more consumers which is beneficial for consumer as well as DISCOM.
- 2.432 As regard to stakeholder comment regarding “lag only” metering, it is submitted that the Petitioner has proposed to include lead Reactive Power for billing consumption owing to the fact that consumer use fixed capacitors, bulk compensation on HT in fixed mode, use of substandard controllers having erratic and inconsistent performance, thereby, leading to additional Reactive (lead) Power Charges causing burden on the distribution licensee. During off-peak period, voltage become high due to high capacitive injection by high end consumers using fixed capacitors vis-à-vis absence of adequate reactive injection which endanger the system stability. Such overcompensation requires Transformer of higher capacity and increased burden on the Distribution Utility. In order to limit such anomaly, DISCOM has requested the Commission to introduce kVAh billing in lag as well as lead mode.
- 2.433 BYPL has been creating awareness among HT/EHT consumers to use adequate harmonic filtering equipment to avoid dumping of harmonics in the DISCOM Network

beyond permissible limit. However, absence of any punitive measure against the same has lagged motivation among such consumers to timely implement usage of adequate equipment. The Commission has recognized the such requirement in Regulation 8 of DERC (Supply Code and Performance Standards) Regulations, 2017 wherein penal charges for non-compliance against harmonics dumping within permissible limits are to be notified, relevant excerpt is reproduced here as follows:

*"(5) Failure to comply with the permissible limits of Harmonics after inspection as in sub-regulation (3) above may attract penal charges, as may be notified by the Commission from time to time."*

- 2.434 However, such penal charges are still pending to be notified and accordingly, the Commission is requested to notify the same along with the Tariff Order.
- 2.435 As regard to stakeholder comment regarding integrated contract demand, it is submitted that existing practice is as per the prevailing Regulations and Norms. The matter requires detailed deliberation before the Commission and subsequently appropriate measures may be taken accordingly.
- 2.436 The Petitioner has proposed revision of Security Deposit on 2 months Average Billing as adopted by various SERC's in order to link same with consumption of individual consumer, prevailing Tariff and billing cycle in order to protect the interest of all consumers as well as reduce the risk involved for the DISCOM. Further, security deposit is an interest bearing refundable amount to the consumer, thus there is no loss for the consumer.
- 2.437 As regard to the issue related to Determination of Open Access, it is submitted that the determination of Electricity Tariff and Cross Subsidy Surcharge to be charged from a certain category of consumer are the sole prerogative of the Commission under Section 61 of the Electricity Act, 2003.

#### **BRPL**

- 2.438 In view of the role of DMRC as a Public Utility service, BRPL has special consideration for maintaining quality of power supply to DMRC. BRPL endeavours to maintain the uninterrupted Power supply to all its consumers including DMRC. To maintain this level of quality Power supply, associated costs (i.e. other than Power Purchase cost) are also borne by the Petitioner, which needs to be factored in Tariff Determination

for supply to DMRC and other consumers.

- 2.439 In order to provide reliable power supply to all consumers and to meet the continuously increasing peak demand, BRPL has entered into long term Power Purchase Agreements (PPAs) with various Central Govt. /State Govt. owned Generating stations & IPPs. In addition to this, the Petitioner also Purchases Power from other sources such as Energy Exchanges, Bilateral & Banking arrangements etc, to meet the Energy demand/rate variations. Thus, the cumulative cost of Power procurement from all these sources is applicable to all consumers of BRPL including DMRC.
- 2.440 It is submitted that that BRPL has proposed ToD peak Surcharge and Rebate to at least 30% in the ARR petition so that objective of ToD may be fulfilled by attracting more consumers which is beneficial for consumer as well as DISCOM.
- 2.441 As regard to stakeholder comment regarding “lag only” metering, it is submitted that the Petitioner has proposed to include lead Reactive Power for billing consumption owing to the fact that consumer use fixed capacitors, bulk compensation on HT in fixed mode, use of substandard controllers having erratic and inconsistent performance, thereby, leading to additional Reactive (lead) Power Charges causing burden on the distribution licensee. During off-peak period, voltage become high due to high capacitive injection by high end consumers using fixed capacitors vis-à-vis absence of adequate reactive injection which endanger the system stability. Such overcompensation requires Transformer of higher capacity and increased burden on the Distribution Utility. In order to limit such anomaly, DISCOM has requested the Commission to introduce kVAh billing in lag as well as lead mode.
- 2.442 As regard to stakeholder comment regarding integrated contract demand, it is submitted that existing practice is as per the prevailing Regulations and Norms. The matter requires detailed deliberation before the Commission and subsequently appropriate measures may be taken accordingly.
- 2.443 The Petitioner has proposed revision of Security Deposit on 2 months Average Billing as adopted by various SERC’s in order to link same with consumption of individual consumer, prevailing Tariff and billing cycle in order to protect the interest of all consumers as well as reduce the risk involved for the DISCOM. Further, security

deposit is an interest bearing refundable amount to the consumer, thus there is no loss for the consumer.

- 2.444 Other issue raised is concerned with the Determination of Open Access Charges and related matters and not ARR Petition. Hence, no submission on the same, as we are confining our response to the issues relating to the present ARR Petition only. Further, the determination of Electricity Tariff and Cross Subsidy Surcharge to be charged from a certain category of consumer are the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.

#### **NDMC**

- 2.445 The party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.446 Section 42 of the Electricity Act, 2003 provides for non-discriminatory open access to consumers as per the provisions specified by the Commission. Accordingly, the Commission has already notified Regulations for allowing open access to consumers whose contract demand is 1 MW and above. The Commission has decided to allow Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Open Access keeping in view the provisions of the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and the Open Access Regulations of the Commission.
- 2.447 The Open Access Charges will be governed by Order dated 1/6/2017, 3/9/2021 & 1/10/2021 as amended from time to time.
- 2.448 The Distribution Licensee shall be compensated by consumer for permitting open access. In accordance with the methodology followed in the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and *DERC (Business Plan) Regulations, 2019*, the approved ARR for Wheeling and Retail Supply business is trued up during calculations of ARR.

#### **ISSUE 13: C&AG AUDIT**

##### **STAKEHOLDERS' VIEW**

- 2.449 The Commission may issue Order for Audit of DISCOMs by C&AG.
- 2.450 Audit Report for O&M expenses, Depreciation and Capital Expenditure.
- 2.451 Recovery in commercial Tariff and Fixed Charge on Sanction Load against MDI

- provide revenue in surplus and needs to be audited.
- 2.452 Huge amount of liabilities of outstanding amount of erstwhile DVB employees is remaining and no proper accounting has been done so far. C&AG Audit must be carried out on Pension Trust account of Delhi Govt. in public interest.
- 2.453 C&AG audit by Supreme Court should be expedited.
- 2.454 C&AG Audit of the Pension Trust Account should be conducted.
- 2.455 C&AG audit of Electricity Companies should be done every year and the hearing on hike in Tariff should be done thereafter.
- 2.456 Consumer rely on Regulator for deficit security, performance parameter and penalties thereof. Virtual monopoly is extended to the DISCOMs in absence of audit & not being covered under the ambit of RTI Act.
- 2.457 Records reveal that ARR shows deficit despite recovery on Sanction Load against MDI. This amounts to irregular recovery in the absence of any directions for forensic audit to establish actual liability.

#### **PETITIONER'S SUBMISSION**

##### **TPDDL**

- 2.458 DISCOMs books of accounts are duly checked/audited by C&AG empanelled Statutory Auditors to present a true and fair view in accordance with various Laws. Further, prudence check towards the True up is also done by the Commission and the Auditors appointed by them.

##### **BYPL**

- 2.459 As regards to the stakeholder Comment on Audit of DISCOMs by C&AG, it is submitted that the Petitioner has a very robust multi-layered system of Internal and Statutory Audit. Petitioner Company's accounts are audited both internally and externally by Statutory Auditors as per the requirements of the Companies Act, 1956. The auditors appointed by the Petitioner is a well reputed C&AG empanelled auditor.
- 2.460 In addition to the above checks and balances, the Commission itself appoints independent Auditors to verify each and every aspect of the Petitioner's accounts before issuing Tariff Orders. Moreover, all ARR petitions are made available in the public domain and are also subjected to rigorous prudence checks by the Commission itself and its consultants.

- 2.461 Further, the Commission determines the Tariff only after considering the prudence of Operational and Capital Expenditure required by the Licensee for supplying power and maintaining its Distribution Network / Infrastructure to meet the load requirements of the consumer. The Commission takes into account all relevant facts and figures for approving the expenses while determining the ARR of the Licensees.
- 2.462 As regards to the stakeholder Comment on Audit Report for O&M expenses, depreciation and capital expenditure, it is submitted that the Commission issues Tariff Order only after prudence check of the Petitions submitted by the DISCOMs and after considering each element of cost projected in the Petitions with due analysis and ensuring proper justification. The Petitioner furnishes clarifications/additional information, as and when required by the Commission.

**BRPL**

- 2.463 As regards to the stakeholder Comment on Audit Report for O&M expenses, depreciation and capital expenditure, it is submitted that the Commission issues Tariff Order only after prudence check of the Petitions submitted by the DISCOMs and after considering each element of cost projected in the Petitions with due analysis and ensuring proper justification. The Petitioner furnishes clarifications/additional information, as and when required by the Commission.
- 2.464 The Petitioner has a very robust multi-layered system of Internal and Statutory Audit. Petitioner Company's accounts are audited both internally and externally by Statutory Auditors as per the requirements of the Companies Act, 1956. The auditors appointed by the Petitioner is a well reputed C&AG empanelled auditor. In addition to the above checks and balances, the Commission itself appoints independent Auditors to verify each and every aspect of the Petitioner's accounts before issuing tariff orders. Moreover, all ARR petitions are made available in the public domain and are also subjected to rigorous prudence checks by the Commission itself and its consultants.
- 2.465 Further, the Commission determines the Tariff only after considering the prudence of Operational and Capital Expenditure required by the Licensee for supplying power and maintaining its Distribution Network / Infrastructure to meet the load requirements of the consumer. The Commission takes into account all relevant facts

and figures for approving the expenses while determining the ARR of the Licensees.

#### **NDMC**

2.466 The party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.467 The matter of C&AG Audit is sub-Judice before the Hon'ble Supreme Court of India.
- 2.468 The Audit is crucial for preventing mis-statements in the company's records and reports. The DISCOMs get their accounts audited by internal and external statutory auditors conducted under the Companies Act 2013, which forms the basis for financial submission in Tariff Petition of the Commission. The provision of financial reporting may vary from the regulatory reporting as specified by the Commission from time to time. Therefore, the Commission conducts the regulatory audit in order to refine the prudence check methodology adopted with the help of an independent C&AG empaneled auditor.
- 2.469 The Commission was carrying out verification of Books of Accounts of Distribution Licensees, however from FY 2016-17, the Commission started Regulatory Audit for verification of Books of Accounts of Distribution Licensees through C&AG empanelled Auditor. Similarly, for FY 2019-20, the Commission conducted in-house verification of Books of Accounts for FY 2019-20 from March '21 onwards, however, variation/deficiency in the in-house verification is being noticed in future will be dealt accordingly.
- 2.470 The Commission appointed C&AG Empanelled Auditors for Regulatory Audit of DISCOMs i.e. NDMC, BRPL, BYPL & TPDDL for True-up of FY 2020-21. The Regulatory Audit assignment for FY 2020-21 was awarded to Shridhar & Associates for NDMC & TPDDL, Grand Mark & Associates for BRPL and Adroit & Co. for BYPL. Based on their reports and prudence check by the Commission and after considering various components of cost mentioned in the Petitions, the Tariff Order is issued with due analysis and justification.

#### **ISSUE 14: TARIFF HIKE**

#### **STAKEHOLDERS' VIEW**

- 2.471 Tariff should not be lower than overall cost of purchase of Electricity. Tariff should be cost reflective.

- 2.472 Cross subsidy concept is not correct. There should be no Cross subsidies as they will harm the system.
- 2.473 Distribution Company should not operate under losses. Hence, if there is loss, increase Tariff by 2% otherwise hike Tariff by 1%
- 2.474 Tariff should be levied on the basis of Power Factor (PF) including leading PF on kVAh basis while billing to High End Consumers.
- 2.475 Tariffs of higher slabs should be reduced.
- 2.476 Concession and benefits should be given to Honest Consumers.
- 2.477 Loss due to Electricity theft in unauthorized colonies should not be burdened on to other consumers.
- 2.478 COVID burden should be shared 50% to consumer and 50% to DISCOM equally.
- 2.479 Tax levied on Electricity was 17% in 2013 now, it 42 % tax is levied on Electricity consumption.
- 2.480 DTC and Metro suffered heavy losses during Corona time but they did not increase their fare so Electricity Company should not enhance their Electricity rates.
- 2.481 There should be no Tariff hike including surcharges.
- 2.482 The Commission should issue directions to consumer to keep Power Factor as unity or make such consumers pay for deviation.
- 2.483 Dishonest consumer should not be allowed to take the benefit of LPSC on no. of days of default, Subsidy, Interest on Security Deposit, Rebates. etc. Dishonest domestic consumer be charged on highest slab rate.

#### **PETITIONER'S SUBMISSION**

##### **TPDDL**

- 2.484 In the interest of consumer and financial viability of the power sector, the Tariff should be cost-reflective i.e. the Tariff should be determined to recover the entire ARR requirement to avoid any creation/ accumulation of Regulatory Asset in a year as the funding of the Regulatory Asset results in carrying cost burden on the consumers.
- 2.485 The Section 61 (g) of Electricity Act 2003 mandates the Appropriate Commission to determine Tariff guided by the objectives that the Tariff progressively reflects the cost of supply of Electricity and also reduces Cross Subsidies within the specified

- period.
- 2.486 The National Tariff Policy states that Tariff design shall be linked to cost of service and Tariff thereof, progressively reflects the efficient and prudent cost of supply of electricity.
- 2.487 We agree to the stakeholder suggestion that Concession and benefits should be given to honest consumers.
- 2.488 The Commission has been making efforts to provide lower Tariff to consumers and has also made provisions for some benefits to some categories of consumers. It is also needs to be ensured that dishonest consumers are not allowed to take benefit of these concessions and only the honest consumer can avail them. Those who are defaulting their bill payments / avoiding to pay it on time / pay only when the connection is to be disconnected should not be given these benefits. Defaulters be dissuaded from taking the benefit. Also some consumers engage in theft of electricity, the burden of which is passed on to other consumers.
- 2.489 Therefore, all such consumer should not get the following benefits if they engage in Payment Default or Theft of Electricity:
- a) Domestic Consumers – Such Consumers should be charged on Average cost of supply (ACoS) for any energy consumption
  - b) No TOD or Other Rebate should be provided
  - c) No Subsidy Benefit if Consumer is Domestic
  - d) No Security Interest should be provided
  - e) LPSC to be charged on monthly basis
- 2.490 This will help in reducing the ARR of DISCOMs and also the burden of honest paying consumers.

**BYPL**

- 2.491 As regard to stakeholder comment regarding increasing Tariff by 2% or 1%, it is submitted that the determination of Electricity Tariff to be charged from a consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.
- 2.492 BYPL levy Tariff on consumers for a period as determined and approved by the Commission in accordance with the Electricity Act 2003. Further, the Section 61 of

Electricity Act 2003 mandates that while determining Tariff, the Appropriate Commission shall be guided by the objective that the Tariff progressively reflects the efficient and prudent cost of supply of Electricity. Further, the Appropriate Commission shall safeguard the interest of consumers and at the same time allow recovery of the cost of electricity in a reasonable manner. Hence, it is in the consumer's overall interest, that the gap between Revenue available and Revenue required is to be filled by adjusting the Tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer.

- 2.493 In regard to the comment of the stakeholder regarding Cross Subsidy, it is submitted that BYPL is bound to levy Tariff on consumers for relevant period as approved by the Commission under the Electricity Act 2003. Further, clause 8.3(2) of the Tariff Policy, 2016 provides as under:

*"2. For achieving the objective that the tariff progressively reflects the cost of supply of electricity, the Appropriate Commission would notify a roadmap such that tariffs are brought within  $\pm 20\%$  of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy."*

- 2.494 We agree to the stakeholder suggestion that Concession and benefits should be given to Honest Consumers. The Commission is requested to consider the same in Tariff proceedings.
- 2.495 Consumers are paying charges for actual consumption with adequate time for payment. Providing incentive to consumer for clearing their dues against consumption of preceding month in allowed time will additionally burden the other cross-subsidizing consumers. However, there are penalizing provisions for delinquent consumers under prevailing Regulations which is being exercised by BYPL on case to case basis.
- 2.496 In the event of the electricity bill rendered by the Distribution licensee, not being paid in full within the due date specified on the bill, a Late Payment Surcharge (LPSC) @ 18% per annum shall be levied. The LPSC shall be charged for the number of days of delay in receiving payment from the consumer by the Distribution Licensee, until the payment is made in full without prejudice to the right of the licensee to

disconnect the supply after due date, in the event of non-payment in accordance with Section 56 of Electricity Act, 2003. This will also apply to temporary connections and enforcement cases, where payment of final bill amount after adjustment of amount as per directions of the Court and deposit, is not made by due date.

**BRPL**

- 2.497 In regard to the comment of the stakeholder regarding reduction of Tariff, it is submitted that BRPL is bound to levy Tariff on consumers for relevant period as approved by the Commission under the Electricity Act 2003.
- 2.498 Further, the Section 61 of Electricity Act 2003 mandates that while determining Tariff, the Appropriate Commission shall be guided by the objective that the Tariff progressively reflects the efficient and prudent cost of supply of Electricity.
- 2.499 Further, the Appropriate Commission shall safeguard the interest of consumers and at the same time allow recovery of the cost of electricity in a reasonable manner. Hence, it is in the consumer's overall interest, that the gap between Revenue available and Revenue required is to be filled by adjusting the Tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer.
- 2.500 In regard to the comment of the stakeholder regarding cross subsidy, it is submitted that BRPL is bound to levy Tariff on consumers for relevant period as approved by the Commission under the Electricity Act 2003. Further, clause 8.3(2) of the Tariff Policy, 2016 provides as under:
- "2. For achieving the objective that the tariff progressively reflects the cost of supply of electricity, the Appropriate Commission would notify a roadmap such that tariffs are brought within  $\pm 20\%$  of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy."*
- 2.501 We agree to the suggestion of the stakeholder that leading Power Factor to be charged on kVAh basis as is done for lagging power factor in order to ensure safety of Power System.
- 2.502 Consumers are paying charges for actual consumption on post-paid basis with adequate time for payment. Providing incentive to consumer for clearing their dues against consumption of preceding month in allowed time will additionally burden the

other Cross-Subsidizing consumers. However, there are penalizing provisions for delinquent consumers under prevailing Regulations which is being exercised by BRPL on case to case basis. Further, in case any benefit to such consumers to be allowed then the same shall be allowed to be passed through in the ARR.

- 2.503 In the event of the electricity bill rendered by the Distribution licensee, not being paid in full within the due date specified on the bill, a Late Payment Surcharge (LPSC) @ 18% per annum shall be levied. The LPSC shall be charged for the number of days of delay in receiving payment from the consumer by the Distribution Licensee, until the payment is made in full without prejudice to the right of the licensee to disconnect the supply after due date, in the event of non-payment in accordance with Section 56 of Electricity Act, 2003. This will also apply to temporary connections and enforcement cases, where payment of final bill amount after adjustment of amount as per directions of the Court and deposit, is not made by due date.

#### **NDMC**

- 2.504 The party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.505 The Commission determines the ARR for DISCOMs as per the provisions of the relevant Regulations. The Commission in its Tariff Order has provided the break-up of the major components considered for projecting costs of supply like power purchase cost, O&M costs, CAPEX, financing cost, the gap in True up to FY 2020-21 and carrying cost for the Regulatory Assets etc. This forms the basis for the projection of the gap/surplus between present requirement in terms of ARR and revenue available at existing Tariff. It is in the consumer's overall interest, that the gap between these two figures is filled by adjusting the Tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer. The Tariff Order is issued after prudence check of the Petitions submitted by the DISCOMs and after considering each element of cost projected in the petitions with due analysis and ensuring proper justification.

#### **ISSUE 15: TARIFF CATEGORY**

**STAKEHOLDERS' VIEW**

- 2.506 Benefit of zero billing to consumer as per APTEL judgement 9/09/2015 should be provided.
- 2.507 Govt. Connections (Public utility) should have commercial Tariff and no subsidy should be given to them.
- 2.508 Tariff of Government Connection should be kept equal to actual cost or highest amongst all consumer categories.
- 2.509 Subsidy provided by Government should be done away for healthy operations of Distribution Sector.
- 2.510 Tariff of Commercial category is always kept highest, which is incorrect
- 2.511 Winter peaks may also be included in Time of Day (ToD) Tariff.
- 2.512 There should be only two slabs for domestic category i.e. one for less than 400 units and other for more than 400 units.
- 2.513 Subsidy should not be forcefully opted out and shall be made optional.
- 2.514 Domestic charges should be fixed instead of slabwise Tariff.
- 2.515 Tariff for Industrial Consumer should be realistic and close to Power Purchase Cost.
- 2.516 Domestic category with high consumption should have only one rate for all units and cheaper slab wise rates for poor only.
- 2.517 As per Electricity Act, 2003, Competition is main objective of this Act. At present, Highest Electricity Tariff is paid by Industries, how the industry will survive. Tariff for Industrial category should be reduced.
- 2.518 Industry Tariff is very high which is making it uncompetitive with other business. It is requested to eliminate concessional Tariff provided to residential consumers.
- 2.519 Each and every unit of Power to consumer should be billed and there should no sanction of "free units".
- 2.520 No subsidy should be given to the consumers who are consuming more than 200 units a month. Single Tariff should be levied from domestic consumers consuming more than 400 units a month.
- 2.521 Remove Electricity Tax and Pension Trust Surcharge.
- 2.522 Those who consume less than 200 units should also be charged some nominal charges. Consumer using more than 200 units should also get some rebate.

- 2.523 Subsidy should be fixed on slab such as upto 200 units.
- 2.524 Rebate of 0.2% of annual bill per extra Electricity bill over 6 nos. annually may please be reintroduced for domestic consumers.
- 2.525 Domestic Tariff should have all units above 300 units billed at Rs. 8/kWh. Fixed charges should be Rs. 250/kW. Below 300 units only 2 slabs and fixed charges of Rs. 100/kW should exist.
- 2.526 The subsidy provided to consumer is a big political issue and role of Regulator for Tariff Rationalization, should be looked into.
- 2.527 There should be no subsidy. If Government desires to give subsidy to the domestic category, it should be for all without discrimination on unit slabs or to none.
- 2.528 It needs to be clarified whether owner or occupier has to reside along with paying guest to avail the Domestic category Tariff.
- 2.529 Electricity Tariff should be decreased for DISCOMs as they have enough financial resources and have Rs. 10,000 crores of electrical scrap with them.
- 2.530 The Commission is requested to include the activities of processing of fruits and vegetables under Agricultural Tariff.
- 2.531 Re-categorize the plantations/ Horticulture nursery under Agriculture Category from present Non-Domestic Category.
- 2.532 The Commission is requested to include the additional peak timings in ToD Tariff.
- 2.533 Religious functions such as Dusshera fair & Dharamshala used for public functions should be treated under Domestic Category and should not be treated under Commercial Category.
- 2.534 Subsidy benefits should be given to poor consumers directly and certificate should be taken if they are poor.
- 2.535 Too much distortion being brought due to slab and concessional Tariffs. It brings inefficiency. People use lower slab for illegal & commercial activities like e-rickshaw charging on domestic connection. Hence, Cross subsidy should be removed.

## PETITIONER'S SUBMISSION

### TPDDL

- 2.536 The stakeholder is requested to provide details of Rs. 10,000 crores scrap which has been mentioned in their comments. The Regulatory Assets of TPDDL as per financial

books of account as on 31/03/2021 is Rs. 5,512 Crore. However, current 8% surcharge is not sufficient to recover even the interest cost of Regulatory Assets. Hence, in the interest of the consumers and financial viability of the power sector, TPDDL proposes hike in Surcharge to atleast 15% along with cost reflective Tariff to recover the past accumulated Revenue Gap and its carrying cost.

- 2.537 We agree to the suggestion of stakeholders that all slab and concessional Tariffs should be removed. The Tariff should be cost reflective i.e. the Tariff should be determined to recover the entire ARR requirement to avoid any creation/accumulation of Regulatory Asset in a year as the funding of the Regulatory Asset results in carrying cost burden on the consumers.
- 2.538 Further in addition to the recovery of entire ARR, appropriate recovery towards past accumulated Revenue Gap should be factored while deciding the Electricity Tariff to be charged for next year.
- 2.539 Stakeholder in its comments stated that there should be only two slabs for domestic category i.e. one for less than 400 units and other for more than 400 units. It is submitted that Section 61 (g) of Electricity Act 2003 mandates that Appropriate Commission while determining Tariff shall be guided by the objective that the Tariff progressively reflects the cost of supply of Electricity and also reduces and eliminates cross subsidies within the specified period. Accordingly, for achieving the objective, National Tariff Policy states that design shall be linked to cost of service and Tariff thereof, progressively reflects the efficient and prudent cost of supply of electricity. We agree to the stakeholder suggestion that Tariff of Public utility should be made equal or higher than the average cost of supply in the interest of consumers.
- 2.540 The present ToD Tariff is applicable since last 6 years and hence, TPDDL requests the Commission is requested to review its performance basis the load curves noticed during the summer months [April – September] and winter months [October – March] in its Distribution Area which is as follows:
1. Two distinct peaks and two distinct off-peak periods are noticed in the load curves for summer as well as winter months.

## 2. Summer:

- a. Peak Periods: 0000 – 0100 hrs, 1300 – 1700 hrs. and 2100 – 2400 hrs;
- b. Off-peak Period: 0300 – 0900 hrs.

### 3. Winter:

- a. Peak Periods: 0600 – 1200 hrs, and 1700 – 2200 hrs;
- b. Off-peak Period: 0000 – 0400 hrs.

- 2.541 While the Average Power Purchase Cost at base load @ 1400 MW April – September and @ 900 MW during October – March is almost the same based on the Merit Order Despatch (MOD) principles, the Power Purchase Cost increases by approx. 150% to meet the peak load during April – September and approx. 30% to meet the peak load during October - March.
- 2.542 In key metro cities, highest Domestic slab starts from 501 Units while in Delhi the highest slab Starts from 1201 Units. Highest Domestic slab Tariff in other cities is more than or equal to Average Cost of Supply however in Delhi, it is lower than that. At present, high consuming Domestic consumers also get the benefit of lower Tariff according to the slabs. Consumers with more than 400 units monthly consumption should pay cost of supply as they are well off and can afford to pay. TPDDL aggres to stakeholder suggestion of fixing Domestic charges.
- 2.543 However, even in Haryana and Punjab which are major Agricultural states processing units are not considered under Agricultural Tariff.
- 2.544 As per Tariff Order for FY 2021-22, the Consumers having sanctioned load up to 20kW for tube wells for irrigation, threshing and kutti-cutting in conjunction with pumping load for irrigation purposes and lighting load for bonafide use in Kothra are under Agriculture Category.
- 2.545 Providing subsidy to a class of consumers or to all depends is the prerogative of the GoNCTD. DISCOMs have no role in deciding subsidy for any class of consumer.
- 2.546 The Tariff Order dated 30/09/2021 provides that
- “The consumers (owner, tenant or occupier of premises) running small commercial establishments including Paying Guest from their households (houses under Domestic Category) having sanctioned load upto 5kW under Domestic Category, shall be charged Domestic Tariff”*
- which makes it clear that the consumer whether owner or occupier has to reside along with paying guest to avail the Domestic Category Tariff.

**BYPL**

2.547 Determination of Electricity Tariff to be charged from a consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.

2.548 However, 100% subsidy for consumer consuming upto 200 units a month in Delhi is given by State Government under Section 65 of the Electricity Act, 2003, as follows.

*“Section 65. (Provision of subsidy by State Government):*

*If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the license or any other person concerned to implement the subsidy provided for by the State Government:”*

2.549 Therefore, subsidy for, bills of consumers under 200 units per month is paid by Govt. of NCT of Delhi instead of consumers.

2.550 Further, with regard to comment on electrical scrap lying with BSES Yamuna, it is submitted that sale of scrap become part of Non-Tariff Income as per Regulation 94 of Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017, the Regulation 94 is quoted below:

*“94: The Utility shall submit forecast of Non-Tariff Income to the Commission, in such form as may be stipulated by the Commission from time to time, whose tentative list is as follows:*

- *Income from rent of land or buildings;*
- *Net Income from sale of de-capitalised assets;*
- *Net Income from sale of scrap;;*

*.....”*

2.551 Accordingly, the income from scrap sale is indicated under the head “Other Income” in the Audited Financial Statement.

2.552 With regard to the comment on recognize the farm as agricultural establishment, it is submitted that determination of Electricity Tariff to be charged from a certain category of consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003 and the same may be duly considered by the Commission.

Further, as per Terms and conditions of Tariff Order dated 30/09/2021, following consumers are categorized under Agricultural Category:

*“The Consumers having sanctioned load up to 20 kW for tube wells for irrigation, threshing and kutti-cutting in conjunction with pumping load for irrigation purposes and lighting load for bonafide use in Kothra are under Agriculture Category”*

#### BRPL

2.553 Determination of Electricity Tariff to be charged from a consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.

2.554 However, 100% subsidy for consumer consuming upto 200 units a month in Delhi is given by State Government under Section 65 of the Electricity Act, 2003, as follows.

*“Section 65. (Provision of subsidy by State Government):*

*If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the license or any other person concerned to implement the subsidy provided for by the State Government:”*

2.555 Therefore, subsidy for, bills of consumers under 200 units per month is paid by Govt. of NCT of Delhi instead of consumers.

2.556 Further, with regard to comment on electrical scrap lying with BSES Rajdhani, it is submitted that DISCOM Sell Scrap items through MSTC Portal after taking approval from the Commission and the income from such sale becomes part of Non-Tariff Income as per Regulation 94 of Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017, the Regulation 94 is quoted below:

*“94: The Utility shall submit forecast of Non-Tariff Income to the Commission, in such form as may be stipulated by the Commission from time to time, whose tentative list is as follows:*

- *Income from rent of land or buildings;*
- *Net Income from sale of de-capitalised assets;*

- *Net Income from sale of scrap;;*

.....”

2.557 It is submitted that the Control and disbursement of subsidy to any class of consumer is under Govt. of NCT of Delhi under Section 65 of Electricity Act 2003 read with National Tariff Policy.

2.558 With regard to the comment on recognize the farm as agricultural establishment, it is submitted that the determination of Electricity Tariff to be charged from a certain category of consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003 and the same may be duly considered by the Commission. As per Terms and conditions of Tariff Order dated 30/09/2021, following consumers are categorized under Agricultural Category:

*“The Consumers having sanctioned load up to 20 kW for tube wells for irrigation, threshing and kutti-cutting in conjunction with pumping load for irrigation purposes and lighting load for bonafide use in Kothra are under Agriculture Category*

#### **NDMC**

2.559 The stakeholder does not fall in NDMC’s licensed area of supply.

#### **COMMISSION’S VIEW**

2.560 Hon’ble APTEL in Appeal No. 195 to 2013, has remanded back the case to DERC to True up for FY 2011-12 for zero billing and consumption. Further, the benefit of Zero Billing in compliance to Hon’ble APTEL Judgment in appeal no. 195/ 2012 has been copnsidered in True-up of past period in Tariff Order dated 29/09/2015, as follows:

**“Zero Billing – 195 of 2012**

*3.132 As per the direction of Hon’ble APTEL in appeal no. 195 of 2012, the Commission has revised the AT&C Loss Computation for FY 2010-11. It is observed that the petitioner had submitted total quantum of zero billing at 40.85 MU for the period between Jan’11 to Mar’11. The Petitioner was directed to submit the details of zero billing entire FY 2010-11 in view of the APTEL’s direction. The Petitioner has submitted that total quantum of zero billing during FY 2010-11 which was lesser than earlier submission during the technical validation in true up of FY 2010-11 in tariff order dated 13.07.2012. Therefore, the Commission has decided that total quantum of zero billing basis be prorated for the entire year based on the three months information as provided*

*while true up of FY 2010-11. Accordingly, the total impact of an amount of Rs. 57.98 crore on account of under achievement in AT&C loss target has been added into the revenue available towards ARR in FY 2010-11.”*

2.561 The categorization of consumers in various Tariff categories by the Commission is governed by Section 62 (3) of Electricity Act, 2003 as follows:

*“(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”*

2.562 Various suggestions regarding re-categorization of load and slabs has been received from stakeholders. Accordingly, the details of applicable Electricity Tariff for various categories of consumers shall be dealt in Other Terms and Conditions of Tariff Schedule of this Tariff Order.

2.563 The Electricity Act, 2003 provides for reduction of cross subsidies by moving the category wise Tariffs towards cost of supply. The Commission also recognizes the need for reduction of cross subsidy. However, it is equally incumbent on the Commission to keep in mind the historical perspective for the need to continue with cross-subsidy for some more time.

2.564 Providing subsidy is the prerogative of the State Government.

2.565 As per DMC (Assessment and collection of Tax on the consumption, Sale or Supply of Electricity) Bye Laws 1962, electricity tax can be levied on consumption, Sale or supply of electricity and also levies a tax on electricity generated for own consumption

2.566 The Commission is of the view that Electricity tax is levied and collected by respective DISCOMs on the basis of DMC (Assessment and collection of Tax on the consumption, Sale or Supply of Electricity) Bye Laws 1962. As the matter of applicability of Electricity Tax pertains to MCD, the same is subject to the Order of MCD.

## **ISSUE 16: RETURN ON EQUITY**

### **STAKEHOLDER'S VIEW**

2.567 Return on Equity allowed to DISCOMs should be reduced.

- 2.568 Why 16% Return on Equity is provided to DISCOMs when the Government bonds yields provide upto 6% in current scenario.
- 2.569 There cannot be any profit on Income Tax. Only actual Tax paid should be allowed.
- 2.570 It needs to be clarified whether there is net off on Input tax.
- 2.571 DERC is allowing equity of 30% in assets without verifying the source of funding.
- 2.572 Since the BSES loans are reducing, allowing 13% interest on complete loan base of RRB needs to be checked.
- 2.573 BSES Inter-company loans should be checked.

### PETITIONER'S SUBMISSION

#### TPDDL

- 2.574 The Commission allows Income tax as per Regulation 72 of the DERC Tariff Regulations 2017 reproduced below:

*"72. Tax on Return on Equity: The base rate of return on equity as specified by the Commission in the Business Plan Regulations shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid vis-à-vis total income of the Utility in the relevant financial year in line with the provisions of the relevant Finance Acts. The actual tax on other income stream shall not be considered for the calculation of "effective tax rate":*

*Provided that if the rate of return on equity for a Control Period is allowed on pre-tax basis, then income tax on the return on equity shall not be allowed separately as a pass through in ARR;*

*Provided further that no amount shall be considered towards tax exceeding the actual amount of tax paid by the Corporate entity of the Utility as an Assesse."*

- 2.575 Other queries doesn't pertain to TPDDL.

#### BYPL

- 2.576 It is submitted that Petitioner claim Income Tax as per Regulation 72 & 73 of Tariff Regulation, 2017.
- 2.577 The rate of Return on Equity is applicable in line with Regulation 20(1) and 20(2) of the Business Plan Regulations, 2019 i.e., base rate of 14% on post tax basis for Wheeling Business and base rate of 16% on post tax basis for Retail Business, relevant excerpt is reproduced here as follows:

*"20. RATE OF RETURN ON EQUITY*

*(1) Wheeling Business: Return on Equity in terms of Regulation 4(1) of the DERC*

*(Terms and Conditions for Determination of Tariff) Regulations, 2017 shall be computed at the Base Rate of 14.00% on post tax basis.*

*(2) Retail Business: Return on Equity in terms of Regulation 4(1) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 shall be computed at an additional Base Rate of 2.00% on post tax basis."*

**BRPL**

2.578 It is submitted that the Commission is allowing 30% equity as per Regulation 63 of Tariff Regulations, 2017 after prudence check. The relevant extract of the said regulations is replicated as below:

*"DEBT-EQUITY RATIO*

*63. For determination of Tariff, the debt-equity ratio for any project or scheme under commercial operation shall be considered as 70:30:*

*Provided that:*

*(i) Where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff;*

*(ii) Where equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as notional loan;"*

2.579 The rate of Return on Equity is applicable in line with Regulation 20(1) and 20(2) of the Business Plan Regulations, 2019 i.e., base rate of 14% on post tax basis for Wheeling Business and base rate of 16% on post tax basis for Retail Business, relevant excerpt is reproduced here as follows:

*"20. RATE OF RETURN ON EQUITY*

*(1) Wheeling Business: Return on Equity in terms of Regulation 4(1) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 shall be computed at the Base Rate of 14.00% on post tax basis.*

*(2) Retail Business: Return on Equity in terms of Regulation 4(1) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 shall be computed at an additional Base Rate of 2.00% on post tax basis."*

2.580 The details of year wise equity infused is shown in yearly balance sheets of Petitioner.

2.581 As regard to stakeholder comment on details of loan base, it is submitted that the required details have already been submitted in the Tariff Petition every year. The

Commission after detailed prudence check allows the funding of Asset base.

- 2.582 The Interest on Loan is determined by the Commission as per Regulation 77 of the Tariff Regulations, 2017.
- 2.583 Depreciation is determined by the Commission as per Regulation 78 to 83 of the Tariff Regulations, 2017.
- 2.584 As regard to stakeholder comment on Inter-company loan, it is submitted that BRPL has given loan to BYPL which otherwise would have been borrowed by BYPL from some other Bank/ Financial Institution. BRPL has not claimed the cost of such a loan in its ARR and is not incidental to Electricity Business. Therefore, the comment of the stakeholder does not pertain to the Tariff Petition.

#### NDMC

- 2.585 Did not provide any comment.

#### COMMISSION'S VIEW

- 2.586 The return of equity post tax and pre-tax is computed as per Regulation 3 of Business Plan Regulations, 2019. The relevant extract of said Regulation is as follows:

*"3. RATE OF RETURN ON EQUITY*

*Return on Equity in terms of Regulation 4(1) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for Generating Entity shall be computed at the Base Rate of 14.00% on post tax basis:*

*Provided that the Equity for the purpose of Return on Equity shall be lower of the Normative Equity determined as per Regulation 63 of the DERC (Terms And Conditions For Determination of Tariff) Regulations, 2017 or Equity available as per Audited Financial Statement of the relevant year."*

- 2.587 The debt-equity ratio for any project or scheme under commercial operation is computed as per Regulation 63 of Tariff Regulations, 2017 after prudence check. The relevant extract of the said regulations is replicated as below:

*"DEBT-EQUITY RATIO*

*63. For determination of Tariff, the debt-equity ratio for any project or scheme under commercial operation shall be considered as 70:30:*

*Provided that:*

*(i) Where equity actually deployed is less than 30% of the capital cost, actual*

*equity shall be considered for determination of tariff;*

*(ii) Where equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as notional loan;”*

## **ISSUE 17: FIXED CHARGE**

### **STAKEHOLDER’S VIEW**

- 2.588 Why customers are subjected to Fixed charges.
- 2.589 The average billing calculation should be done on charges on units consumed per month and should exclude Fixed Charges and other charges.
- 2.590 Fixed cost of DISCOMs should be recovered from fixed part of Retail Supply Tariff.
- 2.591 Fixed Charges should be fixed on Maximum Demand Indicator (MDI), not on connected load for domestic consumers.
- 2.592 MDI variation cut off time and duration along with daily usage be provided. Access to online data may not add to printing cost.
- 2.593 30% surcharge should be levied on all including domestic consumers where MDI exceeds Sanctioned Load /Contract Demand.
- 2.594 Fixed charges should be adjusted against the consumption i.e. fixed charges should be treated as minimum charges.
- 2.595 Fixed charges should be levied when there is no usage of electricity.
- 2.596 Earlier the fixed charges were levied on kW basis but it has now been changed to kVA basis. A surcharge is levied on the Fixed charges if the usage exceeds the sanctioned load and thereafter on the basis of average of three or four monthly demands, load is enhanced and corresponding security deposit is asked from the consumer.
- 2.597 Why such high Fixed Charges are levied on Consumers for 2 kW, 5 kW connections.
- 2.598 Fixed Charge for Domestic and Industrial Consumers should be reduced by 25%.
- 2.599 It is requested to waive off Fixed Charges for COVID period.
- 2.600 Fixed Charges have increased from Rs. 100 / kW/ month to Rs. 300 / kW/ month. Further, Rs. 3000 /- are levied for new electricity connection which is very high.
- 2.601 Fixed Charge without extending benefits of certain free units amounts to extortion and inequality due to disproportionate burden on low end users.

### **PETITIONER’S SUBMISSION**

#### **TPDDL**

- 2.602 Fixed Charges as part of Tariff is levied so as to be able to cover the fixed expenses / costs of DISCOMs. DISCOMs need to establish and maintain Infrastructure and Network corresponding to the Sanctioned / Connected Load of the Consumers to ensure uninterrupted Power supply irrespective of the fact whether such Load demand is actually used or not but the DISCOM is required to have such infrastructure in place.
- 2.603 The present retail Tariff structure in Delhi includes only a part of the Fixed Cost into recovery out of Fixed Charges, and major portion of the Fixed Cost is recovered through Energy Charges component of the retail Tariff, which is not considered as a sustainable Tariff structure.
- 2.604 In case Fixed Charges are rolled back, the Energy Charge would increase correspondingly as these form a part of total Revenue of the Utility. Therefore, whether only Energy Charge is levied or Energy Charge as well as Fixed Charge is levied, the same ARR would have to be recovered from the consumers.
- 2.605 In any case, Tariff determination and Tariff design for all consumer categories is the sole prerogative of the Commission.
- 2.606 The Commission had issued an Approach Paper in Feb '18 on rationalization of Tariff structure which also states recovery of Fixed Cost from Fixed Charges and Fuel Charges of GENCO from Energy Charges and had proposed that the bifurcation between Fixed Charges and Energy charges should be adjusted gradually.
- 2.607 Therefore, the Commission is requested to suitably review the Fixed Charges during Tariff determination and Tariff design so that fixed cost of DISCOMs can be recovered through Fixed Charges.
- 2.608 One of the objectives of the Tariff Policy is to ensure creation of adequate capacity including reserves in Generation, Transmission and Distribution in advance for reliability of supply of Electricity to consumers as per Section 4 (i) of the Tariff Policy. Lower recovery of fixed costs of a Distribution Utility from the Fixed Charges increases the variability of recovery of its costs as recovery of Energy Charges depends on the consumption thereby pushing the distribution utility to cut down on building efficient Network.
- 2.609 At present, recovery from fixed charges is only 17.30% against the 56.40 % Fixed Cost

of the ARR.

- 2.610 In the interest of consumer and financial viability of the Delhi DISCOMs, the Commission is requested to kindly revert to the fixed charges of FY 2018-19 and specify a trajectory in increase in Fixed Charge so as to ensure full recovery of Fixed Costs from Fixed Charges and ensure that the ensuing Tariff should be cost reflective for each category of consumer as well as recover Fixed Cost of DISCOMs from fixed part of Tariff.
- 2.611 For Domestic consumers, there is no timely updation by the consumer of enhanced Load being used by them. This leads to excessive use of electricity which has a definitive impact on the Electricity Network. DISCOMs have to arrange for Network Augmentation since Network has to be in conformity with Load being supplied. Such excessive Load at times leads to burning of meter and enhances consumer indiscipline.
- 2.612 The surcharge on excess load will help ensure discipline amongst Domestic consumers.
- 2.613 Fixed charges for Domestic consumers if levied on Billing Demand will help recover Costs according to the actual usage of the consumer. Hence, the Commission is requested to allow levy of Fixed Charges for domestic category on billing demand.
- 2.614 For all categories other than domestic, Fixed Charges are levied based on Billing Demand. The Sanctioned Load is enhanced based on the highest of an average of Maximum Demand readings recorded as per billing cycle covering any four consecutive calendar months in the preceding Financial Year and not immediately on exceeding the Sanctioned Load. Hence, the charges on enhanced load are collected only after the completion of the relevant financial year of usage which is delay in recovery of cost according to load used by the domestic consumer which is not the case for other categories.
- 2.615 Fixed charges on the basis of kVA is levied on the basis of the Tariff Orders issued from time to time by the Commission. For all categories other than domestic, Fixed Charges are to be levied based on billing demand per kW/kVA or part thereof as per Tariff Schedule of Tariff Order FY 2021-22. Fixed charges as part of Tariff is levied so as to be able to cover the expenses / costs of DISCOMs. Same ARR is to be recovered

from the consumers. DISCOMs have installed shunt capacitors at their Grids to maintain the required power factor. However, maintaining the power factor at consumer end is the sole responsibility of the consumer.

- 2.616 Similarly, if MDI reading exceeds Sanctioned Load, a surcharge of 30% is levied on the Fixed Charges corresponding to excess load in kW/kVA for such billing cycle only as per Tariff Schedule of Tariff Order FY 2021-22. Differential Security deposit from the consumers on the basis of Suo-Moto enhanced load are in accordance with the DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.617 When compared to the Telecom sector for access to online data, it is submitted that the Power sector is different as the electricity consumption of consumers is stored in their meter and downloading the data for all consumers is not possible due to large numbers of non-communicating meters.

#### **BYPL**

- 2.618 Concept of two-part Tariff rely on premise that Fixed Cost should be recovered from Fixed Charges and Variable Charges out of Energy Charges. Commission has released an approach paper in Feb' 2018 and Niti Aayog also did study on this and recommended the same. In fact, they have appreciated the approach of Commission of Delhi and described as right step was initiated while issuing Tariff Order for FY 2018-19 increasing Fixed Charges and reducing Energy Charges. Recovery of fixed cost out of Fixed Charges is more beneficial to consumer because non-consumption will benefit them.
- 2.619 Tariff determination and Tariff design for all consumer categories is the sole prerogative of the Commission and DISCOM is bound to oblige the same.
- 2.620 The fixed charges have been increased by the Commission in lines with the provisions of Section 45(3) of the Electricity Act, 2003.
- 2.621 Further, the Commission in its Tariff Order dated June 26, 2003 introduced two-part Tariff for domestic consumers, i.e., Fixed Charges and Energy Charges and abolished minimum charges and meter rent. The fixed charge in two-part Tariff represents the fixed component of charges, which is independent of consumption level and depends on the fixed cost incurred by the Utility in supplying electricity.
- 2.622 When a consumer is connected to the system, the utility has to provide/allocate

certain capacity of the Distribution System to serve the consumer. In addition to this, some expenses such as meter reading, billing, bill delivery, maintenance etc. are fixed in nature and independent of Energy consumption. Ideally, the Fixed Charges levied on the consumer should reflect the cost of such capacity requirements of the consumer after considering the Fixed Cost of such system and diversity of load in the system.

2.623 The Commission in its Tariff Order dated 31/07/2013 has held as under:

*“2.71 The Commission would also like to point out that if fixed charges are removed, the energy charge would increase correspondingly as these forms a part of total revenue of the utility. Therefore, whether only energy charge is levied or energy charge as well as fixed charge is levied, the same ARR would have to be recovered from the consumers.*

*The Commission is of the opinion that the best method of levying fixed charges is on the basis of the sanctioned load, as other options do not representatively reflect the cost of providing the capacity requirements of the consumer. After analyzing all the options of levying fixed charges, the Commission continues with the existing methodology of levying fixed charges.”*

2.624 The rationale behind rationalizing fixed charges has been given by the Commission in its Tariff Order dated 31/07/2017 and 28/03/2018 as below:

*In tariff order dated 31/08/2017: “Fixed charges are levied to cover the fixed expenses of the Utilities. The infrastructure and network involves continuous running and maintenance to ensure uninterrupted power supply irrespective of the fact whether such load demand is actually used or not. The energy charges indicate the variable charges which are directly linked to the consumption of electricity. Both fixed and energy charges form part of the electricity billing; decrease in one shall lead to increase in the other.”*

*In tariff order dated 28/03/2018: “The Commission has rationalized fixed charges based on under recovery of revenue through fixed charges in the ARR of the Distribution Licensees as per the earlier tariff schedule.”*

2.625 For all categories other than Domestic, Fixed Charges are to be levied based on billing demand per kW/kVA or part thereof. Where the Maximum Demand (MD), as defined

- in DERC (Supply Code and Performance Standards) Regulations, 2017, reading exceeds Sanctioned Load/Contract Demand, a surcharge of 30% shall be levied on the Fixed Charges corresponding to excess load in kW/kVA for such billing cycle.
- 2.626 Further, the Petitioner is bound to levy Tariff on consumers for a period as determined and approved by the Commission under the Electricity Act 2003.
- 2.627 As regard to stakeholder comment on Fixed Charges based on MDI / Sanction Load, it is submitted that Retail tariff has purposely been divided in two parts across the country so that the Licensee is able to recover the Fixed Costs associated with maintenance and upgradation of its network through the Fixed Charges.
- 2.628 At the time of energization, the consumer undertakes to limit his load to a certain level which determines his Sanctioned Load. This is the load which the Licensee is obligated to serve and based on which it plans its Network Load growth as well as power purchase. If the consumer, for any reason, exceeds this contracted demand, the Licensee needs to arrange for additional Power in Short Term, the rates for which is much higher than long time Power. Therefore, there is a mechanism by which such consumers (who exceed their Sanctioned Load) are asked to bear the additional cost so that all those consumers who rightfully restrict their usage up to their Sanctioned Load is not wrongfully penalized.
- 2.629 Further, the Directive to calculate Fixed Charges based on MDI (in case MDI is higher than Sanctioned Load) is not to enrich the licensee but to act as a deterrent for the consumer.
- 2.630 Levy of fixed charge on Sanctioned Load is strictly executed as per the provisions of the DERC Supply Code and Performance Standards Regulations, 2017.
- 2.631 As regard to stakeholder comment on Access to MDI online data, it is submitted that the instant comment does not relate to the Petition. However, Consumers are billed in accordance with the DERC (Supply Code & Performance Standards) Regulations, 2017. The format of bill was approved by the Commission.
- 2.632 With respect to Fixed Charges of domestic category is to be charged on Maximum Demand Indicator (MDI), the Commission is requested to allow recovery of Fixed Charges for all categories of consumers including domestic category on the basis of Sanctioned Load/ Contract Demand or MDI (whichever is higher).

**BRPL**

- 2.633 The Fixed Charges as part of the Tariff are levied so as to be able to recover the fixed expenses/costs of DISCOMs. DISCOMs need to establish and maintain Infrastructure and network corresponding to the Sanctioned / Connected Load of the Consumers to ensure uninterrupted Power supply irrespective of the fact whether such load demand is actually used or not. But, the DISCOMs are required to have such infrastructure in place. Hence the Fixed Charges correspond to the sanctioned load.
- 2.634 The sanctioned load is enhanced based on the highest of an average of Maximum Demand readings recorded as per billing cycle covering any four consecutive calendar months in the preceding FY and not immediately on exceeding the Sanctioned Load. Hence, the charges on enhanced load are collected only after the completion of the relevant FY of usage. Further, the load is reduced only after 6 months from date of load enhancement as per Regulation 17 4(vii) of DERC (Supply Code and Performance Standards) Regulations, 2017 subject to the reduction of load limited to the highest of an average of any 4 (four) consecutive months' maximum demand readings of last 12 (twelve) months.
- 2.635 Retail Tariff has purposely been divided in two parts across the country so that the Licensee is able to recover the Fixed Costs associated with maintenance and upgradation of its network through the Fixed Charges.
- 2.636 Further, the Commission in its Tariff Order dated June 26, 2003 introduced two-part Tariff for domestic consumers, i.e., Fixed Charges and Energy Charges and abolished minimum charges and meter rent. The fixed charge in two-part Tariff represents the fixed component of charges, which is independent of consumption level and depends on the fixed cost incurred by the Utility in supplying electricity.
- 2.637 At the time of energization, the consumer undertakes to limit his load to a certain level which determines his Sanctioned Load. This is the load which the Licensee is obligated to serve and based on which it plans its Network Load growth as well as Power Purchase. If the consumer, for any reason, exceeds this contracted demand, the Licensee needs to arrange for additional Power in short term, the rates for which is much higher than long time power. Therefore, there is a mechanism by which such consumers (who exceed their Sanctioned Load) are asked to bear the additional cost

so that all those consumers who rightfully restrict their usage up to their Sanctioned Load is not wrongfully penalized.

- 2.638 When a consumer is connected to the system, the utility has to provide/allocate certain capacity of the Distribution System to serve the consumer. In addition to this, some expenses such as meter reading, billing, bill delivery, maintenance etc. are fixed in nature and independent of Energy consumption. Ideally, the Fixed Charges levied on the consumer should reflect the cost of such capacity requirements of the consumer after considering the Fixed Cost of such system and diversity of load in the system.
- 2.639 The Fixed Cost of the utility should be recovered to a certain extent through Fixed Charges to ensure revenue stability. Hence, the Commission has determined Tariffs such that a reasonable part of the Fixed Cost is recovered through a Fixed Charge. The Fixed Charges are usually levied on the basis of demand charges on Sanctioned Load or Contract Demand/billing demand.

- 2.640 The Commission in its Tariff Order dated 31/07/2013 has held, as under:

*“2.71 The Commission would also like to point out that if fixed charges are removed, the energy charge would increase correspondingly as these forms a part of total revenue of the utility. Therefore, whether only energy charge is levied or energy charge as well as fixed charge is levied, the same ARR would have to be recovered from the consumers.*

*The Commission is of the opinion that the best method of levying fixed charges is on the basis of the sanctioned load, as other options do not representatively reflect the cost of providing the capacity requirements of the consumer. After analyzing all the options of levying fixed charges, the Commission continues with the existing methodology of levying fixed charges.”*

- 2.641 The rationale behind rationalizing fixed charges has been given by the Commission in its Tariff Order dated 31/07/2017 and 28/03/2018 as below:

*In tariff order dated 31/08/2017: “Fixed charges are levied to cover the fixed expenses of the Utilities. The infrastructure and network involves continuous running and maintenance to ensure uninterrupted power supply irrespective of the fact whether such load demand is actually used or not. The energy charges*

*indicate the variable charges which are directly linked to the consumption of electricity. Both fixed and energy charges form part of the electricity billing; decrease in one shall lead to increase in the other.”*

*In tariff order dated 28/03/2018: “The Commission has rationalized fixed charges based on under recovery of revenue through fixed charges in the ARR of the Distribution Licensees as per the earlier tariff schedule.”*

- 2.642 For all categories other than Domestic, Fixed Charges are to be levied based on billing demand per kW/kVA or part thereof where the Maximum Demand (MD), as defined in DERC (Supply Code and Performance Standards) Regulations, 2017, reading exceeds Sanctioned Load/Contract Demand, a surcharge of 30% shall be levied on the Fixed Charges corresponding to excess load in kW/kVA for such billing cycle only. Wherever, Sanctioned Load/Contract Demand is in kW/HP, the kVA shall be calculated on basis of actual Power Factor of the consumer, for the relevant billing cycle and in case on non-availability of actual Power Factor, the Power Factor shall be considered as unity for Sanctioned Load/Contract Demand upto 10kW/11kVA.
- 2.643 Therefore, the Fixed charge is being levied as per the Tariff determined by the Commission in line with Tariff Regulation, 2017. Further, the Petitioner is bound to levy Tariff on consumers for a period as determined and approved by the Commission under the Electricity Act, 2003.
- 2.644 As regards to the concern of the stakeholder pertaining to fixed charges of DISCOM to be covered by Fixed Charges of Tariff, it is submitted that Regulation 130 of MYT Regulation 2017 states as under:
- “The Fixed Charge of the Distribution Licensee shall consist of the following components:*
- (a) Capacity Charges of Generating Stations as approved/adopted by the appropriate Commission; Capacity Charges of Transmission Licensee including Load Dispatch Charges Stations as approved/adopted by the appropriate Commission;*
- Fixed Cost of Distribution Licensee:*
- *Return on Capital Employed;*
  - *Depreciation; and*
  - *Operation and Maintenance expenses.”*

- 2.645 As regards to stakeholder comment on Fixed Charges for domestic connections to be levied on MDI, it is submitted that Levy of Fixed Charge on Sanctioned Load is strictly executed as per the provisions of the DERC Supply Code and Performance Standards Regulations, 2017.
- 2.646 As regards to stakeholder comment on relief in Fixed Charges due to COVID-19, it is submitted that relief has been granted to the consumers during COVID-19 pandemic period. The Commission vide its order dated 7/04/2020 provided relief to retail consumers, as follows:
- a) LPSC charging was restricted to lower of the actual working capital or 12% per annum during 24/03/2020 to 30/06/2020.
  - b) Due date of bill payment was extended further 2 weeks during 24.03.2020 to 30/06/2020
  - c) Recovery of legible fixed charges on non-domestic and public utilities and industrial categories during 24/03/2020 to 30/06/2020 was spread across next 3 billing cycles after 30/06/2020
  - d) Annual review of sanctioned load/contract demand were deferred
  - e) Rebate were given to consumers on timely payment of bills raised during 24/03/2020 to 30/06/2020
- 2.647 Further, the Commission vide order dated 4/05/2020 provided relief to Industrial and Non-domestic consumers directing to generate provisional Electricity bill considering Energy Charges Nil from 24/03/2020.
- 2.648 Furthermore, the Commission vide Order dated 7/09/2020 provided relief to Industrial and Non-domestic consumers by levying Fixed Charges during April 2020 and May 2020 @100% up to Maximum Demand and @50% for balance between Maximum Demand and Sanctioned Load.
- 2.649 Moreover, the Commission relaxed the recovery of accumulated billed amount based on actual reading of more than one billing cycle in equal installments of corresponding no. of billing cycles without levying any LPSC.
- 2.650 As regard to stakeholder comment on Access to MDI online data, it is submitted that the consumers are billed in accordance with the DERC (Supply Code & Performance Standards) Regulations, 2017. The format of bill was approved by the Commission.

However, the customer may request for MDI data and submit the copy of electricity bill with CA No. of his bill. On request of the customer, the historic MDI data may be provided.

- 2.651 With respect to Fixed Charges of domestic category is to be charged on Maximum Demand Indicator (MDI), the Commission is requested to allow recovery of Fixed Charges for all categories of consumers including domestic category on the basis of Sanctioned Load/ Contract Demand or MDI (whichever is higher).
- 2.652 As regard to stakeholder comment on Recovery of Fixed Charges in kW and kVA, it is submitted that as per the Tariff Schedule, domestic category is being charged under kW billing. However, higher load consumer category (ex. Non-domestic category, Industrial) is being charged under kVA billing as per existing provisions of Tariff Schedule.

#### **NDMC**

- 2.653 The party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.654 Aggregate Revenue Requirement (ARR) of DISCOMs recoverable through Electricity Tariff has two parts i.e., Fixed Cost and Variable Cost. The Fixed Cost raised to DISCOMs from Generating Companies/ Transmission Companies includes Capacity Charges to Generating Companies/ Transmission Companies, Depreciation, O&M Expenses, Interest on Loan Expenses related to Infrastructure Cost of DISCOMs based on Sanctioned Load of consumers etc. and Variable Cost raised to DISCOMs from Generating Companies mainly includes Fuel cost of Generating Companies.
- 2.655 The Fixed Charges, as determined by the Commission mandated under Section 45 of the Electricity Act, 2003, are levied by DISCOMs so as to recover their above mentioned Fixed Costs. These Fixed Costs have to be paid uniformly to Generating Companies and Transmission Companies irrespective of electricity consumption. Any under-recovery on account of these Fixed Charges shall have severe impact on cash inflows of DISCOMs and may disturb timely payments to Generation Companies and Transmission Companies.
- 2.656 Further, the non-payments of Fixed Charges by consumers leads to non-payment of Fixed Cost to Generation Companies and Transmission Companies by DISCOMs. It

results into creation of vicious circle and disturbs the equilibrium of the Power Sector which may lead to non-availability of 24X7 uninterrupted power supply.

- 2.657 As the distribution company needs to pay the fixed cost to Generating Stations and Transmission Companies uniformly during the year, this erratic cash inflow makes it difficult to make timely payments to Generation Companies and Transmission Companies which derails the entire system. The Commission in its DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 has specified the components which are part of fixed charges and the variable charges separately.

### **ISSUE 18: TRANSMISSION LOSS AND CHARGES**

#### **STAKEHOLDER'S VIEW**

- 2.658 BRPL has claimed Intra-State Transmission Charges i.e. Rs. 333.7 Crore (i.e. Rs. 330.82 Crore as rebatable amount and Rs. 2.9 Crore as non-rebatable amount) towards DTL Wheeling Charges for FY 2020-21 against the bill raised by DTL amounting to Rs. 432.26 Crore towards Wheeling Charges (including incentive/disincentive). However, BRPL has remitted only Rs. 82.70 Crore during for FY 2020-21 to DTL and same should be considered by the Commission while Truing-up the financials of BRPL. Further for FY 2022-23, BRPL has projected an amount of Rs. 1232 Crore as Transmission charges, however, no bifurcation for Intra-State Transmission Charges is given.
- 2.659 BRPL in its ARR petition has considered 470.4 MU as to Intra-State Transmission Losses for FY 2020-21, however, BRPL has neither specified any percentage nor any bifurcation for Intra-State Transmission Losses, whereas as per SLDC data, the actual Intra-State Transmission Losses are 0.88% for FY 2020-21. Further for FY 2022-23, BRPL has projected Intra-State Transmission Losses as 0.88% i.e. 106.3 MU.
- 2.660 BRPL had been defaulting payment of DTL since October, 2010. The Hon'ble Supreme Court vide date 12/05/2016 has directed to BRPL to clear the 70% of the current dues. Last hearing was held on 10/05/2022. The Commission is requested to make the provision of Escrow in which BRPL has to deposit all their receivables and the payment will be released to the DTL for current as well as past dues.
- 2.661 BYPL has claimed 172.56 Crore as rebatable amount towards DTL Wheeling Charges

- for FY 2020-21 against the bill raised by DTL amounting to Rs. 222.92 Crore towards wheeling charges (including incentive/disincentive). However, BYPL has remitted only Rs. 19.0 Crore during for FY 2020-21 to DTL and same should be considered by the Commission while Truing-up the financials of BYPL. Further, BYPL has projected different Transmission Charges i.e. Rs. 243 Crore and Rs.253 Crore as intra-state Transmission Charges including SLDC charges for FY 2022-23.
- 2.662 BYPL in its ARR petition has considered 279 MU as Intra-State Transmission Losses for FY 2020-21, however, BYPL has neither specified any percentage nor any bifurcation is given for intra-State Transmission Losses, whereas as per SLDC data, the actual Intra-State Transmission Losses are 0.88%. Further, BYPL has projected Intra-State Transmission Losses as 82 MU for FY 2022-23.
- 2.663 BYPL had been defaulting payment of DTL since October, 2010. The Hon'ble Supreme Court vide their Order dated 12/05/2016 has directed BYPL to clear the 70% of the current dues. Last hearing was held on 10/05/2022. The Commission is requested to make the provision of Escrow in which BRPL has to deposit all their receivables and the payment will be released to the DTL for current as well as past dues.
- 2.664 TPDDL has claimed Rs. 325.40 Crores as DTL Wheeling Charges for FY 2020-21, against the bills raised by DTL amounting to Rs. 332.34 Crore towards wheeling charges (including incentive/disincentive). However, TPDDL has remitted only Rs. 275.79 Crores for FY 2020-21 to DTL and same should be considered by the Commission at the time of True Up of FY 2020-21. for FY 2022-23, TPDDL has projected an amount of Rs. 390.22 Crore as DTL & SLDC Charges.
- 2.665 As per SLDC data, the actual Intra-State Transmission Losses is 0.88% for FY 2020-21, however TPDDL has not specified any percentage for Intra-State Transmission Losses and has considered Intra-state Transmission Losses as 90.89 MU for FY 2020-21.
- 2.666 TPDDL has projected Total Transmission Loss @ 3.5% for PGCIL and DTL i.e 376.31 MU for FY 2022-23.
- 2.667 NDMC has claimed Rs. 34.36 Crore towards Intra-State Transmission Loss/ Charges against the bills raised by DTL amounting to Rs.55.67 Crores towards Wheeling Charges (including incentive/disincentive). NDMC has remitted only Rs.33.81 Crore during FY 2020-21 to DTL and the same should be only considered by the Commission

while truing up the financials of NDMC.

- 2.668 NDMC for FY 2022-23 has projected an amount of Rs.44.86 Crore as Intra State Transmission Charges which is even lesser than the amount actually billed by DTL for FY 2020-21.
- 2.669 As per SLDC data, the actual Intra-State Transmission Losses as 0.80% for FY 2020-21, however, NDMC has not specified any percentage for Intra-State Transmission Losses and has considered the Intra-State Transmission Loss as -9.06 MU for FY 2020-21. Further, NDMC has projected Transmission Losses as 0.88% i.e. 15.06 MU for FY 2022-23.

### PETITIONER'S SUBMISSION

#### TPDDL

- 2.670 Transmission and Distribution (T&D) losses are a percentage of energy lost in the Transmission and Distribution Network in the process of transporting Electricity from Generating Stations to points of consumption. Therefore, Transmission and Distribution loss is considered along with Power Purchase Cost in order to determine Tariff by the Commission.
- 2.671 For FY 20-21, total bill of Rs. 334.84 Cr. was raised by DTL and TPDDL had received Rs. 70.12 Cr. DTL STOA credit hence a net of Rs. 264.72 cr. is booked for DTL.
- 2.672 Tata Power-DDL computes the losses as difference of the actual power scheduled and energy received at Tata Power-DDL periphery and the losses are prorated under Intra state and Interstate losses as follows:
- For Intra State Losses :- DTL losses have been factored in as per the data shown on the Delhi SLDC Website i.e 0.88% approx. (Delhi STU Loss).
  - For Inter State Losses :- Remaining difference is booked under Interstate head

#### BYPL

- 2.673 BYPL has considered Rs.172.56 Crore as the Intra-State Transmission Charges billed by the DTL. Reconciliation of the DTL's wheeling charges and Petitioner's claim are given below: -

Particulars	FY 2020-21
Wheeling Charges	Rs. 222.82 Cr.

Particulars	FY 2020-21
Less: STOA Credit	Rs. (50.26) Cr.
Net Total Billing	172.56 Cr.

2.674 The Intra-state Transmission Loss during FY 2022-23 has been considered @0.92% based on previous Tariff Order of the Commission.

2.675 BYPL is looking at all possible options/solutions to sort out the payment issues with DTL at the earliest. However, BYPL has been facing adverse financial condition since FY 2009-10 primarily on account of a non-cost reflective Tariff and absence of timely and adequate recovery of accumulated Regulatory Asset. The same has constrained the capability of BYPL to make timely payments to Generation and Transmission Utilities including DTL.

Status of Overdue as per SC directives as on 31st March'21					
Jan. '14 onwards Consumption Bills	Total Dues	Subsidy Payment	Cash & TDS Payment	Total Payments	Payment %
Delhi Transco Ltd. (Wheeling Charges)	1,510	686	615	1,301	86%

2.676 Further, the matter regarding payment to DTL is pending before Hon'ble Supreme Court. There are several disputes pending before Petitioner and DTL before various fora, including the unilateral adjustment of subsidy amounts by Delhi Government/DTL.

#### BRPL

2.677 Our response to the comments, suggestions and issues raised by the stakeholder on Intra-State Transmission Charges are as follows:

- (i) The Petitioner has claimed the Rs. 333.7 Crore as billed by the DTL as per Tariff Regulations, 2017. Reconciliation of the DTL's wheeling charges and Petitioner's claim are given below:

**Table 2. 2: Reconciliation of the DTL's wheeling charges**

Sr. No.	Particulars	Amt. (Rs. Cr.)
1.	DTL- Wheeling Charges	432
2.	Less: STOA Credit	(101.1)
3.	Add: SLDC Charges	2.9
	Total DTL Billing to BRPL	333.7

With respect to payment claim of DTL, it is submitted that BRPL has paid current dues for FY 2020-21.

- (ii) For FY 2022-23, the Petitioner has projected Transmission Charges as approved by the Commission in its Tariff Order dated 30/09/2021. The details are as tabulated below:

*“Table 4. 31: Commission Approved: Inter-State and Intra-State Transmission Losses and Transmission Charges for FY 2021-22*

<b>Sr. No.</b>	<b>Particulars</b>	<b>As Approved</b>
<b>A</b>	<b>Transmission losses (MU)</b>	
<i>I</i>	<i>Inter-State Transmission (PGCIL)</i>	<i>235.35</i>
<i>II</i>	<i>Intra-State Transmission (DTL)</i>	<i>123.34</i>
	<b>Total Transmission Losses (MU)</b>	<b>358.68</b>
<b>B</b>	<b>Transmission Charges (RsCrore)</b>	
<i>I</i>	<i>Inter-State Transmission (PGCIL)</i>	<i>776.02</i>
<i>I</i>	<i>Intra-State Transmission (DTL)</i>	<i>433.9</i>
<i>III</i>	<i>Other Transmission Charges</i>	<i>18.06</i>
<i>IV</i>	<i>SLDC Charges</i>	<i>4.02</i>
<b>C</b>	<b>Total Transmission Charges (Rs. Cr.)</b>	<b>1232</b>

- (iii) **Intra-State Transmission Losses:** Regarding bifurcation of Intra- and Inter-State Transmission losses during FY 2020-21, the Commission is requested to consider the actual data as submitted by SLDC while Truing-up for FY 2020-21. However, for FY 2022-23, BRPL has projected 0.88% of Intra-state losses as submitted by Delhi SLDC.
- (iv) **Non-Payment of dues of wheeling charges by BRPL:** Non-payment is due to Non-cost reflective Tariff and the delayed / inadequate recovery of accumulated Regulatory Asset being determined by the Commission. On account of these reasons, BRPL was constrained to approach the Supreme Court by way of a Writ Petition being W.P. (C.) No. 104 of 2014, wherein DTL is also a party. The Supreme Court by its Order dated 19/02/2015 read with Order dated 10/03/2015, reserved judgment in W. P. (C.) No. 104 of 2014. Since the judgment was not pronounced, the Writ Petition is still pending adjudication. Thereafter, in the subsequent years as well, the Commission has not factored the liquidation of accumulated Regulatory Assets and consequently the Tariff

as determined, has been non-cost reflective. BRPL has complied with the requirement of 70% payment of the current dues of DTL in compliance with the Order dated 12/05/2016 passed by the Hon'ble Supreme Court. In fact, BRPL has endeavoured to make 100% payment of current dues since December 2017. Status of payment on the basis 70% of the current dues in terms of the Order dated 12.05.2016, as on 31.03.2021 is as under:

Further, the issue regarding payment to DTL is pending before various fora including the Hon'ble Supreme Court. There are several disputes pending between the Petitioner and DTL before various fora, including the unilateral adjustment of subsidy amounts by DTL.

- (v) **Relief sought by BRPL due to COVID Pandemic:** We deny and dispute the observation of the stakeholders that no relief due to COVID-19 has to be given to the BRPL as its Collection Efficiency is 100.32%. Apart from collection efficiency norms set out by the Commission, there has been adverse effect of the Covid-19 pandemic on the billing. Revenue of BRPL was adversely affected during the Covid-19 pandemic on account of drastic reduction in the quantum of the bills that were being raised. The power purchase cost had increased to Rs. 5.81 / kWh as opposed to the approved power purchase cost of Rs. 5.02 / kWh during FY 2020-21. Hence, this adversely affected the financial position of BRPL.

DTL	Total Dues Jan'14 to Mar 21 (Rs. Cr.)	Payment Details (Jan'14 to Mar 21) (Rs. Cr.)			Payment %
		Amount paid including TDS	Subsidy Adjustment	Total Payment	
A	B	C	D	E= (C+D)	F= (E/B)
Wheeling Charges	2,317	1,023	1,168	2,191	95%

- (vi) **Adjustment of subsidy by DTL towards past outstanding dues:** It has been the consistent stand of BRPL, that the Subsidy amount cannot be adjusted towards payment of outstanding dues as the subsidy is part of current receivable/ revenue recoverable through Tariff. A treatment at variance to this in effect adversely affects ability of BRPL to pay the Generating and

Transmission utilities on account of Power Purchase Cost. Reliance placed by DTL on the interim Order dated 23/05/2014 passed by the Hon'ble Tribunal in IA 164 of 2014 in Appeal No. 32 of 2014 and connected matters is misplaced since a Civil Appeal being C.A Nos. 8387-89 & 8464-66 of 2014 regarding adjustment of subsidy amounts is pending before the Hon'ble Supreme Court against the Order dated 23.05.2014. The Hon'ble Supreme Court on 19/09/2014, issued notice on the IA(s) seeking stay of the Order dated 23/05/2014 passed by the Hon'ble Tribunal as well as the Civil Appeals. The Hon'ble Supreme Court by its Order dated 10/03/2015 has directed that the said Appeals to be listed after pronouncement of Judgment in W.P. (C.) 104 of 2014.

- (vii) **Letter of credit (LC) to be provided by BRPL in terms of BPTA with DTL:** As regards non-maintenance of required LC amount as per terms of BPTA, it is submitted that BRPL has been facing adverse financial condition since FY 2009-10 primarily on account of a non-cost reflective Tariff in the past and absence of timely and adequate recovery of accumulated Regulatory Asset being allowed by the Commission which has constrained our financial position and consequently, BRPL does not have the required LC limits from Banks for establishment of LCs in favour of power suppliers including DTL.

Further, the issue of LC was raised by DTL before the Commission in Petition No. 46 & 47 of 2013 wherein the Commission by its Order dated 22/11/2013 directed for constitution of an Empowered Committee. The said Order was challenged by DTL and is pending adjudication in Appeal No. 32 of 2014 before the Hon'ble Tribunal which has been sine die adjourned in terms of Order dated 9/02/2014 passed by the Hon'ble Supreme Court. Since the matter is sub-judice, DTL is requested not to insist upon BRPL to open LC.

- 2.678 Further, the credit of STOA charges shall be refunded by DTL on monthly basis and should be adjusted with current bills of the Wheeling Charges. DTL should not be allowed to adjust the same with past overdues, as directed by the Commission in the

last Tariff Order, as under:

*“The Commission directs the Petitioner to disburse Short Term Open Access Charges to DISCOMS as per applicable rules and regulations, on monthly basis on the date of raising Transmission charge bills. Further, no adjustment of STOA charges shall be made towards any past dues/ or adjustment in transmission bills of utilities.”*

## NDMC

2.679 Did not provide any comment.

## COMMISSION’S VIEW

- 2.680 The Commission determines the ARR for the DISCOMs as per the provisions of the Tariff Regulations, 2017 & Business Plan Regulations, 2019. The Tariff Order is issued after prudence check of the Petitions submitted by the DISCOMs and after considering each element of cost projected in the Petitions with due analysis and ensuring proper justification.
- 2.681 The Commission determines the transmission charges of DTL as per Tariff Regulations, 2017 & Business Plan Regulations, 2019. Further, the transmission losses and availability are being considered as provided by Delhi SLDC. With regards to the dues to DTL by DISCOMs, it is pertinent to state that in case DISCOM do not pay State GENCO and DTL as per timelines mandated in the Tariff Regulations, 2017 then they are liable for LPSC as stipulated in the said Regulations. LPSC paid by DISCOMs to State GENCO and DTL is not passed through in their ARR.
- 2.682 The target for Distribution Losses has been benchmarked with following parameters:
- a) Distribution Losses trajectory of previous years for DISCOMS;
  - b) Performance of various Indian Distribution companies
  - c) Electric Power Transmission and Distribution Losses for Top 50 countries from the World Bank website
- The detailed methodology for computing Distribution losses is mentioned at Sr. No. D (4) of Explanatory Memorandum uploaded at Commission website.
- 2.683 Further, Directives has been issued in previous Tariff Order to DISCOMs to make timely payment of bills to all the Generating Companies and Transmission Utilities.

No Late Payment Surcharge shall be allowed as a pass through in the ARR on account of delayed payments.

- 2.684 The DISCOMs are given an incentive if the Distribution Losses are reduced below the fixed target. If the losses are more than the target fixed, the loss above the target fixed is full to the account of the DISCOMs. The targets every year are progressively decreasing and it is expected that DISCOMs will achieve them. If the DISCOMs do not achieve the target, the financial impact will be to the account of the DISCOMs alone and will get reflected in the true-up of ARR of the respective DISCOMS.

### **ISSUE 19: GROUP HOUSING SOCIETY TARIFF CHARGES**

#### **STAKEHOLDER'S VIEW**

- 2.685 As there is no method to calculate the individual load like total common load of the GHS, in this connection, then how GHS charge Fixed Charges is levied from its individual members.
- 2.686 GHS are paying double for the same services through cost structure of housing society, regular Maintenance Charges and Electricity bills but GHS is paying Fixed Charges at three times of normal Fixed Charges of domestic consumer, which is totally unjustified. These Fixed charges should be abolished.
- 2.687 GHS members should pay same or less Fixed Charges than LT domestic consumer.
- 2.688 The Distribution System/ Sub-station for individual connections are installed and maintained by DISCOMS. However, in GHS, the housing society maintains all the systems bearing all the expenses. Hence, Electricity Rates for GHS and its members should be same.
- 2.689 There shall be no change in GHS Tariff and Electricity to be billed to HV SPD GHS residents as a pass through with 5% surcharge only.
- 2.690 A meeting with DERC executives may be held on method to calculate Fixed Charges for individual load in GHS for levying Fixed Charges.
- 2.691 GHS members not getting Govt. subsidy available to the normal domestic consumer.
- 2.692 Previously, DISCOMS were showing the MDI reading in its every bill, which helped the GHS to regulate their Electricity connection, but now the MDI reading is not mentioned on the bills. kindly direct the DISCOMS to mention the same in each bill.
- 2.693 TPDDL is not refunding the difference in security deposit arising out of load reduction

since April 2004 & not paying the Interest on Consumption Deposit from 18-04-2007 onward.

- 2.694 Meter no. 8XXXXXX45 and other connection 8XXXXXX41 was not given connection because of absence of Electric Pole.
- 2.695 Stable Power should be Provided even small interruption of 5 seconds cause disruption in work for people connected/ working from Home. Few days back, 17 times on/ off happened in Group housing society.
- 2.696 Group housing Tariff are getting realistic Tariff around Rs. 6.20 Rs/ kWh as 11kV HV consumers. If 2/3<sup>rd</sup> members agree then Group Housing Society should be converted to SPD as per Delhi Apartments Act. Such conversion should happen only if 100% member agree to convert Group Housing to Single Point Connection.

#### **PETITIONER'S SUBMISSION**

##### **TPDDL**

- 2.697 Single Point Delivery (SPD) connections to Group Housing Society (GHS) are sanctioned in compliance to prevailing Regulations. DISCOM charges Fixed Charges from the GHS as per provision of the Tariff Order based on Sanctioned Load/Contract Demand. Calculating load of individual members as well as that of common services for charging Fixed Charges is under the purview of SPD.
- 2.698 TPDDL is billing all its consumers as per Tariff Order FY 2021-22. Tariff determination and Tariff design for all consumer categories is the sole prerogative of the Commission.
- 2.699 As regards to stakeholder Comment on individual load in GHS connection, the Commission may like to decide on the same as it may deem fit.
- 2.700 As regards to stakeholder Comment on GHS maintaining all the systems, it is submitted that GHS availing supply at 11 KV are being given rebate of 3 % on Energy Charges for maintaining the system and bearing expenses as per prevailing Tariff Orders.
- 2.701 The Commission has already stipulated modalities for claiming subsidy benefit by individual consumers in Group Housing Societies (GHS). It was duly informed to each of the GHS falling in the Licensed area & the same needs to be complied by the GHS for claiming the subsidy.

- 2.702 As regards to stakeholder comment on showing the MDI reading in its every bill, it is submitted that MDI is not reflected on the society bills due to Multimeter case however we are arranging the same.
- 2.703 As regards to stakeholder comment on specific meter connection, it is submitted that the CGHS Connection is an old connection of DESU times and security deposit details are not available in our records that were handed over to us. In case there are any records available with consumer, same may be shared with us. In absence of updated security deposit details in our records, no security refund has been processed.

**BYPL**

- 2.704 As regard to the stakeholder comment on Tariff of GHS connection, it is submitted that the Commission has fixed the Tariffs taking into consideration all the comments of the stakeholders and after detailed observations. Further, DISCOMs are bound to charge the Tariff approved by the Commission for the respective consumer categories and that the DISCOMs cannot get involved into what CGHS charges from its consumers.
- 2.705 In regard to the stakeholder comment on subsidy for GHS connection, it is submitted that as per the Cabinet decision of GoNCTD, Electricity subsidy to all domestic consumers consuming upto 400 units per month has been approved which is also applicable to the consumers for Group Housing Society. The Govt. of NCT of Delhi vide letter dated 23/03/2016 to the Commission has requested to firm up the modalities for claiming subsidy, under intimation to GoNCTD. The Group Housing Society shall maintain data/records of consumption of each of the member and the Group Housing Society shall get the subsidy claim document audited by the CAG empanelled Auditor and submit its report to the DISCOM.
- 2.706 As per provision of DERC Supply Code, 2017, the consumer shall pay Security Deposit towards supply of electricity corresponding to the Sanctioned Load or Contract Demand as the case may be as per the rates and mode notified.
- 2.707 As regard to stakeholder comment on HV SPD GHS residents as a pass through with 5% surcharge, it is submitted that determination of Electricity Tariff to be charged from consumer is the prerogative of the Commission under Section 45 of the Electricity Act, 2003.

**BRPL**

- 2.708 As regard to the stakeholder comment on Tariff of GHS connection, it is submitted that the Commission has fixed the Tariffs taking into consideration all the comments of the stakeholders and after detailed observations. Further, DISCOMs are bound to charge the Tariff approved by the Commission for the respective consumer categories and that the DISCOMs cannot get involved into what CGHS charges from its consumers.
- 2.709 In regard to the stakeholder comment on subsidy for GHS connection, it is submitted that as per the Cabinet decision of GoNCTD, Electricity subsidy to all domestic consumers consuming upto 400 units per month has been approved which is also applicable to the consumers for Group Housing Society. The Govt. of NCT of Delhi vide letter dated 23/03/2016 to the Commission has requested to firm up the modalities for claiming subsidy, under intimation to GoNCTD. The Group Housing Society shall maintain data/records of consumption of each of the member and the Group Housing Society shall get the subsidy claim document audited by the CAG empanelled Auditor and submit its report to the DISCOM.
- 2.710 As regard to stakeholder comment on HV SPD GHS residents as a pass through with 5% surcharge, it is submitted that determination of Electricity Tariff to be charged from consumer is the prerogative of the Commission under Section 45 of the Electricity Act, 2003.

**NDMC**

- 2.711 The stakeholder does not fall in NDMC's licensed area of supply.

**COMMISSION'S VIEW**

- 2.712 The Single Point Delivery Supplier (Group Housing Societies) shall charge the Domestic tariff as per slab rate of 1.1 to its Individual Members availing supply for Domestic purpose and Non Domestic Tariff for other than domestic purpose. Any Deficit/Surplus due to sum total of the billing to the Individual Members as per slab rate of tariff schedule 1.1 and the billing as per the tariff schedule 1.2 including the operational expenses of the Single Point Delivery Supplier shall be passed on to the members of the Group Housing Societies on pro rata basis of consumption.
- 2.713 Individual Domestic Consumers availing the supply at single point delivery through

Group Housing Society, shall claim the benefit of subsidy, applicable if any, as per the Order of GoNCTD. Group Housing Society shall submit the details of eligible consumers with consumption details and lodge claim of subsidy on behalf of individual members from DISCOMs.

- 2.714 The Commission, for the ease of consumers, has uploaded on its website : Public Awareness Bulletin- 12 “*Sample Electricity Bill for the Group Housing Society*”.

## ISSUE 20: EV CHARGING STATION

### STAKEHOLDER’S VIEW

- 2.715 Present Tariff system for EV is highly unsatisfactory.
- 2.716 EV charging stations should have commercial Tariff and no subsidy to be given just as there is no subsidy on petrol and diesel.
- 2.717 DERC should notify fixed charges for EV charging stations.
- 2.718 EV charging station Tariff be kept equal to Actual Cost or highest amongst all consumer categories.
- 2.719 EV charging stations should have a Tariff equal to commercial category Tariff at Rs. 8.5/unit and Fixed Charges at Rs. 250/kVA/month.
- 2.720 Electricity Tariff provided for E-vehicle is misused and other consumer should not be subsidized for lower Tariff of E-vehicle.

### PETITIONER’S SUBMISSION

#### TPDDL

- 2.721 Section 61 (g) of Electricity Act 2003 mandates that Appropriate Commission while determining Tariff shall be guided by the principle that the Tariff progressively reflects the cost of supply of electricity and also, reduces and eliminates cross-subsidies within a time period as decided by the Commission. Even National Tariff Policy states that tariff design shall be linked to cost of service and Tariff thereof, progressively reflects the efficient and prudent cost of supply of electricity.
- 2.722 Accordingly, in line with the objectives of the Electricity Act, 2003 and National Tariff Policy, tariff of EV charging should be made equal or higher than the average cost of supply in the interest of consumers.
- 2.723 The Energy Charges for EV charging stations is found to be more than their respective Average Cost of Supply in Andhra Pradesh-Rs.6.7/unit, Meghalaya-Rs. 9.7/unit (LT)

and Odisha-Rs. 6.2/unit (LT) as per Tariff Order for FY 2021-22. Fixed charges are also levied in Meghalaya and Odisha.

- 2.724 The Commission is requested to keep the Tariffs for EV Charging Stations at the Average Cost of Supply and introduce Fixed Charges for EV charging Stations to allow for recovery of Infrastructure costs as per the prevalent practice in other states.

**BYPL**

- 2.725 As per the provisions of the Electricity Act, 2003, determination of Electricity Tariff of all consumers irrespective of any category is the sole prerogative of the Commission.
- 2.726 As regards to Stakeholder comment on EV charging Tariff be kept equal to commercial Tariff, it is submitted that the Commission vide its Tariff Order dated 31/08/2017 had introduced a new Tariff Category for charging of batteries of E-Rickshaw /E-Vehicle at Charging Stations and also held that the Tariff for charging of batteries of E-Rickshaw / E-Vehicle at premises other than at Charging Stations shall be the same as applicable for the relevant category of connection at such premises from which the E-Rickshaw / E-Vehicle is being charged.

**BRPL**

- 2.727 The Commission vide its Tariff Order dated 31/08/2017 had introduced a new Tariff Category for charging of batteries of E-Rickshaw / E-Vehicle at Charging Stations and also held that the Tariff for charging of batteries of E-Rickshaw / E-Vehicle at premises other than at Charging Stations shall be the same as applicable for the relevant category of connection at such premises from which the E-Rickshaw / E-Vehicle is being charged.
- 2.728 Petitioner in its ARR Petition has requested the Commission to kindly address the issue of Cross Subsidization among all categories by restructuring the existing Tariff structure as the same is not in line with National Tariff Policy which states that Tariffs should be within  $\pm 20\%$  of the Average Cost of Supply.
- 2.729 With regard to EV charging Tariff to consumer, it is submitted that the determination of Electricity Tariff to be charged from a certain category of consumer is the sole prerogative of the Commission under Section 45 of the Electricity Act, 2003.

**NDMC**

- 2.730 The party is not in NDMC area

**COMMISSION'S VIEW**

2.731 Increased usage of E-Vehicles will lead to a substantial reduction in consumption of conventional fuels such as petrol and diesel and the consequential pollution.

2.732 In line with revised guidelines and standards on charging infrastructure for Electric vehicles, 2021 issued by MoP, GoI relevant clauses as stated under

*“Objectives*

*(b) To promote affordable tariff chargeable from EV and charging station operators/ owners*

*...*

*7.1 The tariff for supply of electricity to EV public charging shall be determined by appropriate commission in accordance with tariff policy issued under section-3 of electricity act 2003 as amended from time to time.*

*7.2 Tariff applicable for domestic consumption shall be applicable for domestic charging.”*

2.733 DERC is the 1<sup>st</sup> Regulatory Commission to provide separate Tariff category for Charging of E-vehicles in its Tariff Order dated 31/08/2017. Further, the Commission in its Tariff Order dated 28/08/2020 extended the Electric vehicle charging station Tariff category for swapping of batteries of E-rickshaw/E-vehicles. Further, Tariff for battery Swapping Stations is same as that for charging stations for E-Rickshaw/E-vehicle on single point delivery provided that such swapping facilities are exclusively used for swapping of batteries of E-Rickshaw/E-Vehicle only.

2.734 For the promotion of E-vehicles, there are no fixed charges applicable on charging stations for E-rickshaw/E-vehicle on Single Point Delivery/ Swapping Battery Tariff category. Further, Energy Charges are lesser than Cost of Supply.

2.735 The Commission has also decided to retain the Rebate on Energy Charges during the Off Peak hours and Peak hours Surcharge at 20% i.e. 4 AM TO 10 AM, as follows:

**“ 3. Time of Day (ToD) Tariff**

*The Commission has retained the time slots for Peak and Off-Peak hours as follows:*

<i>MONTHS</i>	<i>PEAK HOURS (HRS)</i>	<i>SURCHARGE ON ENERGY CHARGES</i>	<i>OFF-PEAK HOURS (HRS)</i>	<i>REBATE ON ENERGY CHARGES</i>
<i>May - September</i>	<i>1400- 1700 &amp; 2200 - 0100</i>	<i>20%</i>	<i>0400 - 1000</i>	<i>20%</i>

*”*

- 2.736 As regard to stakeholder comment on misuse of Tariff for E-vehicle, DISCOMs should step up their enforcement activities to avoid misuse of E-vehicle charging facility. The Petitioner should make all efforts to prevent theft/pilferage of electricity by strengthening their enforcement activities without harassing honest consumers.

## **ISSUE 21: E-BILL & ONLINE PAYMENT**

### **STAKEHOLDER'S VIEW**

- 2.737 Electricity bills to be sent online on emails/ mobile to consumers to save paper, manpower and environment.
- 2.738 E-bill be made mandatory for consumers with 5 kW and above connections except for extremely poor.
- 2.739 Unilateral actions of paper bills should be stopped for zero payment and reduction of Sanctioned Load without consent to be reversed.
- 2.740 Make Aadhar and PAN submission mandatory for all existing as well as new connections. This will help in recovery of dues from defaulters and in tax compliances.
- 2.741 Digital payments should not be made mandatory and payment through DD/ Cheque should be accepted.
- 2.742 The facility of paper bill should continue.
- 2.743 Electricity bills should be in hard copy i.e. one-page bill. Sending bills on Whatsapp is not acceptable and will create problems.
- 2.744 Benefit of zero billing to the consumer as per APTEL judgement 9/09/2015 should be provided.
- 2.745 Notification for mandatory Digital payments for bills of value more than Rs. 20000/- has been withdrawn. Hence, it is requested to issue Guidelines to payment collection agency to accept payment through cheque.

### **PETITIONER'S SUBMISSION**

#### **TPDDL**

- 2.746 In this era of internet, DISCOMs sending paper electricity bills to lakhs of consumers every month means thousands of trees are cut every year just to send electricity bills to consumers. This wastage can be saved by sending a soft copy of the bill on email or WhatsApp. This can be made mandatory for those connections having sanctioned

load of above 5 kW. These consumers, one can hope, to definitively have internet connectivity.

2.747 These consumers can be asked to pay bill by digital modes like e-wallets, Net Banking, NEFT, RTGS, debit card etc. Following are the Benefits of e-payment:

- i) Hassle-free
- ii) Safe & Secure
- iii) Environment Friendly
- iv) Saves Time
- v) Cashback

This will help in improving collection efficiency of DISCOMs which in turn help consumer with reduced tariff burden.

2.748 For the consumers, where the amount payable is zero after Subsidy adjustment or otherwise, only electronic bill may be sent through SMS/email/Whatsapp .

2.749 As regards to Stakeholder comment on accepting DD/ Cheque, it is submitted that the Payment through digital modes were in line with the Gol initiative of promoting payments through digital modes. Hence, some categories of consumers were brought under mandatory payment category if the values exceeded Rs. 20000/-. Moreover, to provide sufficient time for transition, this was deferred and made applicable from 1/04/2022.

2.750 As regards to stakeholder comment on reduction of Sanctioned Load without consent to be reversed, it is submitted that Suo moto load enhancement/reduction is done as per DERC Supply Code Regulations, 2017.

2.751 As regards to Stakeholder comment on making Aadhar and PAN submission mandatory for all existing as well as new connections, it is submitted that sometimes dues on premises remain unrecovered due to consumer default and it is not always possible to recover dues without establishing the liability on the defaulter who has left the premises. Such recovery suits also take time and sometimes do not give the desired result of dues recovery as the defaulter cannot be pinned due to lack of documents that can identify him like Aadhar, mobile no and PAN details. Whenever a consumer applies for new connection, DISCOM checks the dues on premises applied for and the applicant has to pay these dues to get the new connection. This

is unnecessary burden and harassment for the applicant.

- 2.752 PAN of registered consumer is required according to section 206AA of Income-tax Act 1961, to
- a) Deduct TDS (Tax deduction at Source) u/s 194A, on payment of Interest on Security deposit / consumption deposit by the consumer,
  - b) Charge TCS (Tax Collection at Source) u/s 206C(1)H on receipt of payment above 50 Lakhs from any consumer.
  - c) Finalize the Tax rate applicable on such transactions for compliance check u/s 206AB and 206CCA.

Further, taking Aadhar and PAN details of all applicants for existing connection will help in smooth compliance on Tax deduction / Collection at source as per law as stated above and to pass on the benefit of Tax deduction / Collection at source from the registered consumer.

#### BYPL

- 2.753 The consumer is given option to consumers to get e-Bill from application or through website.
- 2.754 BSES have given the option to consumers to get e-Bill from application or through our website. Lakhs of consumers have already opted for e-bills and have decided to stop their physical bills. Further, the Commission has also provided the provision in DERC (Supply Code and Performance Standards) Regulations, 2017 stated as under:
- “38 (5) The consumer shall have an option to receive the bill either in hard copy or through electronic mode such as e-mail. The consumer opting for receiving bill through electronic mode shall register for the same:*
- Provided that the distribution licensee shall deliver the bill both in hard copy and in electronic mode such as email for a consecutive period of 3 (three) billing cycles from the date of registration by the consumer: Provided further that after a consecutive period of 3 (three) billing cycles, the Licensee may stop the delivery of hard copy of the bill.”*
- 2.755 At present, any consumer of the Petitioner can request to opt for e-bill and discontinue their physical bills or may decide to continue with both formats. A numbers of consumers have already opted for e-bills and have decided to stop their

- physical bills. However, this is still optional for all consumers. However, while considering to make e-bills mandatory, it may also need to be considered that there may be lakhs of consumers especially in the lower economic strata, who may still lack the technical resources to access e-bills.
- 2.756 The Petitioner has also made a written representation before the Commission in the past. However, it cannot be made mandatory because there are some remote areas where people are not digitalized and therefore it is not feasible for them to rely upon the E-Bills. Any delay in access of the bills may further lead to delay in revenue collection.
- 2.757 The Commission is requested to kindly allow serving of only paperless e-bill to the consumer getting Subsidy on the entire bill amount. The mode of serving such e-bills would be through email, SMS with a link of pdf of bill, other digital mode. In such cases, the physical bill would not be delivered for that month and only e-bill would be served to the consumers on its registered email id, SMS with bill link to registered mobile number.
- 2.758 For digital payments, multiple options and interfaces has been put in place to enable consumer make payment online such as:
- a) Payment through Unified Payment Interface (UPI)
  - b) Dynamic UPI QR Code
  - c) Debit / Credit Card
  - d) Internet Banking
- 2.759 As regards to Stakeholder comment on accepting DD/ Cheque, it is submitted that BYPL is bound to comply with the directive issued by the Commission vide Tariff Order dated 30/09/2021 regarding payment of monthly Electricity bills of all categories of consumers except Domestic, Agriculture & Mushroom Cultivation exceeding Rs. 20,000/- to be paid digitally through various platforms like NEFT, RTGS, IMPS, Credit Card, Debit Card, Wallets (like PayTM, Google Pay) etc.
- 2.760 Furthermore, making mandatory E bill and online payment is the prerogative of the Commission.
- 2.761 As regards to stakeholder comment on reduction of Sanctioned Load without consent to be reversed, it is submitted that Sanctioned Load is reviewed by the DISCOM in terms with Regulation 17 (4) of DERC Supply Code Regulations, 2017. For

domestic category consumers, if the computed/reviewed load is less than the sanctioned load, the DISCOM seeks the consent of the consumer for load reduction through a separate notice to the consumer. For domestic consumer category having the sanctioned load upto 5 kW, if no communication is received from the consumer within 30 days from the date of receipt of notice, the load is reduced automatically.

- 2.762 The comment of the stakeholder regarding clearance of past dues and ID requirement in transfer of connection/new connection do not relate to the instant petition. However, it is submitted that application for transfer of connection is processed by BYPL in line with the procedures defined under DERC (Supply Code and Performance Standards) Regulations, 2017 and its subsequent amendments.
- 2.763 At present, any consumer of the Petitioner can request to opt for e-bill and discontinue their physical bills or may decide to continue with both formats. A numbers of consumers have already opted for e-bills and have decided to stop their physical bills.

#### **BRPL**

- 2.764 BSES Rajdhani have given the option to consumers to get e-Bill from application or through our website. Lakhs of consumers have already opted for e-bills and have decided to stop their physical bills. Further, the Commission has also provided the provision in DERC (Supply Code and Performance Standards) Regulations, 2017 stated as under:

*“38 (5) The consumer shall have an option to receive the bill either in hard copy or through electronic mode such as e-mail. The consumer opting for receiving bill through electronic mode shall register for the same:*

*Provided that the distribution licensee shall deliver the bill both in hard copy and in electronic mode such as email for a consecutive period of 3 (three) billing cycles from the date of registration by the consumer: Provided further that after a consecutive period of 3 (three) billing cycles, the Licensee may stop the delivery of hard copy of the bill.”*

- 2.765 The Commission is requested to kindly allow serving of only paperless e-bill to the consumer getting Subsidy on the entire bill amount. The mode of serving such e-bills would be through email, SMS with a link of pdf of bill, other digital modes. In such

- cases, the physical bill would not be delivered for that month and only e-bill would be served to the consumers on its registered email id, SMS with bill link to registered mobile number.
- 2.766 For digital payments, multiple options and interfaces has been put in place to enable consumer to make payment online such as:
- a) Payment through Unified Payment Interface (UPI)
  - b) Dynamic UPI QR Code
  - c) Debit / Credit Card
  - d) Internet Banking
- 2.767 It is submitted that the comment of the stakeholder regarding clearance of past dues and ID requirement in transfer of connection/new connection do not relate to the instant Petition. However, the application for transfer of connection is processed in line with the procedures defined under DERC (Supply Code and Performance Standards) Regulations, 2017 and its subsequent amendments.
- 2.768 As regards to Stakeholder comment on accepting DD/ Cheque, it is submitted that BYPL is bound to comply with the directive issued by the Commission vide Tariff Order dated 30/09/2021 regarding payment of monthly Electricity bills of all categories of consumers except Domestic, Agriculture & Mushroom Cultivation exceeding Rs. 20,000/- to be paid digitally through various platforms like NEFT, RTGS, IMPS, Credit Card, Debit Card, Wallets (like PayTM, Google Pay) etc.
- 2.769 Furthermore, making mandatory E bill and online payment is the prerogative of the Commission.
- 2.770 The Petitioner submits that matter of zero billing is pending before the Hon'ble APTEL in A.No. 290 of 2015.
- 2.771 As regards to stakeholder comment on reduction of Sanctioned Load without consent to be reversed, it is submitted that Sanctioned Load is reviewed by the DISCOM in terms with Regulation 17 (4) of DERC Supply Code Regulations, 2017. For domestic category consumers, if the computed/reviewed load is less than the sanctioned load, the DISCOM seeks the consent of the consumer for load reduction through a separate notice to the consumer. For domestic consumer category having the sanctioned load upto 5 kW, if no communication is received from the consumer within 30 days from the date of receipt of notice, the load is reduced automatically.

**NDMC**

2.772 The party is not in NDMC area

**COMMISSION'S VIEW**

2.773 The e-bill and online payment along with other multiple mode of payment is voluntary for customers. Consumer can pay the bill by Cash, Cheque, Demand Draft, Money Order or through electronic modes. The date of realisation of cheque or Three (3) days from the submission of cheque shall be deemed to be the date of receipt of the payment provided that the cheque is not dishonoured.

2.774 Provided that if cheque of a Consumer dishonoured for Two (2) occasions in any Financial Year, then such Consumer shall not have facility of paying electricity bill through cheque for balance period of Financial Year. Provided further that cash payment limit for each monthly bill shall not exceed Rs 5,000/- or as may be decided by the Commission from time to time.

2.775 Accordingly, the Directive has been issued regarding the Cash Collection in current Tariff Order, as follows:

*“No payment shall be accepted by the Distribution Licensees from its consumers at its own collection centres/mobile vans in cash towards electricity bill exceeding Rs. 4,000/- except from blind consumers, for court settlement cases & payment deposited by the consumers at designated scheduled commercial bank branches upto Rs. 50,000/-. Violation of this provision shall attract penalty to the level of 10% of total cash collection exceeding the limit.”*

2.776 Further, in Tariff Order dated 30/09/2021, the Commission has mandatorily made the payment of monthly electricity bills of all categories of consumers except Domestic, Agriculture & Mushroom Cultivation exceeding Rs. 20,000/- digitally through various platforms like NEFT, RTGS, IMPS, Credit Card, Debit Card, Wallets (like PayTM, Google Pay) etc.

2.777 When collection exceeds the Normative target of 99.5% the benefit upto 100% is shared between Distribution Licensee and consumer. The treatment of security deposit and its interest thereof is governed by provisions indicated in DERC (Supply Code and Performance Standards) Regulations, 2017.

**ISSUE 22: MISCELLANEOUS**

**STAKEHOLDER'S VIEW**

- 2.778 Investment in Generation can be explored against giving subsidy of Rs. 3250 Crores per annum.
- 2.779 There should be check on fast running meters.
- 2.780 No further surcharge to be levied on Temporary Residential Connections.
- 2.781 DISCOMs may confirm if Non-Tariff Income is very small.
- 2.782 Interest on Consumer Security Deposit may be reduced.
- 2.783 Whether BYPL has paid any security deposit to Government/Other companies from where they purchase Power.
- 2.784 At present, 42% taxes on Electricity are levied to Consumer which was only 17% in year 2013.
- 2.785 Multi Storey building should be provided Electricity connection only if they produce Fire Safety certificate.
- 2.786 New connection application takes long time in processing which should be streamlined.
- 2.787 It is well accepted commercial practice to hand over damaged property to one who compensates the loss. Yet damaged meters are not handed over to consumers even after paying for it.
- 2.788 Meter installation without property document should be allowed for ease of operation.
- 2.789 Income from Electric poles offered for use of internet and cable TV may be considered in ARR.
- 2.790 Complaints related to Voltage Fluctuations, Frequent Power Cuts and unreliable SMS services to be addressed.
- 2.791 The Commission is requested to dilute Fire Safety norms and bypass cumbersome documentation procedures.
- 2.792 As per DERC order, new connections are not provided by BSES for height of Building more than 15 Meters. DISCOMs may be directed to release connections.
- 2.793 Overhead cables get entangled with Telecom cables, sticker should be placed for identifying Power cables. Also passing vehicles/ truck break or cut these wires.
- 2.794 Poles are overloaded with TV cable laid by cable operator and causing frequent fire

- incidents.
- 2.795 Due to bare conductor's people have been electrocuted. Safety Audit should be mandatorily conducted for DISCOM.
- 2.796 Government has sanctioned funds but no action has been taken by TPDDL. Bare conductor/ uncovered wires overhanging in TPDDL area, for which request has also been made.
- 2.797 Interest on security deposit of consumers should be given to the consumers.
- 2.798 Order NO. 00XXXXXXX6 dated 8/09/2021 connection pending since Sept 2021. Electricity connections are not sanctioned because electrical wires are passing adjacent to the balcony.
- 2.799 Proper marking and color coding of cables should be carried out for identification of Electric cables.
- 2.800 For floor wise residences, pending dues of previous resident are transferred to new buyer. How to check and clear the old outstanding dues.
- 2.801 Electricity Connections for Ground floor resident are not processed due to pending dues of upper floor residents which is unfair.
- 2.802 Strict rules to be made for tracing the defaulters & prevent theft of meters.
- 2.803 Transformer installed adjacent to the road restricts vehicular movement, which is a type of encroachment. Instead, drains should be covered and Transformer should be placed above them.
- 2.804 Provisional/ erratic billing by DISCOMs varies exorbitantly. In one month the consumer received zero billing and the subsequent month bill of Rs. 8000 was received.
- 2.805 Standby mode LED blinking on all the gadgets should be removed to save Electricity.
- 2.806 DERC should make a committee of consumers to check the bills generated by the DISCOMs.
- 2.807 Electricity wastage occur due to street light functioning in the morning, any helpline number should be provided to switch-off street lights shall be helpful.
- 2.808 5 % paid to MCD as Taxes should be fixed not on the basis of overall consumption.
- 2.809 MCD Tax should be fixed as Rs. 20/ month.
- 2.810 Interest on Consumer Security Deposit should be given as 16% as BYPL is getting 16%

ROE.

- 2.811 300 nos. Jhuggies exist in our area but only 110 nos. jhuggies are provided with connection. Remaining Jhuggies should be provided Electricity connections.
- 2.812 1900 nos. Roads need to be electrified in Delhi.
- 2.813 Temporary Connection should be provided for 1 or 2 months not for years. For construction/ housing work, domestic connection should be provided.
- 2.814 Highest voltage, lowest voltage, frequency and no. of power cuts should be mentioned in Electricity bill.
- 2.815 DISCOMs should also consider MSME certificate as valid document.
- 2.816 High billing observed in 6 flats in Vasant Vihar & their Meters should be tested & checked.

#### **PETITIONER'S SUBMISSION**

##### **TPDDL**

- 2.817 Electrification for street lights and roads is the responsibility of respective Municipal corporation or road owning agencies like PWD, DSIIIDC, MCD etc. Distribution companies can electrify the roads/ streetlights after receiving request from respective agencies after receiving payment of electrification charges.
- 2.818 If there is no further surcharge levied on Temporary Residential Connections, there is no motivation for residential consumers to switch from temporary to permanent connection as he is availing temporary connection at the same Tariff.
- a) It will create a lot of safety concerns, since, there is no standardization of cables used by consumers. There is chance of theft by tapping the service cable used by consumer.
  - b) There is a scope of misuse of existing permanent connection as consumer will not ask for temporary connection for construction of additional floor/units by consumer as there is no fear of any penalty etc. on account of misuse. (being on same tariff)
  - c) Temporary connection cannot be denied as per supply code, and there is possibility that consumer will use the same and will not go for permanent connection which is provided subject to feasibility.
  - d) Already domestic consumer is subsidized and excluding surcharge from long

term temporary connection is like providing them double benefit.

- e) TPDDL procures Long Term Power based on the demand of the existing consumers and for the temporary connections, for which TPDDL has to make temporary arrangement in terms of procuring additional power on Short Term Basis, which is at much higher rates as compared to long term power being procured on a regular basis.

- 2.819 Considering above, it is requested to allow levy of surcharge on all residential connections under temporary supply category.
- 2.820 The Petitioner follows DERC (Supply Code and Performance Standards) Regulations, 2017 and Tariff Orders issued by the Commission for Temporary Connections. Depending on construction of large buildings, malls and Public Infrastructures like Metro lines and bridges, the construction periods will vary from 6 months to several years. Therefore, consumer should have option of having temporary connection of longer duration.
- 2.821 Interest on security deposit of consumers is adjusted in bills in accordance with the DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.822 Non-Tariff Income are shown as per relevant Regulations. All Non-Tariff Incomes are included in the ARR and benefit given to the consumers.
- 2.823 As regard to stakeholder comment on diluting fire safety norms, it is submitted that TPDDL being a regulated entity, follows the Regulations and directions issued by the Commission.
- 2.824 As regard to stakeholder comment on handing over of old/ damaged meters, it is submitted that old meters are prone to misuse. Hence, handing over of damaged meter is not done as it no use to the consumer.

#### **BYPL**

- 2.825 The determination of Retail Tariff and Surcharges is the sole prerogative of the Commission and the Petitioner is bound to levy Tariff on consumers for a period as determined and approved by the Commission under the Electricity Act 2003.
- 2.826 The Non-Tariff Income for True-up of FY 2020-21 has been claimed by the Petitioner based on the Audited Accounts of FY 2020-21 in line with the actuals of past years and provisions under the Tariff Regulations, 2017 and Business Plan Regulations,

2019.

2.827 As per the Policy on replaced meter under tempering/DEA, the damaged/replaced meters are sent to the laboratories for disposal.

2.828 As regard to stakeholder comment pertaining to Income from Electric Poles, it is submitted that the Petitioner considered the income from other business as per the DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017, as per Regulation 5 (5 (a)) of the same, the Licensee can retain 40% of net revenue from other business in which Licensee utilizes the assets and facilities of the Licensed Business for other business and pass the remaining 60% to the Regulated Business. The Regulation 5(5(a)) is quoted as under:

*“(5) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues from the other Business as follows:*

*(a) where the Licensee utilizes the assets and facilities of the licensed business for other business the Licensee shall retain 40% of the net revenue from such business and pass on the remaining 60% of the net revenue to the regulated business; and...”*

2.829 As regards to Pole Rental, Street Charges Maintenance & Scrap Sale, the Commission approves the expenses and recoveries in its Tariff Order for a year after prudence check under the Business Plan Regulations, 2019 and Tariff Regulations, 2017.

2.830 As regard to stakeholder comment on Pole rental, it is submitted that the Commission in its Order dated 6/10/2006 in Petition No. 4 of 2005 filed by TPDDL has stated that the DISCOM's LT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee for generating revenue. The relevant extract of the Order is reiterated as below:

*“29. The Commission is therefore, of the opinion that the poles other than the Central Verge and the HT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee. Any revenue generated thereto shall be subject to the*

*Regulations made by the Commission on the Treatment of Income from Other Business.”*

- 2.831 The other business income towards pole rental is earned on account of rent from the cable operators for using Petitioner’s LT poles for laying their cables/set up. In this regard, proper agreements have been executed between the Petitioner and the operator for usage of Petitioner’s LT poles.
- 2.832 Accordingly, the Pole Rental income has been duly considered under Non-Tariff Income in the ARR Petition.
- 2.833 The Petitioner always endeavors to resolve the consumer complaints at the earliest besides providing quality and uninterrupted supply of Power. For consumer grievance, Consumers have access to multiple avenues/institutions for redressed of grievances. For the convenience of its consumers, the Petitioner has also launched other various options such as BSES Mobile APP, Voice Bot, etc. where the consumer can easily lodge its complaint.
- 2.834 The Petitioner, on its part, has instituted the Consumer Grievance Cell at its Corporate Office at Nehru Place. The customers in the licensee's area of supply also have a 24 x 7 access to a dedicated “No Supply” call Centre - manned by trained personnel (phone number 39999808 and 19122 – 24x7 Toll Free Helpline). The licensee has conducted special training programs for all personnel manning the call centres. Alternatively, consumers can also register their grievance by sending an email at [bypl.customercare@relianceada.com](mailto:bypl.customercare@relianceada.com). Consumers can also visit the conveniently located customer care centres and contact the customer care officials / Business District Manager in person. All complaints lodged are monitored internally for faster resolution of complaints.
- 2.835 As regard to the comment of the stakeholder regarding surcharge on Temporary connections, it is submitted that BYPL is bound to levy Tariff on consumers for relevant period as approved by the Commission under the Electricity Act 2003.
- 2.836 The interest on Consumer Security Deposit is given in accordance with the Schedule of Charges and the procedure under DERC (Supply Code and Performance Standards) Regulations, 2017.

**BRPL**

- 2.837 DISCOM physically inspects and tests meter for its accuracy as per DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.838 As regard to stakeholder comment pertaining to Income from Electric Poles, it is submitted that the Petitioner considered the income from other business as per the DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017, as per Regulation 5 (5 (a)) of the same, the Licensee can retain 40% of net revenue from other business in which Licensee utilizes the assets and facilities of the licensed business for other business and pass the remaining 60% to the Regulated Business. The Regulation 5(5(a)) is quoted as under:
- “(5) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues from the other Business as follows:*
- (a) where the Licensee utilizes the assets and facilities of the licensed business for other business the Licensee shall retain 40% of the net revenue from such business and pass on the remaining 60% of the net revenue to the regulated business; and...”*
- 2.839 Accordingly, the Pole Rental income has been duly considered under Non-Tariff Income in the ARR Petition.
- 2.840 For consumer grievance, Consumers have access to multiple avenues/institutions for redressed of grievances. The Petitioner, on its part, has instituted the Consumer Grievance Cell at its Corporate Office at Nehru Place. The customers in the licensee's area of supply also have a 24 x 7 access to a dedicated “No Supply” call Centre - manned by trained personnel (phone number 39999707 and 19123 – 24x7 Toll Free Helpline). The licensee has conducted special training programs for all personnel manning the call centres. Alternatively, consumers can also register their grievance by sending an email at [brpl.customercare@relianceada.com](mailto:brpl.customercare@relianceada.com). Consumers can also visit the conveniently located customer care centres and contact the customer care officials / Business District Manager in person. All complaints lodged are monitored internally for faster resolution of complaints.
- 2.841 With regard to the comment of frequent voltage fluctuations, it is submitted that the

- complaint has been forwarded to the divisional O&M office for resolution.
- 2.842 As regard to stakeholder comment on diluting Fire Safety norms, it is submitted that DISCOM provides new connection to the consumer under DERC (Supply Code and Performance Standards) Regulations, 2017 and its subsequent amendments.
- 2.843 As regard to stakeholder comment on Surcharge of temporary connections, it is submitted that BRPL is bound to levy tariff on consumers for a period as determined and approved by the Commission under the Electricity Act 2003.
- 2.844 BRPL submitted the Non-Tariff Income for True-up of FY 2020-21 based on the Audited Accounts of FY 2020-21 in line with the actuals of past years and provisions under the Tariff Regulations, 2017 and Business Plan Regulations, 2019.
- 2.845 SBI MCLR rate is considered for computing the interest on Consumer Security Deposit in accordance with the Schedule of Charges and the procedure under DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.846 In regard to the stakeholder comment regarding unauthorized usage/theft of electricity, it is submitted that BRPL attributes highest priority to reduction of theft and for this express purpose, has within its structure, an independent and exclusion department which is focused in reduction of theft. BRPL enforcement teams are fully equipped and self-sufficient in curbing theft which is one of the reasons why BRPL has been able to bring down AT&C losses from over 50% to below 8% at present. However, enforcement team often have to face violent resistance in several areas and have been physically assaulted on several occasions. In spite of facing such violence, the enforcement officials remain un-deterred in discharging their duties under difficult and hostile conditions.
- 2.847 The Petitioner has been able to save substantial amount on account of collection from theft / enforcement due to the aggressive clampdown on theft and avoidance of power purchase cost which would have been necessary in absence of any enforcement activities. This amount saved has directly benefitted consumers by way of reduced tariff burden.
- 2.848 The Petitioner endeavours to resolve the consumer complaints at the earliest besides providing quality and uninterrupted supply of power. For the convenience of its consumers, the Petitioner has also launched other various options such as BSES

Mobile APP, Voice Bot, etc. where the consumer can easily lodge its complaint.

- 2.849 It is submitted that in accordance DERC (Supply Code and Performance Standards) Regulations, 2017 along with the Schedule of Charges, interest on Consumer Security Deposit is being paid on the basis of SBI MCLR.

#### **NDMC**

- 2.850 The party is not in NDMC area.

#### **COMMISSION'S VIEW**

- 2.851 The new and existing connections shall be as per procedure specified in Chapter-3 of *DERC (Supply Code and Performance Standards) Regulations, 2017*. The said Regulation shall be applicable for New and existing connections, agreement, metering, billing and payment, disconnection and reconnection, Unauthorised use, theft, Complaint handling procedure and overall standards of performance.
- 2.852 The Commission exercises prudence check on the expenses that are incurred or allowed to be incurred by the Utilities for approval of O&M expenses during a control period. O&M expenses are a controllable parameter in terms of *DERC (Terms & conditions for Determination of Tariff) Regulations, 2017*, and any surplus or deficit on account of O&M expenses shall be to the account of the Licensee and shall not be trued up in the ARR.
- 2.853 The Commission while determining the norms for O&M expenses in its Business Plan Regulations, 2017 has not considered the legal expenses as it shall be allowed based on prudence check in true up of ARR for the relevant year.

**A3: TRUE UP FOR FY 2020-21****BACKGROUND**

3.1 The True up of FY 2020-21 shall be considered in accordance with the provisions of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and *DERC (Business Plan) Regulations, 2019*.

3.2 The Commission was carrying out verification of Books of Accounts of Distribution Licensees, however from FY 2016-17, the Commission started Regulatory Audit for verification of Books of Accounts of Distribution Licensees through C&AG empanelled Auditors (*except for FY 2019-20*). In line with the same, the Commission has appointed C&AG Empanelled Auditor, (M/s ADRIOT & CO.) for Regulatory Audit of the Books of Accounts of the Petitioner for FY 2020-21. M/s ADRIOT & CO. (hereinafter referred to as "Consultant") has submitted the report based on the detailed scope of work specified in the Award. Major areas of reconciliation under the scope of work are as follows:

**A. POWER PURCHASE COST**

I. Reconciliation of Power purchase quantum, cost through:

- (a) Long Term (Inter-state Generating Stations & State Generating stations)
  - a. Fixed Cost
  - b. Variable Cost
  - c. Arrears
- (b) Short Term (Bilateral, Exchange, Intra DISCOM, UI etc.)
- (c) Tender wise Banking transactions (opening balance, during the year, closing balance)

II. Reconciliation of Transmission Charges

- (a) Central Transmission Utility
- (b) State Transmission Utility
- (c) Open Access

III. Verification of invoices w.r.t. Form-15 and Form-26 w.r.t. Energy Charges as computed by Generating Companies.

IV. Impact of any CERC/APTEL/Supreme Court Orders w.r.t. Power Purchase Cost.

- V. Reconciliation of Renewable Purchase Obligation vis-à-vis Actual Renewable Power with cost and quantum of Renewable Energy Certificates procured
- VI. Monthly Reconciliation of company wise Power Purchase and Transmission Charges' payment
- VII. Violation of Merit Order Dispatch Principle
- VIII. Overlapping in Banking and Bilateral transactions
- IX. Contingency limit under UI
- X. Incentive for bulk sale of Power
- XI. Violation of cash receipt from consumers exceeding the limit
- XII. Verification of Short term power purchase cost greater than Rs.5/kWh impacting variation in Gross purchase cost of greater than 10 paisa/kWh.
- XIII. Verification of self levied PPAC during the year.
- XIV. LPSC paid to Generators/Transmission Utilities

**B. BILLING AND REVENUE**

- XV. Reconciliation of Sales
  - a) Monthly Sales as per SAP and Form-2.1 (a).
  - b) Monthly Adjustments as per SAP and Form-2.1 (a)
    - i. Adjustments on account of Contra Entries
    - ii. Adjustments on account of Open Access Consumers
    - iii. Adjustment on account of Provisional Billing
      - (a) Provisional Bills adjusted within 2 months
      - (b) Provisional Bills adjusted after 2 months and within a year
      - (c) Provisional Bills adjusted after a year.
    - iv. Other Adjustments, if any (with remarks)
- XVI. Reconciliation of Category-wise Revenue Billed on account of
  - a) Fixed charges
  - b) Energy charges
  - c) Theft / Misuse / Enforcement
  - d) PPAC
  - e) 8% Surcharge
  - f) Load violation surcharge (Maximum Demand)

- g) ToD Surcharge/ Rebate
  - h) Electricity Duty / Tax
  - i) Late Payment Surcharge (LPSC)
  - j) Voltage Discount, etc.
- XVII. Reconciliation of Category-wise Revenue Collected
- a) 8% Surcharge
  - b) Electricity Duty / Tax
  - c) Late Payment Surcharge (LPSC)
  - d) Street Light Maintenance charges
  - e) Incentive on Street Light Maintenance charges
  - f) Theft / Misuse / Enforcement
  - g) Advances from customers.
  - h) Net Revenue
- XVIII. Quarterly Reconciliation of Subsidy- Actual released / adjusted by GoNCTD and passed to consumers in their electricity bills
- XIX. Monthly Reconciliation of Pension trust- Billed by DISCOMs, Paid by DISCOMs to Pension Trust,
- XX. Direct expenses of other business,
- XXI. Power factor (sample basis) used for different set of consumers.
- XXII. Verification of component-wise (Fixed Charges, Energy Charges, etc.) Billed to individual consumers and revenue collected thereof from Billing Dump and from bank statement.
- XXIII. Regulation 9 of Net Metering Regulations- credit debit adjustments of sales at the end of the year.
- XXIV. Verification of Energy input at various exchange points at transmission distribution periphery and Inter-DISCOM exchange.
- C. OTHERS:**
- XXV. Reconciliation of actual details of capitalization for each quarter of the year vis-à-vis the date of in-principle approval of such capitalization by the Commission. Further, the following break-up/work w.r.t. to capitalization to be included in the report:

- a. The details of actual capitalization as per audited accounts under different heads such as Material Cost, Labour Cost, Interest during construction (IDC), Employee expenses capitalised, A&G expenses capitalised.
  - b. Percentage of capitalisation of Employee expenses and A&G expenses out of total employee expenses and A&G expenses.
  - c. Details of computation of IDC clearly specifying the fund flow and rate of interest.
  - d. The details of actual capitalization as per audited accounts under different asset classes as specified in Appendix-1 of Depreciation schedule of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.
  - e. Amount capitalised by Distribution Licensee on account of replacement / repair of existing assets and to comment/ qualify whether the amount booked by Distribution Licensee on account of replacement / repair of existing assets under capitalisation is correct or part of O&M expenses.
  - f. Segregation of amount of actual capitalisation under the groups, i.e Electrical Inspector Certificate (EIC) required and EIC not required.
  - g. Whether the EIC Certificate, wherever required, has been obtained by Distribution Licensees within the financial year. If not, the amount thereof.
  - h. Amount of actual capitalisation and addition in network capacity during the year under different network capacity heads alongwith units as mentioned in Table 8, 9, 10 & 11 of Regulation 23 of DERC (Business Plan) Regulations, 2017.
  - i. The amount of de-capitalization as per audited accounts.
- XXVI. Bifurcation of Interest During Construction (IDC) into Cash IDC (to be considered as part of capital cost on COD) and Accrued IDC (to be considered as part of Capital cost in the year of payment)
- XXVII. Related party transactions
- XXVIII. Inter DISCOM fund transfer
- XXIX. Means of Financing for Capitalization, Working capital & Accumulated Revenue Gap through:
- (a) Equity
  - (b) Debt
  - (c) Consumer Contribution

(d) Grant etc.

- XXX. Prudency of Cost of Debt Financing
- XXXI. Verification of Audited Financial Statement w.r.t. Segmental Reporting in respect of the distribution business and other businesses and disclosure of the same in the report.
- XXXII. Hedging policy and Hedging Cost incurred
- XXXIII. Verification of Inter Corporate Loan if any with reference to the Company's Policy or Board Approval and analyzing the merits of the interest rate with reference to the weighted average interest rate of the lending company as well as the borrowing company
- XXXIV. Verification of statement of interest on all types of loans availed from various Banks/Financial institutions duly supported by certificates from every lending Bank/Financial institution for each loan, certifying the following:
- a) Opening balance of loan
  - b) Loan disbursed during the year
  - c) Repayment during the year
  - d) Interest rates as applicable in accordance with the terms of sanction
  - e) Additional interest if any levied on account of non-creation of required charge/not providing required security
  - f) Interest charges levied and paid
  - g) Processing charges and/or fees of any other kind as levied and paid as per the terms of sanction
  - h) Penal charges levied and paid

And accordingly compute the weighted average rate of interest for loans availed for :

- a) Capitalisation
  - b) Working Capital
  - c) Accumulated revenue Gap
- XXXV. Reconciliation of Debtors and Computation of Collection Efficiency
- XXXVI. Verify any provisions created for doubtful debts, write-off of any doubtful debts along with write back of the consequent excess provision with reference to the Company's Policy for Provision/write-off of doubtful trade receivables. The same will be done

with reference to the origin of the debt, collection efficiency claimed and admitted previously.

XXXVII. Reconciliation of Net-worth as per Regulatory provisions and as per audited financial statement

XXXVIII. Actual O&M expenses:

- (a) Actual Employee expenses as per audited accounts
- (b) Actual administrative and general expenses as per audited accounts,
- (c) Actual Repair & Maintenance expenses as per audited accounts
- (d) Actual O&M expenses booked by the distribution licensee as per audited accounts, on different network capacity heads along-with units as mentioned in Table 8, 9, 10 &11 of Regulation 23 of DERC (Business Plan) Regulations, 2017,
- (e) Amount of provisions been made under different heads in audited accounts
- (f) To comment whether all provisions made in audited accounts have been shown separately.
- (g) Amount of Loss or gain to be reported separately on account on decapitalization of assets.
- (h) Whether the water charges, statutory levies and taxes under O&M expenses have been indicated separately.
- (i) Bifurcation on Loss or gain on account of decapitalization of assets as per Regulation 45, 46 & 47 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.

XXXIX. Actual Other expenses.

XL. Verification of income earned from other businesses. Separate disclosure of the same w.r.t. income earned from battery swapping and electric vehicle charging stations.

XLI. Reconciliation of Non -Tariff Income as per regulatory provisions and other income as per Audited Financial Statement

XLII. Verification of Meter jump cases (Meter fast/ meter slow).

3.3 The report of the Consultant has been considered appropriately by the Commission for True-up of various parameters of ARR of FY 2020-21 as submitted in the Petition

by the Petitioner in accordance with the applicable principles laid down under the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017*, *DERC (Business Plan) Regulations, 2019* and Books of Accounts maintained as per Companies Act.

- 3.4 The Commission has conducted various prudence check sessions with the Petitioner for True-up of various parameters of ARR for FY 2020-21 submitted in the Petition. Wherever required clarifications were sought on various issues from the Petitioner in accordance with the applicable principles laid down under the *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017*, *DERC (Business Plan) Regulations, 2019* and with respect to the Books of Accounts of the Petitioner maintained as per Companies Act. The Commission has considered all information submitted by the Petitioner as part of Tariff Petition, Audited Accounts for past years, response to queries raised during discussions and also considered the stakeholder's submission during Virtual/ physical Public Hearing process and those submitted in written for finalization of the Tariff Order as per the principle laid down under *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* and *DERC (Business Plan) Regulations, 2019*.

**PRIOR PERIOD ISSUES****A. DIRECTIONS OF HON'BLE SUPREME COURT IN THE VARIOUS JUDGMENTS AND COMPLIANCE THEREOF**

3.5 The Hon'ble Supreme Court has pronounced following judgments on different issues:

I. Civil Appeal No(s).884/2010, 980/2010, 9003-04/2011 & 1854-55/2014, decided by a Common Order dated 1/12/2021;

II. Miscellaneous Application No(s). 633-34/2022 in Civil Appeal Nos.9003-04 of 2011;

Miscellaneous Application No.1261/2022 in Civil Appeal No.884/2010;  
Miscellaneous Application No. 1262/2022 in Civil Appeal No.980/2010;

Miscellaneous Application No.918/2022 in Civil Appeal No.884/2010 &  
Miscellaneous Application No.919/2022 in Civil Appeal No.980/2010;

Common order dated 15/12/2022;

III. Civil Appeal Nos.4323-24 of 2015, judgment dated 18/10/2022.

3.6 Copies of aforesaid orders/judgment are annexed to the subject true-up order as **Annexures-IV, V, VI**, respectively.

3.7 Salient directions of the Hon'ble Supreme Court are as follows:

- I. **IN Civil Appeal No(s).884/2010**  
**Delhi Electricity Regulatory Commission**  
**Vs. BSES Rajdhani Power Ltd.**  
**With**  
**Civil Appeal No(s).980/2010**  
**With**  
**Civil Appeal No(s).9003-04/2011**  
**With**  
**Civil Appeal No(s).1854-55/2014**  
  
**Common order dated 1/12/2021**

3.8 In the subject civil appeals, the Hon'ble Supreme Court held as under:

**IN C.A. Nos. 884 and 980 of 2010**

**IN C.A. Nos. 9003-9004 of 2011**

*Having heard learned counsel for the parties, perused the impugned order and the materials placed on record, we are of the view that these appeals do not involve any substantial question of law. The civil appeals are accordingly dismissed.*

*We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a*

*reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.*

**IN C.A. Nos. 1854-1855 of 2014**

*Having regard to the disposal of the Civil Appeal Nos. 884 and 980 of 2010 as above, these appeals do not survive for consideration by this Court. The civil appeals are accordingly dismissed. However, the observations made by the Appellate Authority against the Commission(DERC) in the impugned order are expunged.*

**II(A) In Miscellaneous Application No(s). 633-34/2022 in Civil Appeal Nos.9003-04 of 2011, the Hon'ble Supreme Court in its order dated 15/12/2022 held as follows:**

**Issue No.1 - Carrying Cost**

6. xxxx                      xxxx                      xxxx                      xxxx
7. xxxx                      xxxx                      xxxx                      xxxx
8. xxxx                      xxxx                      xxxx                      xxxx
9. *It is evident from the compliance affidavit/report dated 23.03.2022 that DERC has not applied the Debt-Equity ratio of 70:30. We are of the view that DERC ought to have allowed funding of regulatory asset/revenue gap on a normative Debt-Equity ratio of 70:30. There is no question of recomputing the carrying cost rate based on purported equity on the basis of net worth from the audited books and balancing figure as debt. Therefore, we direct DERC to allow funding of regulatory asset/revenue gap on a normative Debt-Equity ratio of 70:30.*

**Issue No.2 – Rate of Interest on Carrying cost**

10. *On this question, the direction of the APTEL in its judgment dated 12.07.2011, is as under:*

*“11. The sixth issue is regarding interest rate for carrying cost.*

*11.1. This issue also had been dealt with in this Tribunal’s Judgment dated 30.7.2010 reported in 2010 ELR (APTEL) 0891 between North Delhi Power Ltd. vs. DERC (Appeal No.153 of 2009). The relevant extracts of the Judgment are reproduced below:*

*45. The carrying cost is allowed based on the financial principle that whenever the recovery of cost is to be deferred, the financing of the gap in cash flow arranged by the distribution company from lenders and/or promoters and/or accrual and/or internal accrual has to be paid for by way of carrying cost. The carrying cost is a legitimate expectation of the distribution company. The State Commission instead of applying the principle of PLR for the carrying cost has wrongly allowed the rate of 9% which is not the prevalent market lending rate. Admittedly, the*

prevalent market lending rate was higher than the rate fixed by the State Commission in the tariff order. Therefore, the State Commission is directed to reconsider the rate of carrying cost at the prevalent market rate keeping in view the prevailing Prime Lending Rate. ”

11. The above view has been upheld by this Court.

12. xxxxx xxxxx xxxxx xxxxx

13. In our view, it is clear that DERC has substituted the words ‘prevailing market rate keeping in view the prevailing Prime Lending Rate’ with the words actual interest rate paid by BRPL and BYPL on their loans’ which is not permissible in view of the aforesaid judgment of the APTEL. A comparison of the two is given below:

Particular	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
B RPL Rate of %	11.03	11.47	11.30	11.87	13.11	15.26	15.02	15.14	14.19	14.07	13.85	13.38	12.25	12.24
BYPL Rate of %	10.93	11.66	11.37	11.56	13.28	15.19	15.17	15.40	14.63	14.28	14.16	13.93	12.53	12.20
SBI PLR	12.69	12.79	11.87	12.26	14.40	14.61	14.58	14.75	14.29	14.04	13.68	13.68	13.58	12.27

14. Therefore, we direct DERC to allow SBI PLR as provided in the Table above, on 70% debt component for funding regulatory asset/revenue gap in the ratio of 70:30.

(II)(B) Reference may also be had to the same order dated 15/12/2022 of the Hon’ble Supreme Court in Miscellaneous Application No.1261/2022 in Civil Appeal No.884/2010, Miscellaneous Application No. 1262/2022 in Civil Appeal No.980/2010, Miscellaneous Application No.918/2022 in Civil Appeal No.884/2010 & Miscellaneous Application No.919/2022 in Civil Appeal No.980/2010, whereby the Hon’ble Supreme Court held as follows:

**Issue No.2 - Capital Expenditure and Capitalization Charges**

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20. In respect of Capital expenditure and Capitalization charges that were questioned by the DERC in the appeal, paragraphs 56 and 57 of the impugned judgment dated 6.10.2009 are relevant and have been relied upon by both sides. For ready reference, the said paragraphs are extracted herein below:

"56. We do feel that it was imprudent on the part of the appellant to resist the comparison to the prices paid to REL with the prices paid for similar products by NDPL. The appellant has realized the folly now. In view of the appellant resisting the comparison mentioned above, the Commission also gave up all efforts to compare. The fact, however, remains that both the appellant as well as NDPL has incurred capital expenditures of various nature and has purchased goods and commodities in furtherance of the same. The Commission has to treat all the distribution companies at par. It is not disputed that the NDPL has purchased products of the same description although they may be different in their quality and technical specifications. Of the long list of articles which are involved in the dispute in hand some may be comparable to articles purchased by the NDPL. If for those articles the Commission has allowed same price there is no reason why the appellant should not have been allowed the same price provided, however, they are lower than the price paid to REL for those products. The Commission has to treat all the distribution licensees on the same scale and no one of them can be either victimized or favoured on account of the stands or pleas taken by them during the tariff hearings. At the same time the Commission is duty bound to make the prudent check on all the claims made by the distribution licensees.

57. The NDPL submitted its records before the Commission simultaneously with the appellant during the tariff hearing of the relevant year. As such the records are expected to be with the Commission. We think it is appropriate to allow the appellant an opportunity to prove, item wise, that the price paid by it to REL was not higher than the price paid by NDPL and allowed to it by the Commission for similar products. The onus would be entirely on the appellant to prove that the products purchased by it and the one purchased by NDPL offered for comparison are of the same technical specifications and quality and also should be similarly priced on account of the other relevant factors influencing the prices namely the time of purchase, the quantity purchased, vender rating etc. In case the price paid to REL is same as or lower than the price allowed to NDPL for a comparable commodity, the Commission shall allow the price paid to REL. The Commission shall, however, allow a lesser price if the NDPL's price is lower than the price of REL's purchase plus 5% profit margin. Till such exercise is completed the appellant will have to accept the decision of the Commission as reflected in the view of the Chairperson."

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27. There was no scope of imposing a price stipulated in the Tariff Order dated 23.02.2008, when APTEL has clarified the position in paragraphs 56 and 57 of the impugned judgment, extracted above. To the above extent, the order dated 12.04.2022, passed by the

*DERC is unsustainable and is accordingly set aside. The DERC is directed to recompute the amount payable to the non-applicants for the commodities purchased by it, strictly in terms of the directions issued in paragraphs 56 and 57 of the impugned judgment dated 6.10.2009. We may reiterate that the above direction is restricted to the items specified in sub-column B-2 of the table forming part of paragraph 43 of the order dated 12.04.2022, passed by the DERC.*

### III. IN Civil Appeal No(s). 4324 of 2015

**BSES Rajdhani Power Ltd. Versus  
Delhi Electricity Regulatory Commission  
With  
Civil Appeal No(s). 4323 Of 2015  
BSES Yamuna Power Ltd. Versus  
Delhi Electricity Regulatory Commission**

The Hon'ble Supreme Court in the subject appeal vide its order dated 18/10/2022 held as under:

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5. *The Appellants have challenged the finding of the APTEL in the impugned order on the following issues:*
  - A. *Change in methodology in computation of Aggregate Technical and Commercial (AT&C) losses [Issue 14 in Impugned Order]*
  - B. *Change in methodology for computation of Depreciation [Issue 15 in Impugned Order]*
  - C. *Disallowance of salary for Fundamental Rules and Supplementary Rules (FR/SR) structure [Issue 23 in Impugned order]*
  - D. *Disallowance of interest accrued on Consumer Security Deposit retained by Delhi Power Corporation Limited (DPCL) [Issue 29 in Impugned Order]*
  - E. *Disallowance of Fringe Benefit Tax [Issue 34 in Impugned Order]*
  - F. *Reduction in Million Units (MUs) in relation to Enforcement sale for the purpose of calculation of AT&C Loss [Issue 14 in Impugned Order]*
6. *It is to be noticed that the above-mentioned Issue 'C' has been challenged only by BSES Rajdhani Power Ltd. in C.A. No.4324 of 2015 while the remaining issues have been challenged by both BSES Rajdhani Power Ltd. and BSES Yamuna Power Ltd. and are subject-matter of C.A. No.4324 of 2015 and C.A.No.4323 of 2015.*

7. *The Tariff Appeals were filed by the Appellants challenging the disallowances in their respective Tariff Orders dated 26.08.2012 passed by the DERC for:*

*(a) Determination of ARR and Tariff for FY 2011-12; and*

*(b) Truing up of financials for FY 2008-09 and FY 2009-10.*

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57. **Issue No. 1:** *In the original MYT determination (Tariff Order dated 28.05.2009), the DERC took into account the full late payment surcharge ('LPSC') revenue as also the DVB arrears while computing the targets of Collection Efficiency.....*

58. *However, while truing up for the year in question, the DERC has retrospectively sought to take away part of the LPSC revenue by deducting the Financing Cost on LPSC in comparing the actual Collection Efficiency with the projected Collection Efficiency. Hence, allowing the Financing Costs on LPSC revenue and then deducting it from the LPSC revenue would tantamount to giving by one hand and taking it away by the other. This order of the DERC is contrary to the original MYT determination.*

59. **Issue No.2:** *In the Original Determination Order dated 28.05.2009 (F.Y. 2008-09), DERC has allowed depreciation on the assets funded by consumer contributions. However, DERC changed the methodology of computation of ARR at the stage of true up. According to the learned counsel for the respondent, DERC had inadvertently made an error and adopted an approach contrary to the mandate of 2007 MYT Regulations while computing the depreciation when originally issuing the tariff order, which was rectified in the true up exercise. However, learned counsel for the appellants submit that no error has been committed by the DERC in the tariff order dated 28.05.2009 and it is only after considering the relevant MYT Regulations that depreciation to the appellants on the assets that were funded by consumer contributions was allowed.*

60. *Perusal of the Tariff Order dated 28.05.2009 would clearly indicate that after considering the contentions of the parties the aforesaid depreciation has been allowed. We have already held that it is not permissible to amend the tariff order during true up exercise. On the pretext of prudence check and truing up, DERC could not have amended the tariff order.*

61. **Issue No.3 :** *During projection of expenses for the entire control period, the Tariff Order dated 23.02.2008 had projected employee expenses considering inter alia the impact of the anticipated Sixth Central Pay Commission Report.....*

62. xxxx

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63. *However, contrary to its own undertaking, the DERC in Tariff Order dated 26.08.2011 has erroneously changed its own methodology at the stage of truing up, by not allowing employee expenses of FR/SR employees as per actuals. The DERC, at the stage of truing up, has changed the methodology and disallowed the actual salary of FR&SR employees, which is impermissible. The DERC in the Tariff Order dated 26.08.2011 has acted contrary to its own undertaking of truing up the impact of employee expenses on account of the Sixth Central Pay Commission Report.*
64. **Issue No.5** : *This issue is in relation to disallowance of fringe benefit tax. The DERC has allowed fringe benefit tax in the MYT Order dated 23.02.2008. Relevant extract of the MYT Order dated 23.02.2008 is as under:*

*“Commission’s Analysis*

*4.242 The Commission is of the opinion that projecting the actual tax liability for the Control Period is difficult and complex. Thus for simplicity, the Commission provisionally approves Rs 5.00 Cr each year towards income tax and fringe benefit expenses. The Commission would, however, true-up the tax expenses based on the actual tax liability at the end of each year of the Control Period. The Commission has allocated the tax expenses into Wheeling and Retail Supply in the ratio of 20:80, respectively.”*

65. *The DERC, at the stage of truing up for the F.Y. 2008-09, has changed the methodology and disallowed the fringe benefit tax incurred by the appellants.*
66. xxxx                      xxxx                      xxxx                      xxxx                      xxxx
67. *Therefore, the findings of the DERC, as confirmed by the APTEL in the impugned order, on issue nos. 1, 2, 3 and 5 are contrary to the order of the original MYT determination (Tariff Order(s) dated 23.02.2008 and 28.05.2009) which are accordingly set aside. In view of the above, it is unnecessary for us to consider the other substantial questions of law on the aforesaid four issues.*
68. **Issue No.4**: *This issue relates to disallowance of interest incurred on Consumers Security Deposit retained by Delhi Power Company Limited (‘DPCL’). The DERC in the tariff order dated 26.08.2011 has disallowed the interest on Consumers Security Deposit paid for pre-privatization period received by DVB, which is yet to be transferred to the appellants. The APTEL has confirmed this order of the DERC. It is to be stated here that, at the time of unbundling of the erstwhile DVB (w.e.f. 01.07.2022), the quantum of Consumers Security Deposit reflected in the opening balance-sheet notified in terms of statutory transfer scheme, was not transferred by the DPCL (the Holding Company wholly owned by the*

*Government of NCT of Delhi) to the appellants and other successor private Discoms. The appellants being distribution licensees under the 2003 Act are required to and are continuing to pay interest on the said Consumers Security Deposit in terms of Section 47(4) of the 2003 Act even though the principal sum was never transferred to them in its entirety by DPCL.*

XXXX XXXX XXXX XXXX XXXX

72. *Therefore, we hold that the appellants are entitled to recover interest on Consumers Security Deposit as held by the DPCL. We direct the DERC to allow the interest on Consumers Security Deposit held by the DPCL and impact thereof to the appellants. The findings of the DERC and the APTEL in this regard are set aside.*

73. **Issue No.6:** *This issue pertains to enforcement sales i.e. sales which are deemed to have been occurred in cases of electricity theft. The question for consideration is whether the impugned findings in the order of the APTEL are against the legal principle that when the statute creates a legal fiction i.e. energy assessed is 'deemed' to be consumed, the same has to be given effect to with all its consequences i.e. same quantum of energy is to be accounted for as supplied?*

XXXX XXXX XXXX XXXX XXXX

80. *We are of the view that the assessed energy has to be considered as supply by the appellants in enforcement cases. Therefore, we direct the DERC to consider assessed energy for calculation of enforcement sales and allow the impact of the same along with carrying costs. In view of our conclusion as above, we do not deem it necessary to answer the other contentions on this issue.*

3.9 Against the order dated 15/12/2022, the Commission filed a review petition being Review Petition (Civil) Diary No(s). 25405/2023 before the Hon'ble Supreme Court with a prayer to review the directions passed in paragraphs 9 and 14 of the said order related to Normative Debt : Equity of 70:30 and SBI PLR. The said review petition was dismissed by the Hon'ble Supreme Court vide its order dated 03/08/2023.

3.10 Some of the distribution companies have now filed following contempt petitions against DERC for alleged non-compliance of the directions of the Hon'ble Supreme Court:

- (i) Contempt Petitions Nos. 788 of 2022 in Civil Appeal No. 884 of 2010;
- (ii) Contempt Petitions Nos. 789 of 2022 in Civil Appeal No. 980 of 2010;

- (iii) Contempt Petitions Nos. 789-90 of 2022 in Civil Appeal No. 9003-04 of 2011;
- (iv) Contempt Petitions Nos. 816-817 of 2023 in M.A. No. 633-34 of 2022 in Civil Appeal No. 9003-04 of 2011;
- (v) Contempt Petitions No.818 of 2023 in M.A. No. 1261 of 2022 in Civil Appeal No. 884 of 2010;
- (vi) Contempt Petitions No.819 of 2023 in M.A. No. 1262 of 2022 in Civil Appeal No. 980 of 2010;
- (vii) Contempt Petitions No. 1298 of 2023 in Civil Appeal No. 4324 of 2015;
- (viii) Contempt Petitions No. 1299 of 2023 in Civil Appeal No. 4323 of 2015.

3.11 The aforesaid contempt petitions are pending before the Hon'ble Supreme Court in which notices have been issued to the Commission.

3.12 It may be noted that three distribution companies have filed writ petitions being W.P.(C) Nos. 6618/2023, 6719/2023, 6724/2023 and 3573/2020 before the Hon'ble High Court of Delhi challenging Delhi Electricity Regulatory Commission's Business Plan Regulations, 2019 and Delhi Electricity Regulatory Commission's Business Plan Regulations, 2023.

3.13 In the above matters, on 01/06/2023, the Division Bench of Hon'ble Delhi High Court noted as follows:

*"Learned counsel for the Respondent has fairly stated before this Court that till 10.07.2023, no final order is going to be passed in Petition Nos.26/2023 & 27/2023."*

3.14 On 07/06/2023, the following was noted by the Division Bench of Hon'ble High Court of Delhi :

*"Learned counsel for the Respondent was fair enough in stating before this Court that they will not be passing ay final order in Petition Nos.26/2023 & 27/2023 till 14.07.2023."*

3.15 This order continued to be in operation. However, on 24/11/2023, the Division Bench of Hon'ble High Court of Delhi passed the following order:

*“In that view of the matter, we note that there appears to be no bar or impediment which operates and which may restrict the DERC from passing the true-up orders as prayed for in this application.”*

- 3.16 Pursuant to the above directions, the present true-up order has been finalised. The true up order has ramifications since the financial year 2004-05 and involved re-calculation of figures. Hence, the Commission had to revisit all the earlier tariff orders to comply with the aforementioned directions. The entire figures have been recomputed and hence, the present order has been passed accordingly i.e. for a period of 17 years.
- 3.17 The Commission issued various compliance orders and the same were filed before the Hon’ble Supreme Court also. List of compliance orders issued are as follows:
- (a) 12/04/2022 – In compliance with the directions of the Hon’ble Supreme Court of India vide its judgment dated 01/12/2021 in Civil Appeal No.884 & 980 of 2010 and Order dated 11/03/2022 in M.A. No.446 & 447 of 2022 filed by DERC against the Hon’ble APTEL’s judgment dated 06/10/2009;
  - (b) 14/05/2023 – In compliance with the directions of the Hon’ble Supreme Court of India in its judgment dated 15/12/2022 in M.A. Nos.1261-62 of 2022 & 918-19 of 2022 in Civil Appeal No.884 & 980 of 2010;
  - (c) 10/07/2023 – In compliance with the directions of the Hon’ble Supreme Court of India vide its judgment dated 15/12/2022 in M.A. Nos.633-634 in Civil Appeal No.9003-04 of 2011;
  - (d) 10/07/2023 – In compliance with the directions of the Hon’ble Supreme Court of India vide its judgment dated 18/10/2022 in Civil Appeal No.4323 and 4324 of 2015;
- 3.18 The Commission, in compliance with the directions of Hon’ble Supreme Court of India dated 15/12/2022 in MA Nos. 633-634 of 2022 in Civil Appeal No. 9003-9004 of 2011, issued a Compliance Order dated 10/07/2023 specifying the revised Carrying Cost Rate from FY 2007-08 to FY 2019-20 as follows (in percentage):

*(in %age)*

FY	FY	FY	FY	FY	FY	FY	FY	FY	FY	FY	FY	FY
07-08	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20
13.08	13.15	12.51	12.78	14.28	15.03	15.01	15.13	14.80	14.63	13.78	13.78	13.71

- 3.19 The Carrying cost as re-determined by the Commission above has been done as per the direction of Hon'ble Supreme Court i.e. *"without re-computing the carrying cost rate based on purported equity on the basis of net worth from the audited books and balancing figure as debt"* (Para 9 of the Order dated 15/12/2022) and the direction to "DERC to allow SBI PLR, on 70% debt component for funding regulatory asset/revenue gap in the ratio of 70:30".
- 3.20 Hon'ble APTEL in judgment dated 20/06/2016 in TPDDL v. DERC, Appeal No. 271 of 2013 upheld the rate of return on equity at 14% to be considered towards computation of Carrying cost rate in its Tariff Order dated 31/07/2013. This judgment also attained finality in view of the order dated 10/02/2017 of the Hon'ble Supreme Court in TPDDL v. DERC, Civil Appeal No. 11251 of 2016. Thus, the Commission has, in accordance with Regulation 5.10 of the DERC MYT Regulations, 2007, computed the Rate of Return on Equity at 14% for the 1st MYT Control Period from FY 2007-08 to FY 2011-12, and at 16% for the 2nd MYT Control Period from FY 2012-13 to FY 2016-17.
- 3.21 Further, the Petitioner has prayed to revise the Carrying Cost before the Hon'ble Supreme Court for the period FY 2007-08 to FY 2016-17 only. The Commission has considered the revision of such Carrying Cost upto FY 2016-17 and thereafter as per the provisions applicable to the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and DERC (Business Plan) Regulations, 2017.
- 3.22 The Carrying Cost rate now considered is as follows:

Financial Year	Carrying Cost Rate earlier allowed in various Tariff Orders	Carrying Cost Rate computed as per Supreme Court Order dated 15/12/2022 (As determined in DERC Compliance Order dated 10.07.23)	SBI PLR as directed to be considered by per Supreme Court vide its Order dated 15/12/2022	Rate of return on Equity as considered by the Commission	Carrying Cost rate as considered in True Up Order FY 20-21 (D:E::70:30)
FY 2007-08	10.90%	13.08%	12.69%	14.00%	13.08%
FY 2008-09	12.17%	13.15%	12.79%	14.00%	13.15%
FY 2009-10	12.13%	12.51%	11.87%	14.00%	12.51%
FY 2010-11	11.64%	12.78%	12.26%	14.00%	12.78%
FY 2011-12	13.36%	14.28%	14.40%	14.00%	14.28%
FY 2012-13	10.54%	15.03%	14.61%	16.00%	15.03%
FY 2013-14	10.77%	15.01%	14.58%	16.00%	15.01%
FY 2014-15	10.94%	15.13%	14.75%	16.00%	15.13%
FY 2015-16	10.96%	14.80%	14.29%	16.00%	14.80%
FY 2016-17	11.17%	14.63%	14.04%	16.00%	14.63%
FY 2017-18	13.76%	13.78%	13.68%	16.00%	13.76%
FY 2018-19	13.77%	13.78%	13.68%	16.00%	13.77%
FY 2019-20	12.57%	13.71%	13.58%	16.00%	12.57%

### **Working Capital funding in the D/E ratio 70:30 considering debt @SBI PLR**

- 3.23 The Petitioner has claimed that the Working Capital funding be considered in the ratio of 70:30 towards Debt and Equity as considered for Carrying cost towards Revenue Gap citing judgment of Hon'ble APTEL in Appeal 61 & 62 of 2012, where as per the Petitioner's submission, the Working Capital and Revenue Gap has been considered on the same pedestal by APTEL.
- 3.24 The Commission observes that the Hon'ble Supreme Court has not given any directions with respect to the Working Capital funding in the said judgement. Thus, the claim of DISCOM to allow Working Capital in D/E ratio of 70:30 considering SBI PLR is not tenable.

### **Compliance of Hon'ble Supreme Court dated 15/12/2022 in MA Nos. 1261 & 1262 of 2022 and 918 & 919 of 2022 in Civil Appeal Nos. 884 and 980 of 2010**

#### **Capital Expenditure and Capitalization Charges**

- 3.25 The Commission had filed a Miscellaneous Application No. 446 of 2022 in Civil Appeal No. 884 of 2010 before the Hon'ble Supreme Court of India, seeking extension of time

for Compliance of Order dated 01/12/2021, by a further period of six weeks from 01/03/2022 and to file a compliance affidavit within two weeks thereafter. The matter was listed for hearing on 11/03/2022 before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India granted additional time of 4 weeks from 11/03/2022 for compliance of the Order dated 01/12/2021. The relevant extract of the Order dated March 11, 2022 is as under: -

*“Four weeks’ time from today is granted finally to comply with the Order dated 1st December, 2021 passed by this Court and to file a compliance affidavit within two weeks thereafter.”*

3.26 In view of the compliance with the directions of the Hon'ble Supreme Court of India vide its judgment dated 01/12/2021 in Civil Appeal Nos. 884 of 2010 and Order dated 11/03/2022 in M.A. No. 446 of 2022 filed by DERC against the Hon'ble APTEL's Judgment dated 06/10/2009 in Appeal No. 36/2008, the Commission issued an Order dated 12/04/2022 to implement two pending issues in respect of Hon'ble APTEL's judgment dated 06/10/2009 in Appeal No. 36 of 2008 filed by M/s BSES Rajdhani Power Limited (BRPL) viz.

- (i) Capital Expenditure - allowance of purchase from related party after benchmarking with NDPL; and
- (ii) Allowance of Capitalization pending Electrical Inspector Clearance and allowed the following amount towards Capitalisation for various years:

(Rs. Crore)

S. No	Particulars	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
1	Amount capitalized as per books of accounts	225.79	360.79	237.36	249.23	276.75	188.31	208.86	96.96	69.13
2	Assets requiring EI certificate and capitalized in FY	170.94	231.03	120.14	52.17	80.14	40.66	60.57	12.70	10.19
3	Consideration of capitalization from 16 <sup>th</sup> day of filing of applications with EI*	119.02	110.86	153.45	25.14	197.18	59.48	66.95	13.63	12.89
4	Capitalization based on submission of EI application (1-2+3)	173.87	240.62	270.67	222.20	393.79	207.13	215.24	97.89	71.82
5	Disallowances	49.33	57.87	10.32	1.34	2.25	2.34	0.56	0.05	0.01
	on related party transaction									
6	Net capitalization (4-5)	124.54	182.75	260.35	220.86	391.54	204.79	214.69	97.84	71.81

\*Note: Further capitalization from 16th day of filing of applications with EI beyond FY 2012-13 has been as under;

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
0.20	0.00	19.07	0.69

- 3.27 The Commission further stated in the Compliance Order that the financial impact of the findings will be appropriately provided in the ensuing Tariff Order. Further, the Commission also stated that the impact, if any, in the ongoing capex review exercise for issues other than the two issues dealt above, will be considered separately. The Commission thereafter filed M.A. Nos. 918 and 919/2022 for placing Compliance Affidavit before Hon'ble Supreme Court stating to have duly complied with the directions of Hon'ble Court as recorded in Order dated 01/12/2021.
- 3.28 The Hon'ble Supreme Court in its Order dated 15/12/2022 partially set aside the order dated 12/04/2022 and directed DERC to "recompute the amount payable to the non-applicants for the commodities purchased by it, strictly in terms of the directions issued in paragraphs 56 and 57 of the impugned judgment dated 6.10.2009."

- 3.29 In compliance of the directions of Hon'ble Supreme Court of India in its Order dated 15/12/2022 in MA Nos. 1261 & 1262 of 2022 and 918 & 919 of 2022 in Civil Appeal Nos. 884 and 980 of 2010, the Commission issued further Orders on 14/05/2023.
- 3.30 The Commission further finalised the Capitalisation based on physical verification of assets of the Petitioner for the Financial Year 2004-2005 to 2015-16 on 03/05/2024, wherein the Commission verified the assets capitalised by the Petitioner upto FY 2015-16.
- 3.31 For the period FY 2016-17, FY 2018-19 and FY 2019-20, the Commission has considered the Capitalisation as per the Audited Accounts on a provisional basis. The physical verification of the assets for the period FY 2016-17, FY 2018-19 & FY 2019-20 shall be continued and completed expeditiously by the Commission.
- 3.32 Thus, considering the impact of the orders of Hon'ble Supreme Court, the Commission has revised the Capitalisation on account of Related Party Transaction, Electrical Inspector Clearance and Physical verification for earlier periods as follows and the financial impact on account of such revision in Capitalisation has been appropriately dealt with in the current True Up Order.

**Table 3. 1: Capitalisation as approved by the Commission**

Particulars	Capitalisation as per Compliance Order on account of REL disallowance & EIC verification (in Rs. Cr.)	Additional Capitalisation adjusted on account of Physical verification (in Rs. Cr.)	Finally Approved Capitalisation (For FY 2016-17, FY 2018-19 & FY 2019-20 as per Audit Accounts)
FY 2004-05	127.63	-1.25	126.38
FY 2005-06	188.34	-1.18	187.16
FY 2006-07	260.97	-1.95	259.02
FY 2007-08	221.19	-2.95	218.24
FY 2008-09	391.96	-5.74	386.22
FY 2009-10	205.05	-2.57	202.48
FY 2010-11	214.84	-1.44	213.40
FY 2011-12	97.85	-0.16	97.69
FY 2012-13	71.82	-0.22	71.60
FY 2013-14	148.77	-0.30	148.47

Particulars	Capitalisation as per Compliance Order on account of REL disallowance & EIC verification (in Rs. Cr.)	Additional Capitalisation adjusted on account of Physical verification (in Rs. Cr.)	Finally Approved Capitalisation (For FY 2016-17, FY 2018-19 & FY 2019-20 as per Audit Accounts)
FY 2014-15	245.00	-1.46	243.54
FY 2015-16	280.70	-0.75	279.95
FY 2016-17	+0.69		242.92*
FY 2017-18			337.79
FY 2018-19			332.19*
FY 2019-20			245.23*

*\*Considered provisionally on the basis of Audited Financial Statements.*

### **Compliance of Hon'ble Supreme Court dated 18/10/2022 in Civil Appeal No. 4323-4324 of 2015**

#### **Issue No.1 & 6**

#### **Change in methodology in computation of Aggregate Technical and Commercial (AT&C) losses and Reduction in Million Units (MUs) in relation to Enforcement sale for the purpose of calculation of AT&C Loss**

3.33 Pursuant to the judgment as pronounced on 18/10/2022, the Petitioner filed its claim on the basis of Audited Statement of actual Enforcement Units for every Financial Year. The Commission sought the detailed submission from the Petitioner regarding its claim. Upon receipt of the data, the Commission observed that the data is voluminous and decided to appoint the CAG empanelled Auditors to verify their claims. The tenders were called, however, sufficient bidders could not qualify and the Commission is in the process of re-tendering the assignment. In the meantime, the Commission has considered the claim of the Petitioner on the basis of the Audited statement as submitted by the Petitioner and has allowed the impact on AT&C losses on provisional basis subject to the findings of the Auditors as may be appointed by the Commission. Any recovery on account of such findings shall be recovered from the Petitioner along with the applicable Carrying Cost. Based on the Enforcement units as provided by the Petitioner, impact of change in methodology to arrive at the AT&C Loss incentives/disincentives on account of revision of collection efficiency and the Enforcement units as Sales is as follows:

In Rs. Cr.

Particulars	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total*
Impact on ARR	7.08	11.83	17.77	10.33	27.62	3.56	9.77	24.47	32.41	-	1.64	3.75	4.32	154.55

\*Principal Amount on account of revision enforcement sales, Collection Efficiency, etc in AT&C Loss Incentives; without taking into account further consequential impact.

3.34 In addition to above, for the FY 2016-17, the additional return on equity is revised to 0.57% towards AT&C incentive the impact of which is computed in the Table no. 3.7.

### **Issue No.2**

#### **Change in methodology for computation of Depreciation**

3.35 In view of the judgment, the Commission has considered the depreciation on the Consumer Contribution during FY 2007-08 to FY 2011-12 and has accordingly considered the impact along with revision in Capitalisation in Table no. 3.3 – 3.5.

### **Issue No.4**

#### **Disallowance of interest accrued on Consumer Security Deposit retained by Delhi Power Corporation Limited (DPCL)**

3.36 This issue is already implemented by the Commission in Tariff Order dated 29/09/2015.

### **Issue No. 5**

#### **Disallowance of Fringe Benefit Tax**

3.37 In view of the direction of the Hon'ble Supreme Court, the cost towards Fringe Benefit Tax is Rs. 1.73 Cr. for FY 2008-09.

### **B. Issues as decided by Hon'ble APTEL and not stayed by Hon'ble Supreme Court**

3.38 The Hon'ble APTEL in its judgment dated 14/11/2023 in OP No.1 and OP No.2 of 2012 adjudged as follows:

XXXX

XXXX

XXXX

XXXX

*“39. In view of the categorical stand taken by the Delhi Commission now, it is enough for us to direct the Delhi Commission to implement the directions of this Tribunal given in the decisions referred to above and pass an order in terms of those directions in future.*

40 ...

*ii) The refusal by the Delhi Commission to implement the judgments of this Tribunal would amount to judicial indiscipline and is against the settled position of law. Mere filing of the Appeal or proposal to file the Appeal would not amount to the effect of automatic stay of the Tribunal's judgment. However, in view of the affidavit filed by Delhi Commission in Appeal No.14 of 2012 and submissions made in these petitions, we do not propose to take any penal action against the Delhi Commission except to advise it to correct its mistakes committed earlier and follow the directions issued by this Tribunal in future."*

XXXX

XXXX

XXXX

XXXX

3.39 The Petitioner filed its petition on various issues which have been decided by Hon'ble APTEL, however, not stayed by Hon'ble Supreme Court. Thus, in view of the direction of Hon'ble APTEL in OP1 & 2 of 2012, the Commission has considered the prayers of the Petitioner on the following issues and has allowed the impact of the claims as per the directions of the Hon'ble APTEL subject to further directions of the Hon'ble Supreme Court.

**a) Rate of interest on long term loans for FY 2007-08 to FY 2016-17**

3.40 The Petitioner has claimed that the direction of Hon'ble APTEL in Appeal 61 & 62 of 2012 and Appeal no. 171 of 2012 relating to true up of interest rates of loans in case of movement in SBI PLR trajectory is to be considered as per the direction of the Hon'ble APTEL in view of the Order of Hon'ble Supreme Court dated 01/12/2021 as there is no stay granted on the Appeals filed by the Commission against the judgements.

3.41 The APTEL in its judgment dated 28/11/2014 in Appeal no. 61 & 62 of 2012 had observed that

*" 34. The Appellants have submitted that the Delhi Commission has not implemented the directions of the Tribunal in judgment reported as 2009 ELR (APTEL) 0880 in Appeal No. 36 of 2008, wherein this Tribunal had directed the Delhi Commission to true up the interest rates of loans in case SBI PLR rate deviates by more than 1%.*

*35. The Learned Counsel for the Commission vehemently denied the allegation made by the Appellants and submitted the gist of his detailed submissions is*

that the deviation in SBI PLR Rate from FY 2007-08 to 2010-11 has not been more than 1%, hence, the rate of interest is not to be revised. Further, True Up of RoCE has to be done at the end of Control Period.

36. Per contra the learned Appellant for the Appellants reiterated its stand that the Delhi Commission had not implemented the directions of the Tribunal and made the following submissions:

i. The Delhi Commission had undertaken before this Tribunal in Appeal No. 36 of 2008, as under:

“115) Further, the Commission has at the very outset said that it shall true up the interest rate for the new loans to be taken for capital investment and for working capital requirement if there is a deviation in the PLR of the scheduled commercial banks by more than 1% on either side.”

ii. The Appellants have submitted the SBI PLR for various periods between 2006-07 to FY 2011-12 and contended that the base figure of SBI PLR considered by the Delhi Commission was 12.25% i.e. PLR prevailing at the end of FY 2006-07 and not FY 2007-08 as erroneously observed by the Delhi Commission in the Impugned Order and during the Control Period, PLR rate has deviated by more than 1% as per the following Table.

...

iii. Despite its own undertaking, the Delhi Commission has not proportionately revised the rate of return on debt despite the fact that the Appellant is paying much higher rate of return on debt and that the SBI PLR has deviated by more than 1%.

iv. Even if the Delhi Commission considers the weighted average SBI PLR for the whole Financial Year then also SBI PLR has deviated by more than 1% from 2006-07 (base year), as under:-

Particular	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Weighted average SBI PLR	11.08%	12.69%	12.79%	11.87%	12.26%	14.01%

v. As can be seen from the above table the SBI PLR rates have deviated by more than 1% since the base year or FY 2006- 07. Despite the aforesaid, the Delhi Commission has not trued up the interest rates on loans.

vi. The Delhi Commission has also ignored the fact that the amount of Regulatory Assets has gone up by 1707% till FY 2011-12, i.e., from Rs. 158 Crore in FY 2007 to Rs. 2855 Crore in FY 2012. Also the credit rating of Appellant has been downgraded by CARE Limited due to huge Regulatory Assets, liquidation of which remains unaddressed till date. Due to the same the Appellant is not operating in business as usual conditions and not getting loans at lower rates.

vii. The Delhi Commission has admitted that True up of RoCE is to be done at the end of the control period. However, despite the fact that the Control Period is over, True Up of RoCE is still pending.

37. On perusal of the data submitted by the Appellant related to SBI PLR, it is clear that SBI PLR has deviated by more than 1% during the control period and accordingly the Commission was required to revise the rate of interest on loan and carry out the required true up. Further, despite admitting that true of Return on Capital Employed (RoCE) would done at the end of control period, the Delhi Commission has failed on both the counts. The Delhi Commission is directed to revise the rate of interest on loan as well true up of the RoCE in its next tariff exercise. The issue is accordingly decided in favor of the Appellants.”

3.42 In case of Working Capital Loans, the Commission, in its Tariff Order dated 31.07.2013 had implemented the direction of Hon’ble APTEL in Appeal no. 52 of 2008 and had provisionally considered the Working Capital in Debt equity ratio of 70:30 which was later revised in view of actual equity availability as per the applicable Regulations.

3.43 Similarly, the judgment of Hon’ble APTEL in Appeal 171 of 2012 had directed that “the State Commission to true-up the interest rate on working capital for the years from 2012-13 to 2014-15 in the true up of the accounts, based on the actual interest rates”.

3.44 MYT Regulations, 2011 provide for true up of rate of interest in case variation in SBI base rate as on 01.12.2012 varies beyond  $\pm 1\%$ . Hon’ble APTEL also upheld the view that “the interest rates have to be trued up as per the Regulations. Accordingly, the

*State Commission shall true up the interest rate in the true up for the financial years from 2012-13 to 2014-15”.*

- 3.45 Since the issue on trueing up of interest rate on loans is appealed before Hon’ble Supreme Court in Civil Appeal 8660-61 of 2015, the Commission provisionally allows the interest rate on Capex for 1<sup>st</sup> MYT Control period as per the directions of Hon’ble APTEL in Appeal 61 & 62. In case of the 2<sup>nd</sup> MYT Control period, since the movement against the base year’s SBI PLR is within +/- 1% of the SBI PLR, the rate of interest on the loan towards Capitalisation is considered as per the trajectory as determined in the MYT Tariff Order. In case Working Capital loans, during the 2<sup>nd</sup> MYT Control period, the Commission considers the actual working capital loan rates on a provisional basis subject to outcome of CA 4879 of 2015 filed before the Hon’ble Supreme Court.

**b) Repayment of Loans not considered while computing WACC**

- 3.46 The Petitioner has submitted that Hon’ble APTEL vide its judgment dated 28.11.2014 in Appeal 61 & 62 of 2012 *“direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recompute the RoCE payable to the Appellant. The issue is decided in favour of the Appellant.”*
- 3.47 The Commission in its Tariff Order dated 29.09.2015 has deliberated on the issue of repayment of loans in view of the said judgement as follows:

*“3.32 The Commission had not considered the actual equity available with the Petitioner in its financial statements for computation of Return on Equity from FY 2002-03 to FY 2006-07 (Policy Direction Period) and computation of Return on Capital Employed (RoCE) from FY 2007-08 to FY 2012-13 (MYT Period).*

*3.33 The Commission had proposed to consider the actual equity deployed as net shareholders fund to be used for determination of the ratio of actual equity deployed to total funds required in computation of Weighted Average Cost of Capital (WACC)...*

*3.34 The Petitioner has submitted the net worth assessment from FY 2002-03 to FY 2011-12 vide their letter dated 04.04.2014 and for FY 2012-13 to FY 2014-15 vide their letter dated 22.06.2015...*

*3.35 The Commission has considered the Actual available Equity including Free reserve upto Maximum of 30% of Regulated Rate Base (RRB) for the purpose of*

*computation of WACC. RRB includes original cost of Fixed Asset excluding accumulated depreciation. By considering the Actual Equity available, the balance of RRB has been considered to be funded from Debt which is net of repayment of loans.”*

- 3.48 The Commission in its Tariff order dated 29.09.2015 observed that *“The Commission has considered the Actual available Equity including Free reserve upto Maximum of 30% of Regulated Rate Base (RRB) for the purpose of computation of WACC. RRB includes original cost of Fixed Asset excluding accumulated depreciation. By considering the Actual Equity available, the balance of RRB has been considered to be funded from Debt which is net of repayment of loans.”* Further, the Working Capital is an annual requirement which is met by way of short term funding which is determined in accordance with the MYT Regulations as part of the Regulated Rate Base, thus not requiring further adjustment calling for any reduction on repayment of loan.

**c) Bank Charges/Syndication Fees**

- 3.49 The Commission in its Tariff Order dated 30/09/2021 considered this issue as follows:  
*“3.21 The Commission has already trued-up the interest cost and has allowed RoCE to the Petitioner in accordance with the applicable Regulations. The Petitioner may establish its claim to the Commission giving its reasons for the variance from submission as forming part of the Petition and subsequent submissions before the Commission. Further, the Petitioner may establish that the interest cost as approved by the Commission while projecting the interest rates for the 2nd MYT Control period did not include such fees/charges as being claimed by the Petitioner over and above the RoCE as per Regulation 5.6 of MYT Regulations 2011.”*
- 3.50 The Commission sought the documents to verify the claim of the Petitioner related to Syndication Fee/Bank Charges claimed in its True-up Petition. The Petitioner submitted the documents vide its letter dated 21.06.2021.
- 3.51 Based on the documents submitted and justification given by the Petitioner in support of the claim on account of Syndication Fee/Bank Charges, the Commission now allows

such charges in view of the Judgment of Hon'ble APTEL in Appeal no. 246 of 2014.

Particulars	<i>In Rs. Cr.</i>				
	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Borrowing cost/Bank Charges	16.78	29.67	23.77	13.93	14.34

**d) Non revision of AT&C losses for second MYT Control period**

3.52 The Commission has already implemented the issue in its previous Tariff Order dated 30/09/2021 as follows:

3.8 Hon'ble APTEL in its judgment in Appeal No. 61&62 of 2012 dated 28.11.2014, has ruled as follows:

*"72. In the light of above discussions, we direct the Delhi Commission to refix the AT&C loss levels for the FY 2011-12 as per its letter dated 8.3.2011 and give consequential relief to the Appellants. The issue is decided in favour of the Appellants."*

3.9 Further, in Judgment dated 02.03.2015 in Appeal No. 178 of 2012, Hon'ble APTEL adjudged as follows:

*"30.13 As regards BYPL, the AT&C target for FY 2011-12 has to be refixed as per the directions given in the judgment in Appeal no. 61 of 2012. When the target level for FY 2011-12 has to be refixed, the AT&C loss targets for FY 2012-13 to 2014-15 have also to be refixed by the State Commission accordingly."*

3.10 In view of the above directions and no grant of stay from the Hon'ble Supreme Court, the Commission has provisionally revised the AT&C Loss Trajectory of the Petitioner for FY 2011- 12, FY 2012-13 and FY 2013-14 and the additional incentive thereon is computed as follows:

Table 3. 7: Commission Approved AT&amp;C Loss for FY 2011-12 to FY 2013-14

Sr. No	Particulars	UoM	FY 2011-12			FY 2012-13			FY 2013-14		
			Original	TO dt 31.07.13	Revised	Original	TO dt 23.07.14	Revised	Original	TO dt 29.09.15	Revised
A	AT&C Loss	%	18.00%	22.07%	21.00%	16.82%	21.14%	18.83%	15.66%	22.19%	16.67%
B	Under achievement	%		4.07%	1.07%		4.32%	2.31%		6.53%	5.52%
C	Energy Input	MU	6203.23	6203.23	6203.23	6332.82	6332.82	6332.82	6577.38	6577.38	6577.38
D	Units realised	MU	5086.65	4834	4900.55	5267.64	4994.08	5140.14	5547.36	5118.03	5481.15
E	Average Billing Rate	Rs./ U	5.11	5.11	5.11	6.31	6.31	6.31	6.85	6.85	6.85
F	Amount realised	Rs. Cr.	2598.97	2469.88	2504.18	3325.27	3152.58	3243.43	3800.63	3506.48	3754.59
G	Total financial impact	Rs. Cr.		-129.09	34.30		-172.69	90.85		-294.15	248.11
H	Impact allowed	Rs. Cr.			94.79			81.84			46.04

”

e) **Service tax for FY 2011-12 to FY 2016-17**

3.53 In view of the direction of the Hon’ble APTEL in Appeal 246 of 2014, the Commission allows the claim towards Service Tax for the second MYT Control period as follows:

Particulars	In Rs. Cr.				
	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Service Tax	3.20	4.50	7.60	12.20	12.50

f) **Financing cost of LPSC for FY 2007-08 to FY 2012-13**

3.54 The Financing Cost of LPSC is being revised as per the interest rate as applicable for Working Capital and is accordingly adjusted in the non-tariff income of the Petitioner.

g) **Efficiency Factor for FY 2010-11**

3.55 The Commission has considered Efficiency factor at nil percentage for DISCOMs in view of judgment of Hon’ble APTEL in Appeal no. 177 & 178 of 2012. Accordingly, the claim of the Petitioner is being considered subject to outcome of the Hon’ble Supreme judgment.

h) **KYC expenses claim**

3.56 The judgment of Hon’ble APTEL in Appeal no. 246 of 2014 has observed that *“It is not in dispute that the Appellant has actually incurred various expenses as claimed by it in the petition which the State Commission has disallowed while truing up for FY 2012-13 giving reasoning that these expenses are controllable. It is, however, seen that many of the expenses so claimed by the Appellant are in the category of uncontrollable in*

*nature and need to be looked into by the Commission by adopting a judicious approach instead of disallowing all of them in totality.”* The Petitioner has submitted that the said expenses have been incurred towards the KYC as per the direction of the Government of GoNCTD vide its letter No. F.11(55)/2018/Power/1421 dated 28/05/2018, directing the Petitioner to provide the information of K.No. /CA.No., Name of Consumer, yearly subsidy given in the last 3 years, Load in kW, Month wise Units consumed and billed amount in last 3 years, etc. and prepare the future roadmap to maximize the benefit of subsidy in terms of energy efficiency among Domestic Consumers of Delhi. The Commission is of the view that such administrative works cannot be considered as a new head cost. Rather, the Petitioner is expected to evolve its business to accommodate such changes/ additions in its business. Accordingly, the cost claimed by the Petitioner for such KYC is not allowed in the ARR separately.

**i) SMS Charges**

- 3.57 The judgment of Hon’ble APTEL in Appeal no. 246 of 2014 has observed that *“It is not in dispute that the Appellant has actually incurred various expenses as claimed by it in the petition which the State Commission has disallowed while truing up for FY 2012-13 giving reasoning that these expenses are controllable. It is, however, seen that many of the expenses so claimed by the Appellant are in the category of uncontrollable in nature and need to be looked into by the Commission by adopting a judicious approach instead of disallowing all of them in totality.”* The Petitioner has submitted that the said expenses have been incurred towards the SMS charges as per the direction of the Commission vide its letter no. F.17(47)/Engg./DERC/2014-15/C.F.4741/3682 dated 13/01/2016. The said expenses as claimed by the Petitioner pertain to FY 2016-17 at Rs. 1.00 Cr. The petitioner further submitted that while issuing the directive, the Commission stated that the actual expenses incurred by the Petitioner shall be allowed separately in the ARR.
- 3.58 The Commission examined the submissions and in its Tariff Order dated 28/08/2020 observed that *“Regulation 23 of DERC (Business Plan) Regulations, 2017 stipulates the norms for O&M expenses of the Petitioner. The Commission has determined the norms for O&M expenses in DERC (Business Plan) Regulations, 2017 based on the actual O&M*

*expenses of the Petitioner during FY 2011-12 to FY 2015-16. In the actual O&M expenses, the expenditure incurred towards legal fee, legal claims, rebate paid to the consumer on monthly bills, provisions, loss on sale of retirement of assets have not been considered. During the prudence check, it was observed that the Petitioner already claimed the expense of similar nature booked by the petitioner in its audited financial statement under the head of Communication expenses have already been considered by the Commission at the time of determining the O&M expenses under Regulation 23 of DERC (Business Plan) Regulations, 2017. The O&M expenses determined by the Commission contain both element of escalation on year to year basis and additional O&M expenses on account of increase in the network capacity. Therefore, the additional claim sought by the Petitioner is not justified. Accordingly, the Commission has not allowed such expenses separately.”*

3.59 The SMS charges form part of the communication expenses which are included in the normative costs. The Commission has not considered the SMS charges as a new head cost and has thus disallowed the claim of the Petitioner.

**j) Cost of Auditor Certificate pursuant to judgment in Appeal 246 of 2014**

3.60 The Commission is of the view that conduct of audit is an ongoing exercise and thus cannot be considered as a new head cost. Rather, the Petitioner is expected to evolve its business to accommodate such changes/ additions in its business. Accordingly, the extra cost claimed by the Petitioner for Audit certificate is not allowed in the ARR separately.

**k) Computation of AT&C Losses for FY 2009-10 using actual kWh figures**

3.61 The Commission in its Tariff Order dated 26/08/2011 trued-up AT&C Losses for FY 2009-10 and disallowed certain quantum of Sales for BRPL and BYPL by considering computed Power Factor figures from kVAh and kWh submitted by BRPL and BYPL for FY 2010-11 to convert kVAh sales in to kWh for 2009-10, as follows:

*“4.31 The Commission directed the Petitioner to submit the figures of kVAh and*

*KWh for FY 2010-11 for consumers where kVAh billing is applicable. The Petitioner complied with the same.*

*4.32 The Commission observed that the average power factor computed from kVAh and kWh figures shown by the Petitioner for FY 2010-11 for Industrial and Commercial consumers were much lower. The average power factor computed from kVAh and kWh figures made available for LT consumers were in range of 0.90 – 0.93.*

*4.33 As the Commission was not able to verify the KWh figures for FY 2009-10, the Commission decided to consider the computed power factor figures from kVAh and kWh submitted by the Petitioner for FY 2010-11 to convert kVAh sales in to KWh for 2009-10. Due to this, Sales in MU for FY 2009-10 decreased by 22.81 MU.”*

- 3.62 The above finding of the Commission was challenged by BRPL and BYPL before Hon’ble APTEL in Appeal No. 61/62 of 2012.
- 3.63 Hon’ble APTEL vide its Judgment dated 28/11/2014 in Appeal No. 61/62 of 2012 directed the Commission to recompute the AT&C losses for FY 2009-10 using actual kWh figures, as follows:

*“79. The perusal of the findings of the Commission in the Impugned Order would suggest that the Delhi Commission has failed to understand the working of the tri-vector meters installed at the consumers’ premises by the Appellant. Basic electricity meters record only active power i.e. kWh consumed by the consumer. Tri-vector meters records all three vectors i.e. Active Power (kWh), Reactive Power (kVAh) and Apparent Power (kVAh). The principle parameter recorded by these meters is kWh. Other parameters are determined from this basic parameter based on instantaneous values of the current and voltage and their phaser angle. Therefore, the Commission has erred in computing kWh based on kVAh and power factor. It is interesting to note that the Commission has computed the average power factor for FY 2010-11 on the basis of kWh and*

*kVAh recordings and computed kWh figures by reverse calculations using the kVAh figures for 2009-10 and average power factor for FY 2010-11.*

*80. In the light of above discussions we direct the Commission to recomputed the AT&C losses for FY 2009-10 using actual kWh figures as recorded in para 4.8 of the Impugned order. The issue is decided in favour of the Appellants.”*

3.64 Further, Hon’ble APTEL at Para 52 of above stated Judgment also decided:

*“58. In view of the above discussions the issue is decided as under:*

*1) All the parameters such as LPSC, ED, DVB arrears have to included both in the numerator as well in the denominator for computing the collection efficiency.*

*2) The Commission has adopted correct approach for computing MUS on account of enforcement.*

*3) Expenses incurred on deployment of CISF personnel cannot be adjusted towards reduction of AT&C losses.”*

3.65 Above findings of the Hon’ble APTEL in Judgment dated 28/11/2014 was challenged by the Commission in its Civil Appeal Nos. 8660-61 of 2015 before Hon’ble Supreme Court of India. Since there is no stay granted by Hon’ble Supreme Court on the Civil Appeal filed, the Petitioner is being granted its claim subject to outcome of the Civil Appeal Nos. 8660-61 of 2015 before Hon’ble Supreme Court of India. The impact thereof is included in the additional incentives on account of AT&C loss revision.

### **C. Impact of Review Orders, Petition and issues before DERC**

#### **a) DERC Review Order dated 09/09/2022**

3.66 The Commission in its Review Order dated 9/09/2022 has decided that there is an inadvertent error in considering the Net Metering units in Energy Input for FY 2019-20 and has thus approved Rs. 0.93 Cr towards the same.

3.67 The Commission also observed inadvertent omission to allow Capitalisation of Rs. 0.06

Cr for FY 2017-18 on account of EIC. The effect thereof is being considered in the current True up.

**b) Review Order dated 13/12/2019 – Write-back miscellaneous provisions as part of NTI for FY 2007-08 to FY 2016-17**

3.68 The Commission vide its Review Order 31 of 2018 dated 13.12.2019 adjudged on the matter the Commission observed as follows:

*“3.5.4 On this issue of error in consideration of the provisions written back in a particular year as Non-Tariff Income, there are two aspects, one related to O&M amount and other about doubtful debts. The Petitioner has submitted that provisions have been written back in various heads in the audited books of accounts, either on realisation of dues/movement of debtor or on account of non-use of O&M expenses earlier created in the Books of Accounts. In respect of written back provisions related to such O&M expenses, which had not been considered in the O&M cost, the same may be allowed subject to verification and prudence check of the audited statement of accounts and other relevant documents.*

*3.5.5 Regarding written back doubtful debts, it is observed that for the past few years, the collection efficiency of the Petitioner has been more than 100%, and it is usually possible when unrecovered past dues are being realised. The realised past dues may contain arrears and a portion of doubtful debts as well. In such a situation, the part of doubtful debts so realised will be treated as income because it has already been allowed to the Petitioner against collection efficiency, and therefore, no relief on such doubtful debts may be allowed. However, those doubtful debts, which have not been part of the collections efficiency, the same may be allowed provided the Petitioner is able to establish and prove that such amount of doubtful debts had not considered against the collection efficiency.*

*3.5.6 The claim of the Petitioner, accordingly, shall be considered in the next tariff Order subject to verification of data and prudence check.”*

3.69 The Commission conducted prudence Check and the Petitioner made various

submissions on the matter. Based on the submission the Commission observed:

- a. During the First MYT period, the provisions created against O&M Expenses and towards retirement of Assets were also considered for allowing the Normative O&M expenses in Tariff. As such, the provisions written back to the extent of other provisions, during that period is not considered to be excluded as part of NTI, where as it is not so during the Second MYT period.
- b. In case of write back of provisions on account of bad debts, the Commission observed that the past dues may contain arrears and a portion of doubtful debts as well. The part of doubtful debts realized has been treated as income and is already allowed to the Petitioner against Collection Efficiency. Referring to MYT Regulations 2007 and MYT Regulations 2011,
 

MYT Regulations 2007, Regulations 4.7 (C)

*Collection efficiency, which shall be measured as ratio of total revenue realised to the total revenue billed for the same year. The revenue realisation from arrears relating to the DVB period, electricity duty and late payment surcharge shall be included for computation of collection efficiency;*

MYT Regulations 2011, Regulations 4.7 (C)

*Collection efficiency, which shall be measured as ratio of total revenue realised to the total revenue billed in the same year:*

*Provided that revenue realisation from electricity duty and late payment surcharge shall not be included for computation of collection efficiency;*
- c. It is observed that the amount of debtors classified as doubtful debts and provision in a particular Financial Year have not been collected during that Year. Thus the said amount has also not been considered towards Collection Efficiency as could be inferred from the above referred Regulations.
- d. The Write Back of Provisions on account of bad debts is considered as a Contra entry which does not involve any cash transaction.

3.70 Thus the provisions on account of bad Debts earlier reversed is being allowed to be reduced from Non-tariff income of the Petitioner. In case of the Provisions written back to the extent of other provisions created against O&M Expenses (incl legal and other expense) and towards retirement of Assets, during FY 2007-08 to FY 2011-12 is

not allowed to be reduced from Non-tariff income as, the same was also not reduced from the base O&M expenses while determining the Normative O&M expenses for 1<sup>st</sup> MYT period.

Particulars	(Rs. Cr.)										
	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Impact on ARR	18.46	86.64	66.40	1.62	-	-	-	0.67	-	-	19.62

**c) Petition 35 of 2013: Loss on retirement of Assets**

- 3.71 BYPL had filed Petition No. 35/2013 before the Commission, with a prayer to treat the loss on retirement of assets as per their books of accounts and allow the same as pass-through in the Aggregate Revenue Requirement (ARR) along with applicable carrying cost.
- 3.72 During the hearings of the Petition, the Commission sought written submissions from the Petitioner whether the methodology as provided for vide the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 could be made applicable to the case. The relevant portion of the final order of 28.05.2018 is as follows:

*“2. Vide DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 a methodology for treatment of loss and profit on retirement of assets has been prescribed, whereas there was no such methodology provided in the previous Regulations. As the petitions are in respect of assets retired prior to the notification of extant Regulations, 2017, the petitioners were directed to file written submissions as to whether the aforesaid methodology may also be applied on the assets retired before notification of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.*

*3. The counsel for the petitioners submitted that the written submissions have been filed, wherein it is stated that as per the terms of law settled by the Supreme Court and the APTEL, Regulations framed under the Electricity Act cannot be given retrospective application, however, in order to put quietus to the discussion, the petitioner is willing to have the aforesaid claim considered on the principles contained in Regulation 45 of the DERC (Terms and Conditions for Determination of tariff) Regulations, 2017, without prejudice to the general principle and retrospective operation and only as a special case.*

*4. In view of the submissions made by the petitioners the petitions are disposed*

*of with the direction to the petitioners to file their claim regarding retirement of assets along with the relevant data to the Engineering division within four weeks, which shall be processed as per the methodology provided in the DERC (Terms and Conditions of Determination of Tariff) Regulations, 2017.”*

3.73 In view of the above Order of the Commission, the issue on the assessment of loss of retirement of eligible assets of the Petitioner from FY 2002-03 to FY 2016-17 as per the Regulation 45 of the DERC (Terms and Conditions of Determination of Tariff) Regulations, 2017 has now been considered.

3.74 Regulation 45 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 stipulates

*“Loss or Gain due to de-capitalization of assets based on the directions of the Commission due to technological obsolescence, wear & tear etc. or due to change in law or force majeure, which cannot be re-used, shall be adjusted in the ARR of the utility in the relevant year.”*

3.75 BYPL submitted the relevant data vide its communication dated 16.08.2023. The Commission conducted prudence checks through several meetings with the Petitioner and finalized the loss on the sale and retirement of assets. During the prudence check it was observed:

- a. The commissioning date & actual purchase price of assets were not provided by the Petitioner for Pre-DVB period. However, during Pre-DVB period, AT&C losses were more than 50%, the Petitioner had to replace a large number of deteriorated assets that were faulty and non-repairable, which resulted in high system losses. Considering the above justification, the Commission allows the loss due to the early retirement of assets related to the replacement of all network assets such as transformers, switchgears, cables, meters, lightning arrestors, etc. for Pre-DVB period.
- b. For the assets purchased Post-DVB period (after transfer scheme), the Commission considered such assets where such early retirement is justified owing to system reliability, operational requirement & network modernization.
- c. The loss on early retirement of assets relating to network enhancement has not been considered, where the assets were retired by the Petitioner before

total useful life of 25 years without proper justification. It is observed that the majority of the assets have however been retired by the Petitioner within 5-10 years of their normal useful life.

- d. In case of meter replacement, the Commission sought reasons for meter replacements before their useful life. The Petitioner submitted justifications for all meters as faulty/burnt/theft, however, the detailed reasoning/segregation of such justification could not be provided by them in spite of repeated directions from the Commission. However, Commission has considered the losses for all meters replaced before their useful life, except those replaced within a 2-year period from the date of commissioning.
- e. The Commission has further allowed for the loss due to early retirement of servers/software in view of technological obsolescence. However, loss on sale of assets such as mobile phones, office equipment, furniture, etc., which are A&G category type assets, are not considered.

3.76 Thus, the Commission after due prudence check has approved the following amount towards loss due to early retirement of assets from FY 2002-03 to FY 2016-17 to be considered towards Annual Revenue Requirement.

*In Rs.Cr.*

Particulars	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17
Petitioner's Claim	2.25	0.76	1.97	1.04	0.83	0.62	2.72	16.37	3.86	9.27	23.21	14.08
As approved by the Commission	1.77	0.58	-	0.02	0.56	0.61	2.46	5.86	3.49	7.06	18.11	9.60

#### d) Merit Order Despatch

3.77 The Commission in its DERC, Distribution Tariff Regulations, 2011, applicable from April 1st, 2012 introduced the Regulation on the principle of Merit Order Despatch (MOD), as follows:

*"5.25 While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased from various sources in accordance with the principles of merit order schedule and despatch based on a ranking of all approved sources of supply in the order of their variable cost of power purchase. All power purchase costs shall be considered legitimate unless it is established that the merit order principle has been violated or power has been*

*purchased at unreasonable rates or the power procurement guidelines as laid down by the Commission from time to time has not been followed.”*

- 3.78 The Commission while truing up of FY 2013-14, scrutinized the adherence of MOD principle by Delhi DISCOMs and thereby computed the avoided power purchase cost due to scheduling of power without MOD principle based on slot wise and plant wise energy details from SLDC considering the station wise actual average variable rates for FY 2013-14 and disallowed the same from the power purchase cost of the DISCOMs.
- 3.79 Subsequently, BRPL, BYPL and TPDDL moved to Hon'ble APTEL challenging the disallowance of Power Purchase Cost based on MOD Violation including force scheduling, transmission constraints and technical constraints. In its reply to the Hon'ble ATE, the Commission submitted that in case the DISCOM submits details of such transmission constraints and technical constraints duly certified by the SLDC for any specific period for the stations in question with supporting documents, the same shall be reviewed by the Commission.
- 3.80 The Commission while truing up the Prior Period Expenses in the Tariff Order for FY 2018-19, revised the disallowance on account of avoided power purchase cost due to MOD Violation by not considering various Stations under MOD violations which have must run status of Stations like Nuclear & Hydro, State GENCOs which are considered in the Islanding scheme of Delhi and Eastern Region Plants where there is time delay in revision of schedule.
- 3.81 The Commission, exercising Regulations 12.7 (*Enquiry and Investigation*) of *DERC Distribution Tariff Regulations 2011*, sent a letter dated 07/12/2018 to the SLDC seeking detailed reasons as to why MOD principle was not followed in Delhi in FY 2013-14 as was mandated under *DERC Distribution Tariff Regulations 2011*. In response, SLDC vide letter dated 22/01/2019 certified that MOD principle was adhered to during FY 2013-14 while preparing the schedule during FY 2013-14.
- 3.82 Thereafter, based on the findings in Review Order dated 13/12/2019 against the Tariff Order for FY 2018-19, the Commission vide its letter dated 1/07/2020 sought plant-wise and month-wise Merit Order Despatch (MOD) violation for FY 2013-14 from SLDC. In response, SLDC vide its letter dated 24/07/2020 submitted the details wherein it is

observed that from the date of implementation of DISCOM wise scheduling i.e. 21/02/2014 till 31/03/2014 for Anta, Auraiya and Dadri Gas Stations of NTPC there was sale of power in Exchange during the slots where power was scheduled above Minimum Technical Limit (MTL) from these stations by BRPL, BYPL and TPDDL. Further, the Commission directed SLDC to include all of the generating stations and not just Anta, Auraiya and Dadri Gas Stations of NTPC. In response, SLDC vide its email dated 30/07/2020 submitted the data indicating the slot-wise details of DISCOM's (i.e. BRPL, BYPL, TPDDL & NDMC) power sale in Exchange when power is scheduled more than MTL. The Commission computed penalties for the period from 21/02/2014 till 31/03/2014 in Tariff order dtd. 28/08/2020. In the said Tariff Order, it was noted that:

- a) BRPL, BYPL and TPDDL had submitted copy of Affidavit which is submitted before Hon'ble APTEL wherein they have indicated that they have conditionally withdrawn the issue related to disallowance of MOD during FY 2013-14 subject to its reversal by the Commission.
- b) **Prior to 21/02/2014** - The requisition submitted by DISCOMs to SLDC is on lump sum basis i.e. it is not generator wise and slot wise.
- c) **Post 21/02/2014** - The requisition submitted by DISCOMs to SLDC is generator wise and slot wise.

3.83 Accordingly, the penalty for FY 2013-14 was provisionally reversed by 50% since, the Commission had also sought Plant-wise, month-wise and day-wise violations for FY 2012-13 and for FY 2013-14 prior to implementation of DISCOM-wise from SLDC.

3.84 Delhi SLDC expressed its inability to provide the information Plant wise, month wise and date wise violations for FY 2012-13. Accordingly, the Commission requested NRLDC & IEX to provide the said information. IEX submitted the information, however, inspite of Commission's letter dated 5/07/2021 and reminder email dated 21/09/2021, NRLDC didn't submit the information related to FY 2012-13. In the absence of the desired information, the Commission in its Tariff Order dated

30/09/2021 decided to consider this issue in subsequent Tariff Order.

- 3.85 NRLDC vide its letter no. NRLDC/SO-I/151 dated 20/12/2021 has submitted the said information. The information received from NRLDC was forwarded to Delhi SLDC vide letter dated 4/01/2022 and Delhi SLDC has emailed the desired information on 3/03/2022.
- 3.86 Accordingly, meeting with Delhi SLDC and DISCOMs was held and the Commission vide its email dated 30/05/2021 sought inputs in the information submitted by Delhi SLDC and DISCOMs vide its email & letters submitted their inputs on the same. In their reply, DISCOMs have submitted the following:

*“Delhi SLDC, in its reply at para 29 in Petition No. 10 of 2014 had indicated the following:*

- a. DISCOM-wise scheduling was implemented from 22.02.2014 onwards. There were some initial teething troubles though for few months.*
  - b. Network constraints, grid security aspects etc. will always have preference to economic factors.*
- Before 22.02.2014, there was no violation of MOD and Delhi SLDC/NRLDC scheduled power for Delhi as a whole considering grid and network constraints.”*

- 3.87 The Commission vide its Notice dated 21/09/2022 had sought replies from DISCOMs w.r.t. Merit Order Despatch for FY 2012-13 and FY 2013-14 reply of the Petitioner is summarized as follows:

**BSES DISCOMs Reply dated 13/10/2022 & 11/10/2022:**

- a) They have submitted that issue of alleged MOD violation by them is limited to FY 2013-14 and does not pertain to FY 2012-13. Further, data if any, purportedly received from NRLDC, IEX and SLDC has not been shared by the Commission with BRPL. BRPL reserves its right to make appropriate submission as and when such data is shared by the Hon'ble Commission.

- b) Admittedly, DISCOM-wise scheduling was implemented from 21.02.2014 as recognized by this Hon'ble Commission, based on SLDC's submission in Petition No. 10 of 2014, and duly recorded in Order dated 06.12.2019 passed by this Commission.
- c) As such, since there was no DISCOM-wise scheduling in FY 2012-13, the issue of MOD violation for FY 2012-13 does not arise for BRPL.
- d) Regulations 5.25 of Tariff Regulations, 2011 provides for MOD principle to be followed on power purchase and power procurement by the DISCOM. The Regulation nowhere provides for applicability of the MOD principle on sale of surplus power. Even otherwise, MOD as a concept provides for ranking of all approved sources of supply to DISCOMs by various Generating Stations in the order of their variable cost of power purchase. It is unknown as to how the same concept can be applied to sale of surplus power.
- e) Hon'ble Commission while applying the MOD principle has also not considered various factors like force outages and forced scheduling which are beyond the control of the DISCOM.
- f) Notably, during prudence check session held by the Hon'ble Commission on 30/05/2022 in the presence of all stakeholders for the ongoing tariff determination process for FY 2022-23, Delhi SLDC had orally confirmed that (i) there is no violation of MOD by DISCOMs during FY 2012-13; and (ii) a communication in this regard has also been given by Delhi SLDC to the Hon'ble Commission. However, no such communication as received from Delhi SLDC on MOD for FY 2012-13 has been shared by the Hon'ble Commission with BRPL. BRPL reserves its rights to make appropriate submissions in this regard as and when the said communication is shared with BRPL.
- g) Without prejudice to the above, no Scheduling and Despatch Procedure has been approved by the Hon'ble Commission as required by Regulation 31 under chapter V - 'Scheduling and Despatch Code' of the Delhi Electricity Regulatory Commission (State Grid Code) Regulations, 2008 ("Delhi Grid Code"). As such in the absence of any procedure and till the time such Procedure is submitted by

SLDC and approved by this Hon'ble Commission, the Hon'ble Commission cannot draw any adverse inference against BRPL as a DISCOM.

- h) Evidently, the aforesaid disallowance was limited for FY 2013-14. This disallowance was challenged by BRPL before the Hon'ble Appellate Tribunal for Electricity ("Hon'ble APTEL") in Appeal No. 297 of 2015 which is pending adjudication. Hon'ble Commission in its Reply dated 13/05/2016 in Appeal No. 297 of 2015, stated that in case BRPL were to file certain details., it would consider BRPL's claims. In other words, the Hon'ble Commission in its Reply clearly undertook before Hon'ble APTEL that it will consider the claim of BRPL upon the requisite data being furnished. Undertaking to the Hon'ble APTEL was not connected with the disposal of the Appeal on such issue.
- i) In fact, on 14/08/2020, BRPL had filed as Additional Affidavit in Appeal No.297 of 2015 undertaking to withdraw the said issue and not to press this issue should be Commission be pleased to duly allow the same in BPRL's favour in the then pending tariff determination exercise for FY 2019-20. Above factual situation as well as the copy of Additional Affidavit dated 14/08/2020 was duly communicated to the Commission by its letter dated 14/08/2020.
- j) The aforesaid issue of consideration of the claim for FY 2012-13 by the Hon'ble Commission has been challenged by BRPL in its Appeal (being DFR No. 123 of 2022) against Tariff Order dated 30.09.2021 interalia on the ground that Hon'ble Commission cannot re-open / re-visit issues when the same have been tried up also held by the Hon'ble APTEL in Judgment dated 30.09.2019 in Appeal No. 246 of 2014 titled 'TPDDL v. DERC'.
- k) Admittedly, since the DISCOM-wise scheduling had started only form 21.02.2014 onwards, the data pertaining to FY 2012-13 and FY 2013-14, if any, available from NRLDC/IEX would pertain to Delhi as a whole and would not be relatable to each DISCOM. Without prejudice, it is stated that no such data as stated to have been received from NRLDC and IEX, has been shared by the Hon'ble Commission with BRPL. BRPL, therefore, reserves its right to respond to the same as and when the same is shared with BRPL.

- l) As much, MOD principle is limited to only purchase/procurement of power by a DISOM. The Regulations cannot be applied to sale of surplus power in the Power Exchange by DISCOM. Therefore, reliance on Regulations 5.25 of Tariff Regulations 2011 is incorrect and misplaced.
- m) They have requested to appreciate that claim of BRPL & BYPL for MOD of FY 2013-14 which was to be considered by the Commission based on verification by Delhi SLDC is still pending with the Commission for the past 9 years, without there being any fault attributable to them. Each year's delay in recognition and allowance of legitimate claims for BSES DISCOMs:
- a. Violates principles of tariff determination under Section 61 read with Sections 62 and 64 of Electricity Act, 2003;
  - b. Leads to substantial amount of carrying cost to be borne by the consumer which can be avoided if the claims are allowed to them in a timely manner.
- n) BSES DISCOMs once again requested the Commission to consider the submissions made by them in their ARR Petitions and allow the cost by reversing the disallowance as per undertaking given by the Commission to Hon'ble APTEL in Appeal No.297 of 2015, as well its own Orders dated 6/12/2019 and 13/12/2019 alongwith applicable carrying cost.
- o) Further, BSES DISCOMs vide their letter dated 13/10/2022 have submitted that:
- "In this connection it is also submitted that merely because sale of power has taken place in slots where scheduling has taken place from Generators over their Technical Minimum is irrelevant and immaterial, for the purposes of alleged violation of MoD principles, inter alia, for the following reasons: -*
- (i) *There is no connection whatsoever with sale of power and MoD. The only question is whether the requisition by BSES has been done in accordance with MoD.*
  - (ii) *Sale of power on the Power exchanges is specifically in terms of the various Orders and Directions passed by the Hon'ble Commission from time to time.*

*It is indeed surprising that the Hon'ble Commission is now seeking to find fault with sale of power on the power exchanges etc;*

- (iii) Revenue from sale of power is taken into account in reducing the ARR, hence the benefit of the same has already been passed through to the consumers. It is indeed surprising that the Hon'ble Commission is now seeking to find fault with the same;*
- (iv) Requisition of power is always on an "estimate" of what the power requirement is expected to be. No distribution licensee can know with unrelenting exactitude specifically how much power would be needed at any specific point of time. The query of the Hon'ble Commission somehow appears to be predicated on the assumption that a licensee has a "crystal ball" to see the future and know with exactitude how much power will be drawn by its lakhs of consumers at any specific point of time.*
- (v) Sales are an "uncontrollable" item even in terms of the 2011 Tariff Regulations. Therefore, it is statutorily recognized by the Hon'ble Commission that how much power is drawn through the network of the licensee is NOT CONTROLLABLE by the licensee.*
- (vi) Equally power purchase is "uncontrollable" not only by the laws of the Hon'ble Commission but also by the laws of physics. If there is load in the network, and the network is connected to a power source, power will be drawn by the network.*
- (vii) On the other hand, the Hon'ble Commission has always mandated that load shedding in Delhi can never exceed 1% of the total demand. Hence the licensee is always mandated to arrange to have sufficient power in reserve to feed its demand. It is indeed surprising that the Hon'ble Commission is now entering into a post-mortem of power drawn and sold in time slots of more than 7 years ago when the consumers of Delhi have already consumed all such power purchased and whatever was excess has already been sold in the exchange and the revenue there from already passed through in the ARR's of the Discoms.*
- (viii) It appears, prima facie, that the said Notice has now been issued with the specific intent of creating grounds for a disallowance which has never been raised over the past over 7 years."*

- 3.88 After reviewing the submission of the Stakeholders and based on the determined violations during the period 21.02.14 to 31.03.14, the Commission considered the penalty amounting to Rs.3.19 Cr for FY 2013-14 as determined in Tariff Order dated 28.08.2020 and allows Rs. 23.82 Cr. along with applicable Carrying costs.

## Revision in Regulatory Assets upto FY 31.03.2020

Table 3. 2: O&amp;M expenses during MYT Control Periods (Rs. Cr.)

Particulars	FY 2007-08	FY 2008-09	FY2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Employee Expenses	107.29	108.96	116.44	161.90	169.08	200.73	216.79	237.44	256.44	276.95
R&M Expenses	32.02	41.95	53.57	60.89	68.61	66.08	66.92	71.65	79.24	88.59
A&G Expenses	40.01	42.09	44.05	46.10	48.25	65.11	70.32	75.95	82.02	88.59
Total O&M Expenses	179.32	193.00	214.06	268.89	285.94	331.92	354.03	385.04	417.70	454.13
Efficiency Factor		2.00%	3.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
6th Pay Arrears (on which no efficiency is to be applied)		7.26	117.86							
SVRS Pension	11.15	5.61	12.49	6.64	4.93	4.14	2.47	4.92	0.90	
Add: Revision in salary of head Clerk and Jr. Stenographer								7.34		
<i>FRSR &amp; Non-FRSR Employee costs for MYT Period - APTEL Judgment dtd. 31/10/2017</i>	9.50	9.90	10.40	10.90	11.40					
<i>Payment to VRS Optees - APTEL judgment in Appeal NO. 61&amp; 62/2012</i>	44.60	14.90	14.60	0.20	0.20					
<b>Net O&amp;M Expenses</b>	<b>244.57</b>	<b>226.81</b>	<b>362.99</b>	<b>286.63</b>	<b>302.47</b>	<b>336.06</b>	<b>356.50</b>	<b>397.30</b>	<b>418.60</b>	<b>454.13</b>

Table 3. 3: Change in Working capital (Rs. Cr.)

S.No.	Particulars	FY 2007	FY 2008	FY2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
A)	O&M Expenses		244.57	226.81	362.99	286.63	302.47								
A) ii)	O&M Expenses for 1 Month		20.38	18.90	30.25	23.89	25.21	-	-	-	-				
B)	Receivables														
B) i)	Annual Revenue (Net amount billed)		1,547.96	1,780.67	1,943.97	2,121.51	2,449.43	3,138.59	3,556.68	4,235.66	4,478.95	4,435.69	4,328.85	4,374.23	4,684.48
B) ii)	Receivables equivalent to 2 months average billing		257.99	296.78	324.00	353.59	408.24	523.10	592.78	705.94	746.49	739.28	721.48	729.04	780.75
C) i)	Power Purchase expenses		1,101.95	1,316.89	1,818.56	2,606.12	3,300.71	3,444.59	3,634.43	3,701.39	3,083.01	3,224.54	3,298.64	3,282.63	3,628.18
C) ii)	power purchase expenses for 1 Month		91.83	109.74	151.55	217.18	275.06	287.05	302.87	308.45	256.92	268.71	274.89	273.55	302.35
D)	Total Working Capital A) ii) + B) ii) - C) ii)	41.79	186.55	205.94	202.70	160.29	158.39	236.05	289.91	397.49	489.57	470.57	446.59	455.49	478.40
	Change in WC		144.76	19.39	(3.24)	(42.40)	(1.91)	77.66	53.86	107.58	92.08	(19.00)	(23.98)	8.90	22.91

**Table 3. 4: Approved Gross Fixed Assets & Depreciation (Rs. Cr.)**

Particulars	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Opening GFA	360.00	382.70	461.52	587.80	770.83	1,027.95	1,243.92	1,628.85	1,830.07	2,042.03	2,134.03	2,159.83	2,300.05	2,523.59	2,757.60	3,000.52	3,309.81	3,618.57
Additions to Asset during the year	22.70	78.82	126.38	187.16	259.02	218.24	386.22	202.48	213.40	97.69	71.60	148.47	243.54	279.95	242.92	337.19	332.19	245.23
Decapitalisation during the year	-	-	0.11	4.13	1.90	2.26	1.29	1.26	1.44	5.68	45.79	8.25	20.00	45.94	-	27.90	23.43	40.77
Closing GFA	382.70	461.52	587.80	770.83	1,027.95	1,243.92	1,628.85	1,830.07	2,042.03	2,134.03	2,159.83	2,300.05	2,523.59	2,757.60	3,000.52	3,309.81	3,618.57	3,823.03
Average GFA	371.35	422.11	524.66	679.31	899.39	1,135.93	1,436.39	1,729.46	1,936.05	2,088.03	2,146.93	2,229.94	2,411.82	2,640.60	2,879.06	3,155.17	3,464.19	3,720.80
Less: Average Consumer Contribution	Not considered as per PDP																	
Average GFA net of CC	371.35	422.11	524.66	679.31	899.39	1,071.27	1,355.84	1,626.51	1,789.61	1,905.29	1,954.22	2,018.93	2,174.48	2,382.37	2,603.70	2,845.10	3,118.90	3,357.47
Average rate of depreciation	6.69%	6.69%	6.69%	6.69%	6.69%	5.53%	3.60%	3.60%	3.60%	3.60%	3.80%	3.80%	3.81%	3.81%	3.83%	5.23%	5.13%	5.07%
Opening bl of Accum Dep (as per transfer scheme) Net of decapitalisation of Rs. 1.60 Cr	68.40																	
Depreciation	18.06	25.60	30.88	39.32	51.57	59.19	48.81	58.55	64.43	68.59	74.26	76.72	82.85	90.77	99.72	148.80	160.00	170.22
Depreciation on Consumer Contribution - SC judgment dtd 18.10.2022						3.57	2.90	3.71	5.27	6.58								
Recovery on account of depreciation on assets decapitalised during the year						1.53	0.70	0.89	0.90	4.41	30.45	7.04	16.35	31.62	15.43	19.44	13.09	20.34
Accumulated Depreciation	86.46	112.07	142.94	182.26	233.83	295.06	346.07	407.44	476.24	547.00	590.81	660.49	726.99	786.14	870.43	999.79	1146.70	1296.58

**Table 3. 5: Revision in AAD due to revision in Depreciation (Rs. Cr.)**

Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
1/10 of opening loan (A)	72.10	90.20	100.60	109.00	112.70	109.70	88.40	94.10	105.30	105.30
Debt repayment for capex loans (B)	21.00	100.50	138.60	246.70	162.30	166.70	218.30	194.90	201.50	115.39
Minimum of A&B	21.00	90.20	100.60	109.00	112.70	109.70	88.40	94.10	105.30	105.30
Depreciation as per respective true up	62.76	51.71	62.26	69.70	75.17	74.26	76.72	82.85	90.77	99.72
Excess of Min(A,B) over Depreciation	(41.76)	38.49	38.34	39.30	37.53	35.44	11.68	11.25	14.53	5.58
Cumulative repayment (C)	395.40	495.90	634.50	881.20	1,043.50	1,210.20	1,428.50	1,623.40	1,824.90	1,940.29
Cumulative depreciation (D)	295.06	346.07	445.93	514.58	586.30	628.34	695.93	738.67	797.39	884.96
Excess of (C) over (D)	100.34	149.83	188.57	366.62	457.20	581.86	732.57	884.73	1,027.51	1,055.33
AAD		38.49	38.34	39.30	37.53	35.44	11.68	11.25	14.53	5.58

Table 3. 6: Revised Regulated Rate Base (Rs. Cr.)

Particulars	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
OCFA Opening balance	1,027.95													
Opening Balance of Working Capital	41.79													
Accumulated Depreciation (net of Decap)	233.83													
Accumulated Consumer Contribution	58.74													
RRB Opening		777.16	1,064.82	1,359.72	1,433.10	1,432.46	1,403.76	1,418.54	1,504.10	1,731.96	1,968.12	2,084.15	2,188.70	2,340.40
AAB		142.90	275.51	76.63	41.76	(26.79)	(62.89)	31.70	120.28	144.08	135.03	128.53	142.80	37.55
Investments Capitalized		215.97	384.93	201.22	211.96	92.01	25.80	140.22	223.54	234.01	242.92	309.29	308.76	204.46
Depreciation		62.76	51.71	62.26	69.70	75.17	74.26	76.72	82.85	90.77	99.72	148.80	160.00	170.22
AAD		-	38.49	38.34	39.30	37.53	35.44	11.68	11.25	14.53	5.58			
Accumulated Depn on Decap Assets		1.53	0.70	0.89	0.90	4.41	30.45	7.04	16.35	31.62	15.43	19.44	13.09	20.34
Consumer Contribution		11.84	19.93	24.88	62.09	10.51	9.44	27.16	25.51	16.25	18.02	51.40	19.05	17.02
Change in WC		144.76	19.39	(3.24)	(42.40)	(1.91)	77.66	53.86	107.58	92.08	(19.00)	(23.98)	8.90	22.91
RRB Closing		1,064.82	1,359.72	1,433.10	1,432.46	1,403.76	1,418.54	1,504.10	1,731.96	1,968.12	2,084.15	2,188.70	2,340.40	2,400.86
RRB (i)		993.37	1,221.97	1,394.79	1,411.58	1,417.16	1,449.99	1,488.25	1,671.82	1,896.08	2,016.64	2,124.44	2,269.00	2,382.09

Table 3. 7: Revised Return on Capital Employed (Rs. Cr.)

RRBi (Capex)	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
RRB Opening	590.62	878.27	1,153.78	1,230.41	1,272.17	1,245.38	1,182.49	1,214.19	1,334.47	1,478.55	1,613.58	1,742.11	1,884.91
AAB	142.90	275.51	76.63	41.76	(26.79)	(62.89)	31.70	120.28	144.08	135.03	128.53	142.80	37.55
Investments Capitalized	215.97	384.93	201.22	211.96	92.01	25.80	140.22	223.54	234.01	242.92	309.29	308.76	204.46
Depreciation	62.76	51.71	62.26	69.70	75.17	74.26	76.72	82.85	90.77	99.72	148.80	160.00	170.22
AAD	-	38.49	38.34	39.30	37.53	35.44	11.68	11.25	14.53	5.58	-	-	-
Accumulated Depn on Decap Assets	1.53	0.70	0.89	0.90	4.41	30.45	7.04	16.35	31.62	15.43	19.44	13.09	20.34
Consumer Contribution	11.84	19.93	24.88	62.09	10.51	9.44	27.16	25.51	16.25	18.02	51.40	19.05	17.02
RRB Closing	733.52	1,153.78	1,230.41	1,272.17	1,245.38	1,182.49	1,214.19	1,334.47	1,478.55	1,613.58	1,742.11	1,884.91	1,922.47
RRB (i)	662.07	1,016.03	1,192.09	1,251.29	1,258.77	1,213.94	1,198.34	1,274.33	1,406.51	1,546.07	1,677.85	1,813.51	1,903.69
Equity (limiting to 30% of RRBi)	198.62	304.81	357.63	375.39	377.63	364.18	359.50	382.30	421.95	463.82	503.35	544.05	571.11
Debt (limiting to 70% of RRBi)	463.45	711.22	834.47	875.90	881.14	849.76	838.84	892.03	984.56	1,082.25	1,174.49	1,269.46	1,332.58
Normative Equity (Average)	277.98	346.93	393.65	405.30	409.13	398.40	401.12	447.79	510.16	576.56	648.97	731.11	802.69
Actual Closing Equity and free reserves balance as per net worth of the DISCOM	17.90	74.51	150.36	304.75	756.09	781.00	792.00	812.00	829.00	829.00	768.00	946.00	1,164.00
Average Equity balance	45.90	46.21	112.44	227.56	530.42	768.55	786.50	802.00	820.50	829.00	798.50	857.00	1,055.00
Equity now considered for WACC	45.90	46.21	112.44	227.56	377.63	364.18	359.50	382.30	421.95	463.82	503.35	544.05	571.11
Debt considered for WACC	616.17	969.82	1,079.66	1,023.73	881.14	849.76	838.84	892.03	984.56	1,082.25	1,174.49	1,269.46	1,332.58
re	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%	16.00%
additional re on account of AT&C incentive										0.57%			
rd	10.53%	11.00%	9.30%	10.37%	12.12%	9.54%	9.89%	10.17%	10.25%	10.25%	13.61%	13.76%	12.33%
WACC	10.91%	11.23%	9.93%	11.39%	13.28%	11.48%	11.72%	11.92%	11.98%	12.15%	14.33%	14.43%	13.43%
ROCE - Capex	72.23	114.07	118.40	142.57	167.22	139.34	140.48	151.89	168.43	187.78	240.39	261.73	255.68
RRBi (WC)	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
RRB Opening	186.55	186.55	205.94	202.70	160.29	158.39	236.05	289.91	397.49	489.57	470.57	446.59	455.49
Change in WC	144.76	19.39	(3.24)	(42.40)	(1.91)	77.66	53.86	107.58	92.08	(19.00)	(23.98)	8.90	22.91
RRB Closing	331.30	205.94	202.70	160.29	158.39	236.05	289.91	397.49	489.57	470.57	446.59	455.49	478.40
RRB (i)	331.30	205.94	202.70	160.29	158.39	236.05	289.91	397.49	489.57	470.57	446.59	455.49	478.40
re (WC)	16%	16%	16%	16%	16%								
rd (WC)	10.53%	11.00%	9.30%	10.37%	12.12%	14.57%	14.28%	14.27%	13.91%	13.65%	13.84%	13.34%	12.58%
WC WACC	12.17%	12.50%	11.31%	12.06%	13.28%	14.57%	14.28%	14.27%	13.91%	13.65%			
RoCE - WC	40.32	25.74	22.93	19.33	21.04	34.39	41.40	56.72	68.10	64.23	61.81	60.76	60.18
Total RoCE	112.55	139.82	141.32	161.90	188.26	173.73	181.88	208.61	236.53	252.02	302.19	322.49	315.87

**Table 3. 8: Revised Annual Revenue Requirement (Rs. Cr.)**

Annual Revenue Requirement	FY 2002-03 (additional)	FY 2003-04 (additional)	FY 2004-05 (additional)	FY 2005-06 (additional)	FY 2006-07 (additional)	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Cost of Power Purchase						1,101.95	1,316.89	1,818.56	2,606.12	3,300.71	3,444.59	3,634.43	3,701.39	3,083.01	3,224.54	3,298.64	3,282.63	3,628.18
Operation & Maintenance Costs						244.57	226.81	362.99	286.63	302.47	336.06	356.50	397.30	418.60	454.13	626.34	683.63	659.90
Impact for 11 months on O&M Expenses						28.43												
R&M and A&G expenses - as allowed in July 2014 Order			8.73	0.02	(2.14)													
Additional impact PPI in Aug 2017 TO - Additional Allowance on account of True up of R&M, A&G and Employee Expenses for FY 2004-05, FY 2005-06 and FY 2006-07			-8.73	7.41	20.58													
Depreciation	0.00	0.00	(0.00)	(3.67)	2.70	62.76	51.71	62.26	69.70	75.17	74.26	76.72	82.85	90.77	99.72	148.80	160.00	170.22
AAD						-	38.49	38.34	39.30	37.53	35.44	11.68	11.25	14.53	5.58	-	-	-
Other Expenditure						-	3.68	0.38	1.55	6.92	0.20	0.52	0.79	1.00	2.20	43.64	32.87	-
RoE Recovered on account of less actual equity as per audited financial statements	(6.70)	(21.05)	(25.05)	(30.36)	(28.38)													
Return on Capital Employed (incl Supply Margin)						112.55	139.82	141.32	161.90	188.26	173.73	181.88	208.61	236.53	252.02	302.19	322.49	315.87
Supply Margin						-	-	-	-	-	-	-	-	-	-	-	-	-
Income Tax Provision						-	0.94	-	9.06	11.41	5.07	(30.56)	15.30	5.64	7.99	10.14	10.46	19.34
DTL Claim as treated in TO - Aug 2011								58.59										
DVB Arrears						27.40												
Adjustment in reactive energy charges					0.98	(0.98)												
Less: Penalty due to non fulfilment of RPO upto FY 2015- 16														15.79				
Less: Penalty on account of Cash payment recieved greater than Rs.4,000/-												44.59	8.30	0.00				
Less: Interest & Other Expenses Capitalized						2.31	-	-	-	-								
Less: Non Tariff Income						71.65	126.49	224.83	156.42	153.04	135.90	156.12	105.65	111.64	96.39	99.05	110.94	85.87
Less: Income from Open Access																	1.12	11.31
<b>Aggregate Revenue Requirement</b>	<b>(6.70)</b>	<b>(21.05)</b>	<b>(25.06)</b>	<b>(26.60)</b>	<b>(6.26)</b>	<b>1,502.72</b>	<b>1,651.85</b>	<b>2,257.61</b>	<b>3,017.84</b>	<b>3,769.42</b>	<b>3,933.45</b>	<b>4,030.46</b>	<b>4,303.54</b>	<b>3,722.65</b>	<b>3,949.78</b>	<b>4,330.70</b>	<b>4,380.02</b>	<b>4,696.33</b>

**Table 3. 9: Revised Revenue (Surplus)/Gap for the policy Direction Period (Rs. Cr.)**

Particulars	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
Opening balance of Revenue (Surplus)/Gap	-	(6.70)	(28.35)	(55.96)	(85.82)
Revenue (surplus)/Gap during the year (from ARR)	(6.70)	(21.05)	(25.06)	(26.60)	(6.26)
Loss on retirement of assets allowed during the year				1.77	0.58
carrying cost rate	9%	9%	9%	9%	9%
Carrying Cost on opening balance	-	(0.60)	(2.55)	(5.04)	(7.72)
Closing Balance Revenue (surplus)/Gap	(6.70)	(28.35)	(55.96)	(85.82)	(99.23)

**Table 3. 10: Revised Revenue (Gap)/Surplus for the period (Rs. Cr.)**

Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Aggregate Revenue Requirement	1,502.72	1,651.85	2,257.61	3,017.84	3,769.42	3,933.45	4,030.46	4,303.54	3,722.65	3,949.78	4,330.70	4,380.02	4,696.33
Revenue Available towards ARR	1,424.43	1,706.70	1,842.02	2,123.51	2,486.78	3,325.27	3,800.63	4,235.65	4,478.95	4,435.69	4,664.47	4,876.92	4,750.01
Revenue (Gap)/Surplus for the year	(78.29)	54.85	(415.59)	(894.33)	(1,282.64)	(608.18)	(229.83)	(67.89)	756.30	485.91	333.77	496.90	53.68
Opening balance	(158.50)	(177.46)	(244.85)	(850.38)	(1,994.89)	(3,803.05)	(5,033.07)	(6,080.52)	(6,797.42)	(6,734.77)	(6,880.65)	(7,244.86)	(7,328.05)
Adjustment on account of Prior Period impact	99.23												
Adjustment of Contingency reserve on Revenue Gap				7.43									
<b>Additional impact PPI in Aug 2017 TO</b>													
RoE and Interest of Loan for 11 months FY 2007-08	(15.00)	-	-	-	-	-	-	-	-	-	-	-	-
Reactive Energy Charges	(0.98)	-	-	-	-	-	-	-	-	-	-	-	-
Anta Auraiya Dadri Arrear Bills raised before expiry of PPA but disallowed in relevant True up Year	-	-	-	-	-	(12.17)	(2.56)	-	-	-	-	-	-
AT&C Loss for FY 2008-09	-	(38.60)	-	-	-	-	-	-	-	-	-	-	-
Interest Capitalisation	(2.31)	-	-	-	-	-	-	-	-	-	-	-	-
8% surcharge difference	-	-	-	-	-	(78.42)	-	-	-	-	-	-	-
SLD charges	-	-	-	-	-	(21.78)	(23.62)	-	-	-	-	-	-
Short Term Gain	-	(0.86)	(1.59)	-	(3.00)	(6.00)	(5.00)	-	-	-	-	-	-
Bad Debts recovered	-	-	-	(9.80)	(2.90)	(2.60)	-	-	-	-	-	-	-
<b>Additional impact PPI in Mar 2018 TO</b>													
16	-	-	-	-	-	-	-	-	(2.66)	(0.84)			
Omission of the amount of Depreciation corresponding to consumer contribution for capital works during FY 2014-15 and FY 2015-16	-	-	-	-	-	-	-	-	(5.88)	(6.00)			
Arithmetical error in summation of O&M Expenses for FY 2008-09 and FY 2009-10													
UI interest as part of NTI during FY 2013-14	-	-	-	-	-	-	(21.17)	-	-	-	-	-	-
Revenue Adjustment on account of over-achievement of AT&C Loss for FY 2008-09	-	(25.15)	-	-	-	-	-	-	-	-	-	-	-
Income Tax refund for FY 2013-14	-	-	-	-	-	-	(34.80)	-	-	-	-	-	-
Efficiency Factor from FY 12 to FY15 - APTEL Judgment dtd. 31/10/2017													
FRSR & Non-FRSR Employee costs for MYT Period - APTEL Judgment dtd. 31/10/2017													
Penalty on account of cash collection over & above Rs. 4000 for FY 2013-14	-	-	-	-	-	-	(19.79)						
Merit Order Despatch for FY 2013-14 considering Must Run Plants	-	-	-	-	-	-	(47.33)						
Impact on account of Expenses Capitalised for FY13 & FY14	-	-	-	-	-	(3.15)	(3.41)						
Payment to VRS Optees - APTEL judgment in Appeal NO. 61& 62/2012													
<b>Additional impact PPI in Aug 2020 TO</b>													
Transfer from consumer contribution towards capital works for FY 2011-12 to FY 2013-14 and FY 2014-15 to FY 2015-16					(5.78)	(4.37)	(4.67)	(5.58)	(6.00)				
Rebate from DTL during FY 2013-14							(9.58)						
UI Interest to be reduced from NTI			(18.91)		(0.96)								
Provisional allowance of effect of Efficiency factor subject to outcome of Civil Appeals 8660-61 of 2015 before Hon'ble Supreme Court													
LPSC to be reduced from NTI													
Rectification of opening RRB for FY 16-17- adjusted in RRB Table													
Impact of carrying cost rate of FY 16-17													
Impact of error in revenue billed for computation of AT&C loss for FY 16-17										(2.37)			
O&M expenses - Property tax & SMS										(9.00)			
SVRS contribution - provisional basis										(0.57)			
Advance from consumers											4.22		
Revision in disallowance of MOD for FY 13-14							(27.01)						



Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
<b>Additional impact PPI in Sep 2021 TO</b>													
Impact on account of Revision of AT&C loss Trajectory - APTEL ORDER					(94.79)	(81.84)	(46.04)						
Impact on account of Write-back provisions						(1.93)	(5.74)	(4.51)	(1.91)	(1.55)			
Impact of Review Petition Order dated 18.06.2021 - Net metering											(0.23)		
Impact of Review Petition Order dated 18.06.2021 - 1% Adjustments											(2.29)		
Depreciation as per 246/2014 - APTEL ORDER 7/06/2021- Working Capital	Rate of Dep changed in Depreciation table adjusted in RRB table by computing RRB separately for Capex & WC												
Physical verification FY 2017-18 CAPEX	adjusted in the capitalisation table												
Impact of Review Petition Order dated 18.06.2021 - AAD	Considered in RRB table												
<b>Issues being addressed in Current Tariff Order</b>													
Enforcement unit; revision of AT&C losses for FY 2009-10 using actual kwh figures	(7.08)	(11.83)	(17.77)	(10.33)	(27.62)	(3.56)	(9.77)	(24.47)	(32.41)	-	(1.64)	(3.75)	(4.32)
Disallowance of Fringe Benefit Tax		(1.25)											
Bank Charges						(16.78)	(29.67)	(23.77)	(13.93)	(14.34)			
Service tax FY 11-12 to FY 16-17						(3.20)	(4.50)	(7.60)	(12.20)	(12.50)			
Write back of misc provisions	-	(18.46)	(86.64)	(66.40)	(1.62)	-	-	-	(0.67)	-	-	(19.62)	
Disallowance of PPC on account of MoD for FY 2013-14							(23.82)						
Loss on retirement of assets upto FY 2019-20	-	(0.02)	(0.56)	(0.61)	(2.46)	(5.86)	(3.49)	(7.06)	(18.11)	(9.60)			
Inadvertent error in considering Net metering units in Energy inputs for FY 2019-20													(0.93)
Inadvertent omission to allow capitalisation of Rs. 0.06 cr for FY 17-18 on a/c of EIC											(0.06)		
Opening balance of revenue surplus/ (gap)	(59.27)	(177.46)	(244.85)	(842.95)	(1,994.89)	(3,803.05)	(5,033.07)	(6,080.52)	(6,797.42)	(6,734.77)	(6,880.65)	(7,244.86)	(7,328.05)
Revenue surplus/(Gap) during the year (incl impact of additional claims under PPI)	(103.66)	(41.33)	(541.06)	(981.47)	(1,421.77)	(849.83)	(551.80)	(140.88)	662.53	429.14	333.76	473.53	48.43
8% surcharge						237.32	280.00	329.40	332.68	352.94	335.62	382.00	376.65
Net Revenue Surplus/(gap) during the year	(103.66)	(41.33)	(541.06)	(981.47)	(1,421.77)	(612.51)	(271.80)	188.52	995.21	782.08	669.38	855.53	425.08
Closing Revenue Gap (without carrying cost)	(162.93)	(218.79)	(785.91)	(1,824.42)	(3,416.66)	(4,415.56)	(5,304.87)	(5,892.00)	(5,802.21)	(5,952.69)	(6,211.27)	(6,389.33)	(6,902.97)
Average balance of Revenue Gap	(111.10)	(198.13)	(515.38)	(1,333.69)	(2,705.78)	(4,109.30)	(5,168.97)	(5,986.26)	(6,299.82)	(6,343.73)	(6,545.96)	(6,817.10)	(7,115.51)
Rate of carrying cost	13.08%	13.15%	12.51%	12.78%	14.28%	15.03%	15.01%	15.13%	14.80%	14.63%	13.76%	13.77%	12.57%
Carrying cost	(14.54)	(26.06)	(64.47)	(170.47)	(386.39)	(617.51)	(775.65)	(905.42)	(932.56)	(927.96)	(900.72)	(938.71)	(894.42)
Net PPC earlier disallowed for Anta, Auriya & Dadri Power stations FY 2012-12 - FY 2016-17 (July 2019 TO)											(132.87)		
Pension Trust Deficit													(22.59)
Closing balance	(177.46)	(244.85)	(850.38)	(1,994.89)	(3,803.05)	(5,033.07)	(6,080.52)	(6,797.42)	(6,734.77)	(6,880.65)	(7,244.86)	(7,328.05)	(7,819.98)

## TRUE-UP OF FY 2020-21

## ENERGY SALES

## PETITIONER'S SUBMISSION

3.89 The Petitioner has submitted that the actual energy sales during FY 2020-21 was 5,865.57 MU (including sales on account of enforcement) as follows:

**Table 3. 11: Petitioner Submission - Category-wise energy sales for truing up during FY 2020-21 MU)**

Sr.No	Category	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
<b>A</b>	<b>Domestic</b>	<b>246</b>	<b>363</b>	<b>401</b>	<b>456</b>	<b>479</b>	<b>448</b>	<b>399</b>	<b>237</b>	<b>208</b>	<b>261</b>	<b>233</b>	<b>234</b>	<b>3,963</b>
A.1	Domestic other than A2, A3 & A4	241	356	393	446	470	440	390	232	204	255	226	226	3,879
A.2	Single Delivery Point on 11 KV CGHS	1	2	2	3	1	2	2	1	1	1	2	2	20
A.3	11 KV Worship/Hospital	3	3	4	5	6	5	5	3	3	4	4	5	50
A.4	DVB Staff	1	1	2	2	2	2	2	1	1	1	1	1	15
<b>B</b>	<b>Non Domestic</b>	<b>107</b>	<b>-61</b>	<b>93</b>	<b>153</b>	<b>134</b>	<b>133</b>	<b>138</b>	<b>111</b>	<b>93</b>	<b>98</b>	<b>94</b>	<b>129</b>	<b>1,221</b>
B.1	Non Domestic LT Upto 3 KVA	23	-22	16	38	30	30	31	24	20	20	19	25	254
B.2	Non Domestic LT Above 3 KVA	70	-52	59	93	81	80	84	69	56	61	58	75	735
B.3	Non Domestic HT	13	12	18	22	23	22	23	18	16	17	17	29	232
<b>C</b>	<b>Industrial</b>	<b>17</b>	<b>-1</b>	<b>21</b>	<b>29</b>	<b>32</b>	<b>32</b>	<b>34</b>	<b>31</b>	<b>26</b>	<b>28</b>	<b>27</b>	<b>42</b>	<b>318</b>
C.1	Industrial LT	12	-5	16	23	25	26	28	26	22	24	23	35	254
C.2	Industrial HT	5	4	5	6	7	6	7	5	4	4	4	7	65
D	Agriculture	0	0	0	0	0	0	0	0	0	0	0	0	0
E	Mushroom Cultivation	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>F</b>	<b>Public utilities</b>	<b>27</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>27</b>	<b>24</b>	<b>25</b>	<b>25</b>	<b>27</b>	<b>35</b>	<b>285</b>
F.1	Public Lighting (Metered)	7	5	4	3	4	3	5	4	5	5	5	5	54
F.2	Public Lighting (Un-Metered)	1	1	1	1	1	1	1	1	0	1	1	1	9
F.3	DJB	12	12	13	12	13	13	13	11	13	12	12	16	152
F.4	DMRC	7	2	2	2	1	2	9	8	7	8	9	14	70

Sr.No	Category	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
G	Temporary Supply	2	1	4	5	5	5	5	3	3	4	4	5	47
H	Advertisement & Hoardings	0	0	0	-0	0	0	0	0	0	0	0	0	0
I	Self-consumption	0	0	1	1	1	1	1	1	1	1	1	1	9
J	Enforcement	0	0	0	1	1	1	1	1	1	1	1	2	9
K	E Vehicle at LT	1	0	0	1	1	1	1	1	1	1	1	2	13
L	<b>Total</b>	<b>401</b>	<b>321</b>	<b>540</b>	<b>664</b>	<b>672</b>	<b>640</b>	<b>606</b>	<b>409</b>	<b>358</b>	<b>420</b>	<b>388</b>	<b>448</b>	<b>5,866</b>

## ENFORCEMENT SALES

### PETITIONER'S SUBMISSION

3.90 The Petitioner has submitted that Enforcement Sale includes energy sold to consumers/persons booked under Section 126 and/or Section 135 of the Electricity Act, 2003 for indulging in theft of electricity. The Petitioner referred has that in Order dated August 26, 2011 in the true-up for FY 2008-09 and FY 2009-10 and ARR for FY 2011-12 the Commission had reduced the MUs in relation to enforcement sale by dividing the enforcement collection by twice the average billing rate instead of single ABR. The approach adopted by the Commission in its said order dated August 26, 2011 was upheld by the Hon'ble ATE in Judgment dated November 28, 2014 (Appeal No. 61 and 62 of 2012) inter-alia as under:

*"58. In view of the above discussions the issue is decided as under:*

...

*2) The Commission has adopted correct approach for computing MUs on account of enforcement*

..."

3.91 The Petitioner has preferred a Civil Appeal Nos. 4323 & 4324 of 2015 before the Hon'ble Supreme Court against the aforesaid Judgment of the Hon'ble ATE dated November 28, 2014 (Appeal 61 & 62 of 2012). Without pre-judice to the pendency of aforesaid Appeal, and without admitting or waiving any of its contentions against the said Judgment dated November 28, 2014 or the Hon'ble Commission's order dated August 26, 2011 insofar as the decision on enforcement sales are concerned, the Petitioner has computed the enforcement revenue as per the approach of the Hon'ble Commission and is shown in the table below:

**Table 3. 12: Petitioner Submission: Enforcement Units considered for Truing-up during FY 2020-21**

S. No	Particulars	Formula	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
A	Total Units Billed excl. enforcement (MU)	A	400	321	540	663	671	639	605	409	357	418	387	447	5,856
B	Total Amount Billed excl. enforcement *(Rs. Cr)	B	294	185	379	467	469	448	433	285	290	326	306	352	4,234
C	ABR* (Rs./KWh)	$C = B/A * 10$	7.34	5.76	7.02	7.04	6.99	7.01	7.17	6.97	8.13	7.79	7.91	7.88	7.23
D	Twice of average billing rate (Rs./Kwh)	$D = C * 2$	14.68	11.51	14.05	14.08	13.98	14.02	14.34	13.93	16.27	15.58	15.82	15.75	14.46
E	Enforcement Collected* (Rs. Cr)	E	0.01	0.11	0.37	0.74	0.96	1.38	1.29	1.11	1.40	1.98	2.03	2.57	13.94
F	Units Billed on account of enforcement	$F = E / D * 10$	0.01	0.09	0.27	0.52	0.68	0.98	0.90	0.80	0.86	1.27	1.28	1.63	9.30

\*Net of Non energy, E-tax, LPSC and RA surcharge

**OWN CONSUMPTION****PETITIONER'S SUBMISSION**

3.92 The Petitioner submits that it includes energy sales towards self-consumption in its establishment i.e. its offices, call centres, sub-stations, etc. There is a mandatory direction by the Hon'ble APTEL in its judgment dated March 2, 2015 to inter alia arrive at the quantum of self-consumption based on the actual figure. The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal No. 178 of 2012) ruled as under:

*"25.5 This issue has also been dealt by us in Appeal no. 195 of 2013 filed by a consumer and the Tribunal decided as under:*

*"We feel that the Appellant should have installed meters for self consumption in all its offices, call centres, sub-stations, etc. The Respondent no.2 does not need specific instructions for the same. When the Respondent no.2 is including self consumption in its energy sale figures, then it was legally bound to supply electricity for gross consumption only through correct meters. We feel that the State Commission should*

*have allowed self consumption only to the extent of actual consumption for metered installations. The formula proposed by the Respondent no. 2 for calculating own consumption in its installations is for calculating energy consumption for consumers in case of faulty meters. Accordingly, we direct the State Commission to re-determine the self consumption based on the metered data only. We also do not feel that this would result in change in procedure in true up with respect to the MYT order dated 23.02.2008. In the MYT order the consumption is based on the projections. In the MYT order the State Commission has not approved that the self consumption would not be metered and would only be assessed by a formula considering the load, number of days/hours, load factor, etc.”*

3.93 Regulation 23 (2) of Business Plan Regulations, 2019 specifies as follows:

*“23...(2) The Distribution Licensee shall be allowed own (Auxiliary) consumption including e-vehicle charging stations installed at Distribution Licensee offices and sub-stations, at Zero Tariff for actual recorded consumption subject to a maximum of 0.25% of total sales excluding own consumption to its retail consumers for the relevant financial year as part of O&M expenses for the relevant year”*

3.94 The Petitioner has submitted that as per Regulation 23(2) of Business Plan Regulations, 2019, the Own Consumption of the Petitioner for FY 2020-21 is within the specified normative limit. Further, the Hon'ble APTEL has directed the Commission to allow the actual self-consumption. Accordingly, the units billed in the Petitioner's own office buildings during FY 2020-21 is 8.59 MU, the details of which are as under:

**Table 3. 13: Petitioner Submission: Comparison of Normative Self consumption and actual self-consumption (MU)**

Sr.No	Particulars	Units
A	Units Billed Excluding Self consumption	5,856.99
B	Self-consumption on Normative basis 0.25% of A	14.64
C	Actual Self consumption claimed by Petitioner	8.59

3.95 Based on the above submissions, the comparison of actual category-wise Energy Sale during FY 2020-21 and the category wise Sales projected by the Commission while approving the ARR for FY 2020-21 is tabulated below:

**Table 3. 14: Petitioner Submission: Category-wise energy sales during FY 2020-21 (MU)**

Sr. No	Category	Projections (as per Tariff Order)	Actuals
A	Domestic	3,949	3,963
B	Non Domestic	1,483	1,221
C	Industrial	317	318
D	Agriculture	0	0
E	Public utilities	324	285
F	Advertisement and Hoardings	0	0
G	Temporary Supply	47	47
H	Charging Station for E Vehicle	24	13
I	Others*	21	18
<b>Total</b>		<b>6,165</b>	<b>5,866</b>
<i>*Includes Enforcement, Self-consumption etc.</i>			

3.96 The Petitioner has requested the Commission to approve the actual energy sales to various consumer categories as submitted in the above table while truing-up the uncontrollable costs for FY 2020-21.

### COMMISSION ANALYSIS

3.97 The Commission during the Prudence Check and based on the verification of the Category-wise Sales data from the Petitioner's SAP system with the Books of Accounts for FY 2020-21 by the Consultant, validated the billing database. The Commission observed as follows:

### OWN CONSUMPTION

3.98 Regulations 23(2) and 23(3) of *DERC (Business Plan) Regulations, 2019* stipulates:

*"23(2) The Distribution Licensees shall be allowed own (Auxiliary) consumption, at Zero Tariff for actual recorded consumption subject to a maximum of 0.25% of total sales to its retail consumers for the relevant financial year as part of O&M expenses for the relevant year."*

*"23(3) Actual recorded own (Auxiliary) consumption in excess of 0.25% of total sales to its retail consumers for the relevant financial year, shall be billed at Non Domestic*

*Tariff of respective year's Tariff Schedule and shall form part of revenue billed and revenue collected for the same year."*

3.99 The Petitioner has reported actual Self-Consumption of Energy as 8.59 MU which was lower than the Normative Self-Consumption computed at 14.64 MU [ $0.25\% \times (5865.27-8.59)$ ].

#### ENFORCEMENT

3.100 Regulation 5(10) of DERC (*Terms and Conditions for Determination of Tariff*) Regulations, 2017 states "any units assessed and billed on account of theft shall only be considered in the year of its realization as specified in Section 126(6) of the Act".

3.101 Section 126(6) of Electricity Act 2003 states that "the assessment shall be made at a rate equal to twice the tariff rates applicable for relevant category of services".

3.102 The Petitioner has submitted 9 MU on account of Enforcement Sales based on Annual Revenue realised on account of Enforcement as Rs. 15.79 Cr.

3.103 During Prudence check session, the Commission sought category wise revenue collected on account of enforcement. Based on the information submitted by the Petitioner the Units Billed on account of Enforcement is calculated by dividing the said amount by twice its category wise Average Billing Rate (ABR) available in the Audited Form-2.1(a), as follows:

**Table 3. 15: Commission Approved - Enforcement Collection and Units assessed during FY 2020-21**

Sr. No.	Particulars	Revenue Collected (Rs. Cr.)	ABR	2xABR	Units Assessed (MU)
1	Domestic	4.30	4.84	9.67	4.45
2	Non-Domestic	8.59	13.47	26.94	3.19
4	Agriculture	0.75	11.22	22.43	0.34
5	EV Charging	0.30	4.91	9.82	0.30
	<b>Amount Collected (before E-Duty and Surcharge)</b>	<b>13.94</b>	<b>34.43</b>		<b>8.28</b>

3.104 However, as per Hon'ble Supreme Court Judgement dated 18/10/2022 wherein it was directed to consider the Enforcement Sales as "Assessed Energy", accordingly, the Commission has considered the Enforcement units as 9 MU to arrive at the Trued-up sales for FY 2020-21 subject to Prudence Check as stipulated in above paras.

## NET METERING

3.105 The Commission in its Tariff Order dated 28/08/2020 for True-up of FY 2018-19 has decided the treatment of Net Metering as follows:

### *"NET METERING*

*3.73 During prudence check session for True up of FY 2018-19, the methodology for treatment of consumption through Net Metering arrangement was discussed with the Distribution Licensees. The Commission observed that since Net Metering consumers are connected to the network of Distribution Licensees, mainly at LT level, therefore the treatment followed by Distribution Licensees to consider the consumption through Net Metering in Sales is not correct. Net Metering consumers are not new category of consumers, they are existing consumers opting Net Metering arrangement through bidirectional feature i.e., they can export as well import with the Distribution Licensee Grid. Considering their consumption in sales leads to factoring such consumption for Distribution Loss computation which is technically not correct as these Net Metering consumers are embedded in Distribution Licensee Grid itself.*

*3.74 Further, Regulation 9 of Delhi Electricity Regulatory Commission (Net Metering for Renewable Energy) Regulations, 2014 stipulates "(7) At the end of the each Financial Year, any net energy credits, which remain unadjusted, shall be paid for by the distribution licensee to the consumers as per the rates notified by the Commission from time to time."*

3.106 The details of Net Energy credits were sought from the Petitioner vide email dated 5/06/2022 and the same was replied by the Petitioner vide its email dated 7/06/2022 as follows:

Sr. No.	Particulars	Details
A	Gross Generation (MU)	23.42
B	Off-set in Billing/Self-consumed by the Consumer (MU)	20.63
C	Balance units settled at APPC as mandated under Net Metering Regulations, 2014 at the end of FY 2020-21 (MU)	2.79

3.107 Accordingly, the Commission has considered Net Energy credits which remain unadjusted during end of FY 2020-21 as per Average Power Purchase Cost of the Petitioner in its Power Purchase cost.

#### ADJUSTMENT IN BILLING BY MORE THAN 1%

3.108 The Commission has issued directive 6.8 in Tariff Order dated 31/08/2017 which states as follows:

*“6.8. The Commission directs the Petitioner to restrict the adjustment in units billed on account of delay in meter reading, raising of long duration provisional bills etc. to a maximum of 1% of total units billed.”*

3.109 During True-up of FY 2018-19, the Commission in its Tariff Order dated 28/08/2020 had deliberated the issue of the adjustment in billing by more than 1% considering various aspects like Contra Entries/Invoice Reversals, Provisional Billing, Open Access and other adjustments as follows:

*“3.62. The Commission conducted prudence check session with the Petitioner on 29/07/2020 related to compliance of the above mentioned directive. Further, based on the data submitted by the Petitioner on 11/08/2020, it was observed that adjustments are mainly on account of following heads:*

- i) Bills raised in system but not served to consumers (Contra Entries)*
- ii) Bills on account of provisional meter reading*
- iii) Bills raised to Open Access Consumers*
- iv) Other adjustments*

*3.63 Contra entries are entries which are posted and are subsequently reversed in the SAP billing system in FY 2019-20. The Petitioner has numerous contra entries aggregating to 94.63 MU.*

3.64 Based on the submission of the Petitioner, it is observed that there are 3 main reasons due to which such entries are posted.

i) **Multi-meter Consumers on Single Contract Account** - There are consumers who are having multiple power injection points and are metered at multiple points but are billed on a single Contract Account. This is done in order to comply to the directive billed to bill such consumers on simultaneous maximum demand. In such cases, each meter records independent MDI and energy consumption simultaneously. In preparation of bills in the SAP system the billing system billing consumption is added arithmetically and the MDI is required to be maintained simultaneously for all the meters against one CA number to raises the bill. The contra entries are created on account of following:

a) MDI as recorded in the individual meters against the particular Consumer Account get added. Such bills are reversed and the correct bill is raised on simultaneous MDI as per the direction of the Commission.

b) To capture meter reading data of the balance meters when reading of one or more of the multi-meters is missing in AMR reading data.

Such Contra Entries are in the case of Government consumers viz. DMRC (47.73 MU), CPWD (0.50 MU) and DJB (0.40 MU), where there are multiple meters. All three put together accounts for 51.39% of total contra entries.

ii) **Post audit check – done in compliance with STQC audit and subsequent directive of the Commission** –In the SAP system of the Licensee there is no scope to delete any entry once it is made. In case any correction or alteration is required in the individual consumer account while preparation of the bill, the previous entry passed in the system is required to be reversed and new entry is passed in the system for serving correct bill to the consumer. However, to obviate the chances of erroneous billing and in the interest of the consumers, several precautions have been inbuilt in to the billing software. Some of those precautions were built in pursuant to the directive of the Commission following various billing audit including the once carried out by STQC during the period of December, 2005 to May, 2006 and later in FY 2008-09. Hence, certain precautions are built in to the system for certain preset checks to

identify abnormal billing or meter reading, change in tariff category on account of consumers; application/Commission's Order etc. to ensure error free billing to our consumers. The contra entry under the Post Audit Checks aggregates to 28.7 MU which is 30.31% of total Contra Entries. Out of this, 10.7 MU are for Government consumers and 18.0 MU for private consumers.

ii) **Processing of name change / transfer of connection requests** - During normal course of business, the Petitioner gets thousands of name change / transfer of connection requests from consumers during a financial year. Regulation 17 (1) of the Supply Code Regulations prescribes the procedure that needs to be adopted for executing such name change requests. Sub-regulation (iii) of Regulation 17 (a) reads as under:

*"(iii) The request for transfer of connection shall not be accepted unless all recoverable dues in respect of the concerned connection are fully paid:*

*Provided that once connection is transferred, no dues / arrears shall be recovered from the new consumer."*

In compliance of the aforesaid Regulation and in order to ascertain the total recoverable dues at the time of name change, a special reading is undertaken subsequent to which a final bill is generated. In order to effect the name change, a new CA number needs to be generated. However, the SAP system will allow the new CA to be generated only when the final bill generated is nullified by passing a contra entry. As a result, the Licensee is required to pass such contra entries in compliance of the Provisions of the Supply Code. The aggregate amount of contra entries passed while preparing the final bill is 17.3 MU, which is almost 18.3% of the total contra entries

3.65 Further, the Petitioner has submitted the replies to the Commission's queries that Contra entries do not form part of billing and none of these invoices are ever served to consumers. Further, no payments were received against such invoices.

3.66 From the conjoint reading to Regulations 30 (10) & (11) of DERC (Supply Code and Performance Standards) Regulations, 2017, it is observed that the licensee may

raise provisional billing for 2 months after which the consumer may refuse to make the payment until the bill on actual meter reading is raised by the licensee. The Regulations 30 (10) & (11) states as under:

“10) In case, for any reason, to be specifically recorded, the meter is not read/recorded during a billing cycle, the Licensee shall prepare a provisional bill based on the consumption during the corresponding period in the previous year when readings were taken:

Provided that if the consumption during the corresponding period in the previous year is not available, the Licensee shall take average consumption of preceding three billing cycles or the lesser period when readings were taken.

(11) If the provisional billing continues for more than one consecutive billing cycle, the consumer may refuse to pay the payment until bill is raised by the licensee as per actual meter reading.”

3.67 In view of above and based on the information submitted by the Petitioner including quarterly Form 2.1 (a), the Commission has not considered Contra Entries (being counter entries), adjustments related to Open Access consumers and Provisional Billing less than 2 months as adjustments in Units Billed. However, other adjustments submitted by the Petitioner have been considered without sign change (gross) as adjustments indicate total adjustments without +/- nature. ..

3.68 In view of above, the Commission considers the adjustment in sales for the Petitioner at 1.09% for FY 2019-20 and the effect of adjustment in excess of 1% (0.09% x 12506 = 11.61 MU) has been considered as deemed sales and deemed revenue billed of the Petitioner as follows:

**Table 3. 16: Effect of 1% adjustment**

Particulars	Units (MU)
Deemed Units for Adjustment Beyond 1%	103.78
ABR	7.24
Deemed Revenue Billed	75.15

3.110 Based on the above findings during True up of FY 2018-19, the Commission in its Tariff Order dated 28/08/2020 revised the said directive as follows:

*“6.8 The Commission directs the Petitioner to restrict the adjustment in units billed on account of delay in meter reading, raising of long duration provisional bills etc. to a maximum of 1% of total units billed. The adjustment in units billed shall be considered on a yearly basis. Further, the adjustment of Contra Entry, adjustment for Open Access consumers and adjustment on account of Provisional Billing related to period till two (2) months shall not be form the part of adjustment in units billed. Further, also the real adjustments/other adjustments shall be considered without sign change i.e. such adjustments either resulting into increase in revenue billed or decreased into revenue billed shall be considered on gross basis rather than net basis.”*

3.111 The same was also reiterated in the Tariff Order dated 30/09/2021.

3.112 During the prudence check sessions, the Petitioner submitted that the Commission vide its Order dated 7/04/2020 & 4/05/2020 allowed Distribution Licensees to raise the provisional bills due to grim situation of COVID-19 wherein the lockdown was imposed and actual reading of meters was not possible. Considering the same as exceptional and force majeure, the Commission has decided not to consider the impact of above Orders under 1% adjustment. The impact of the Orders are as follows:

Sr. No.	Particulars	May, 2020	June, 2020	July, 2020	Aug., 2020
A	Gross Sales	453.11	541.07	669.27	677.09
B	Provisional Billing	267.62	251.55	319.29	81.75
C	% of Provisional Billing	59.06%	46.49%	47.71%	12.07%

3.113 In terms of Regulation 172 of Tariff Regulations, 2017, the Commission in public interest relaxed the direction 6.8 of Tariff Order dated 28/08/2020 and decided to not consider the impact of Order dated 7/04/2020 & 4/05/2020.

3.114 Accordingly, after adjusting the impact of DERC Order dated 7/04/2020 & 4/05/2020, it is observed that the Adjustment Sales in units for FY 2020-21 is within the permissible limit of 1% of total units billed.

3.115 Based on the findings indicated in paras above, the Commission considers the Trued-up sales for FY 2020-21 as follows:

Table 3. 17: Commission Approved - Trued up Sales FY 2020-21 (MU)

Sr. No.	Consumer Category	As per Petitioner	As per Commission
1	Domestic	3963	3963.33
2	Non Domestic	1221	1221.16
3	Industrial	318	318.32
4	Agriculture & Mushroom Cultivation	0	0.27
5	Public Lighting	63	63.34
6	Delhi Jal Board (DJB)	152	152.03
7	DMRC	70	69.50
8	Temporary Supply	47	46.63
9	Advertisement and Hoardings	0	0.03
10	Charging Stations for E-Vehicle	13	13.05
11	Self-Consumption	9	8.59
12	Enforcement	9	9.00
13	Net Metering	0	0
14	1% adjustment	0	0
<b>Total</b>		<b>5866</b>	<b>5865.27</b>

**DISTRIBUTION LOSS AND COLLECTION EFFICIENCY FOR FY 2020-21****PETITIONER'S SUBMISSION**

3.116 The Petitioner vide its letter dated RA/BYPL/2021-22/228 Dated 12/11/2021, has submitted a representation on revision of Distribution Loss target for FY 2020-21 and subsequent year(s) of the business plan period due to the adverse impact of lockdown and COVID-19 pandemic. The Petitioner brought the following facts to the notice of the Commission:

Table 3. 18: Petitioner Submission - Effect of Lockdown and unlock phases on consumption of broad category

Sr. No.	Category	Consumption Growth in %		
		Lockdown Phase	Unlock Phase	Total
		Apr'20-Jun'20	Jul'20-Mar'21	
1	Domestic	-8.97%	-0.19%	-3.20%
2	Non-Domestic	-70.60%	-14.43%	-36.91%
3	Industrial	-61.39%	-1.53%	-23.76%
4	DMRC	-76.60%	-44.16%	-68.26%
5	Others	-22.73%	-9.80%	-17.37%
	<b>TOTAL</b>	<b>-30.16%</b>	<b>-5.04%</b>	<b>-15.28%</b>

- Change in Consumption Mix: The category wise consumption-mix is tabulated below Table:

**Table 3. 19: Petitioner Submission - Comparison of consumption mix in FY 2020-21 as compared to FY 2019-20**

Sr.No.	Category	Consumer Mix (%)		
		FY 2019-20	FY 20-21	Change
1	Domestic	61.0%	67.6%	6.6%
2	Non-Domestic	26.1%	20.8%	-5.3%
3	Industrial	5.6%	5.4%	-0.2%
4	Street Light	1.4%	1.1%	-0.3%
5	DJB	2.2%	2.6%	0.3%
6	DMRC	2.3%	1.2%	-1.1%
7	Others	1.4%	1.3%	-0.1%

3.117 Change in Proportion of consumption by Consumers drawing power at LT, 11 KV and 33/66 KV voltage Supply: A comparison of Distribution Loss approved by the Commission and change in consumption mix at different voltage level due to COVID-19, is tabulated as follows:

**Table 3. 20: Petitioner Submission - Distribution loss and consumption mix at different voltage level**

Particulars	Distribution Loss %	Sales in MU		Ratio		Absolute change %
		FY 20	FY 21	FY 20	FY 21	
Supply at 33/66KV	0.49%	250	152	3.8%	2.6%	-1.2%
Supply at 11 KV	1.83%	541	423	8.1%	7.2%	-0.9%
Supply at LT	9.97%	5,864	5,291	88.1%	90.2%	2.1%
<b>Total</b>	<b>9.00%</b>	<b>6,655</b>	<b>5,866</b>			

- The Petitioner has submitted that the proportionate consumption in FY 21 in consumption at 33/66 KV and 11 KV voltage level dropped significantly by 1.2% and 0.9% respectively. As mentioned above, Distribution Loss level increased by 0.17% at gross level. The calculation of the same is shown in Table below:

**Table 3. 21: Petitioner Submission - Impact of change in LT/HT/EHT mix on Distribution loss**

Particulars	Energy Input (Derived)		Sales in MU		Distribution Loss	
	FY 20	FY 21	FY 20	FY 21	FY 20 <sup>#</sup>	FY 21
Supply at 33/66KV	251	153	250	152	0.49%	0.49%
Supply at 11 KV	551	431	541	423	1.83%	1.83%
Supply at LT	6,514	5,876	5,864	5,291	9.97%	9.97%
<b>Total</b>	<b>7,315</b>	<b>6,460</b>	<b>6,655</b>	<b>5,866</b>	<b>9.03%</b>	<b>9.20%</b>

\* Energy input across different voltage level is derived as per the distribution loss approved by Commission at different voltage level in Tariff order dated 28/08/2020.

- Adverse impact on enforcement activities for detection, control and realization of theft: The impact of theft on Distribution Loss on realized basis and prospective basis is tabulated in Table below.

**Table 3. 22: Petitioner Submission : Impact of Theft on Distribution Loss**

Sr.No.	Particulars	FY 20	FY 21	Impact in MU	Impact on Distribution loss%
1	Theft on realization basis (MU)	15.73	9.30	-6.43	0.10%
2	Theft due to improvement in billing net (MU)	22.14	8.92	-13.22	0.20%
3	Total Impact of COVID-19 on Distribution loss due to reduced theft activities				0.30%

- Reduced capital works for loss reduction activities: During the period of lockdown, Petitioner was unable to carry out Capex works towards loss reduction activities. Hence, the Distribution Loss target is directly impacted and ought to be increased by 0.32%, as per the calculations contained in Table below:

**Table 3. 23: Petitioner Submission - Revision in loss Target for FY 2020-21 due to capital works on loss reduction activities**

Particulars	Q1	Q2	Q3	Q4	Total
Sales (MU)	1,261	1,975	1,373	1,256	5,866
Sales (%)	22%	34%	23%	21%	
Distribution loss	10.50%	9.00%	9.00%	9.00%	9.32%

3.118 The Petitioner submitted that solely due to force majeure factors, its operations have been materially and adversely affected. Further, no amount of due care and diligence on BRPL's part could have prevented the state of affairs which the pandemic presented. Therefore, the Petitioner prayed that this Commission exercises its statutory, regulatory and other enabling powers to revise the Distribution Loss targets for BYPL.

3.119 Further, the Petitioner requested the Commission to revise the Distribution Loss target for FY 2020-21 and its consequent impact in the balance control period as per the methodology

proposed in the Table as follows:

**Table 3. 24: Petitioner Submission - Proposed request to revise the Distribution loss Target for Control period**

Particulars	FY 21	FY 22	FY 23
As per Business Plan Regulation 2019	9.00%	8.75%	8.50%
% YOY Reduction		-2.78%	-2.86%
Less Adverse impact of change in voltage wise Mix	0.17%		
Less: Adverse Impact on Theft and other loss reduction activities.	0.30%		
Less: adverse Impact of reduced Capex in Q1	0.32%		
<b>Revised normative Distribution loss as proposed</b>	<b>9.80%</b>	<b>9.53%</b>	<b>9.25%</b>

3.120 The Commission vide its Order dated 8/07/2020 has already declared the COVID-19 pandemic force majeure event. The Petitioner, therefore, requested the Commission to kindly exercise its statutory, regulatory and other enabling powers and allow the impact of these force majeure conditions and revise the Distribution Loss target as per the proposal submitted hereinabove for FY 2020-21 and allow the consequent impact and revise the Distribution Loss target for the balance control period i.e., for FY 2021-22 and FY 2022-23.

3.121 Accordingly, the Petitioner has computed the actual distribution loss for FY 2020-21 is tabulated as below:

**Table 3. 25: Petitioner Submission : Distribution loss for FY 2020-21**

Sr. No.	Particulars	UoM	Amount
A	Energy Input	MU	6,374.42
B	Energy Billed	MU	5,865.57
C	Distribution loss	%	7.98%

3.122 Further, in terms of Regulation 25(4) of Business Plan Regulations 2019, the Hon'ble Commission has specified the allocation related to financial impact of overachievement on account of distribution loss target between the Petitioner and consumers.

3.123 Accordingly, in terms of Regulation 159 of Tariff Regulations, 2017 and Regulation 25(4) of Business Plan Regulations, 2019, the financial impact of overachievement of Distribution Loss target to be passed on to the Petitioner and consumers is tabulated as follows:

**Table 3. 26: Petitioner Submission: Financial Impact of overachievement in Distribution loss target for FY 2020-21**

Sr. No	Particulars	UoM	Figure
A	Energy Purchased at distribution Periphery	MU	6,374.42
B	Distribution Loss target for previous Year i.e. FY 2019-20	%	10.50%
C	Distribution Loss target for Current Year i.e. FY 2020-21	%	9.00%
D	Loss target - 50%*(previous year target - current year target)	%	8.25%
E	Actual Distribution loss for FY 2020-21	%	7.98%
F	Average Power Purchase cost for FY 2020-21	Rs./kWh	4.84
G	Total Financial Impact on account of overachievement of Distribution Loss Target	Rs. Cr.	31.39
H	Impact of Financial benefit to be retained by the Petitioner	Rs Cr.	13.21
I	Impact of Financial benefit to be passed on to the consumer	Rs Cr.	18.18

3.124 The Petitioner has submitted that the Commission has defined the collection efficiency in its Regulation 5(11) of the Tariff Regulations, 2017. The extract of Regulation 5(11) of Tariff Regulations 2017 is reproduced below:

*3A.1 "5 (11) Collection efficiency shall be measured as ratio of total revenue realized to the total revenue billed in same year.*

*3A.2 Provided that Revenue realised or revenue billed on account of electricity duty, late payment surcharge, any other surcharge shall be excluded from the computation of collection efficiency"*

3.125 **Regulation-26 (1)** of the Business Plan Regulations, 2019 specifies targets for Collection Efficiency from FY 2020-21 to FY 2022-23 at 99.50%. Extract of Regulation 26 of the Business Plan Regulations, 2019 is reproduced below:

**"26. TARGET FOR COLLECTION EFFICIENCY**

*(1) The targets for Collection Efficiency for FY2020-21 to FY2022-23 of the Distribution Licensees shall be 99.50%.*

*(2) The financial impact on account of Collection Efficiency target shall be computed as per the formula specified in Regulation 163 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee.*

(3) The financial impact on account of over-achievement in terms of Regulation 164 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee, from 99.50% to 100% shall be shared equally between Consumers and the Distribution Licensees.”

3.126 The Petitioner has billed gross amount of Rs. 4,914.98 Crore during FY 2020-21 which includes amount on account of Electricity Tax, 8% RA Surcharge, and Pension Surcharge. The Amount Billed considered for the purpose of computation of AT&C losses during FY 2020-21 is tabulated below:

**Table 3. 27: Petitioner Submission - Revenue Billed for AT&C Loss True-up for FY 2020-21 (Rs. Cr.)**

Sr.No.	Particulars	UOM	FY 20-21
A	Total Revenue Billed	Rs. Cr.	4,914.98
B	Less: Electricity Tax Billed	Rs. Cr.	175.86
C	Less: 8% RA surcharge Billed	Rs. Cr.	316.46
D	Less: Pension Surcharge	Rs. Cr.	175.14
E	<b>Revenue Billed for AT&amp;C True up</b>	Rs. Cr.	<b>4,247.51</b>

3.127 The Petitioner has collected the Gross revenue of Rs.4956.89 Crore during FY 2020-21 which includes collection on account of Electricity Tax, LPSC, 8% RA Surcharge and Pension Surcharge. The Revenue Collected considered for the purpose of computation of AT&C losses during FY 2020-21 is tabulated below:

**Table 3. 28: Petitioner Submission - Revenue Realised for AT&C Loss True-up for FY 2020-21 (Rs. Cr.)**

Sr.No.	Particulars	UOM	FY 20-21
A	Total Revenue Collected	Rs. Cr.	4,956.89
B	Less: LPSC	Rs. Cr.	21.84
C	Less: Electricity Tax	Rs. Cr.	175.45
D	Less: 8% RA Surcharge	Rs. Cr.	315.38
E	Less: Pension Surcharge	Rs. Cr.	172.58
F	<b>Net revenue Collected</b>	Rs. Cr.	<b>4,271.64</b>

3.128 Accordingly, in terms of Regulation 163 of Tariff Regulations, 2017 and Regulation 26(1) of Business Plan Regulations, 2019, the financial impact of overachievement of Collection efficiency target to be passed on to the Petitioner and Consumers is tabulated as follows:

**Table 3. 29: Petitioner Submission - Financial Impact of Overachievement of Collection efficiency Target for FY 2020-21**

S.No.	Particulars	UOM	FY 2020-21
A	Amount Billed	Rs. Cr.	4,247.51
B	Amount Collected	Rs. Cr.	4,271.64
C	Actual Collection Efficiency	%	100.57%
D	Collection Efficiency Target	%	99.50%
E	<b>Total Financial Impact (Incentive) on account of overachievement of Collection efficiency Target</b>	Rs. Cr.	<b>45.37</b>
F	<b>Incentive Petitioner Share</b>	Rs. Cr.	<b>34.75</b>
G	<b>Incentive Consumers Share</b>	Rs. Cr.	<b>10.62</b>

3.129 The Petitioner has submitted that in terms of Regulation 159 of Tariff Regulations, 2017, the financial impact of overachievement of Distribution Loss target is tabulated below:

**Table 3. 30: Petitioner Submission: Financial Impact of overachievement in Distribution loss target for FY 2020-21**

Sr. No	Particulars	UoM	Figure
A	Energy Purchased at distribution Periphery	MU	6,374.42
B	Distribution Loss target for previous Year i.e. FY 2019-20	%	10.50%
C	Distribution Loss target for Current Year i.e. FY 2020-21	%	9.00%
D	Loss target - 50%*(previous year target - current year target)	%	8.25%
E	Actual Distribution loss for FY 2020-21	%	7.98%
F	Average Power Purchase cost for FY 2020-21	Rs./kWh	4.84
G	Total Financial Impact on account of overachievement of Distribution Loss Target	Rs. Cr.	31.39
H	Impact of Financial benefit to be retained by the Petitioner	Rs Cr.	13.21
I	Impact of Financial benefit to be passed on to the consumer	Rs Cr.	18.18

3.130 The Petitioner has computed the financial impact of over-achievement of Distribution Loss target for FY 2020-21 considering the normative loss level of 9% as approved by the Commission. The Petitioner has requested the Commission to revise the normative loss target to 9.80% for FY 2020-21 instead of 9% loss target. The financial impact of

overachievement of Distribution Loss target to be passed on to the Petitioner and consumers considering the revised normative Distribution Loss of 9.80%.

## COMMISSION ANALYSIS

### ENERGY INPUT

3.131 The Petitioner submitted its Energy Input at DISCOMs periphery at 6,374.42 MU. The Commission vide its Letter No. F.3(656)/Tariff-Fin./DERC/2021-22/7212/2153 dated 30/03/2022 directed Delhi SLDC to submit Statement for Energy Input (*net of Open Access and Net Metering if any*), Station Wise Power Procurement, Short Term Transactions – Exchange, Bilateral, Banking etc., Additional UI Charges and Sustain Deviation Charges for the purpose of True up of FY 2020-21. Accordingly, the SLDC vide its email dated 22/04/2022 has submitted the joint signed statement. It was observed from this statement that Petitioner's consumption based on Special Energy Meter (SEM) data was 6,460.58 MU including Open Access schedule of 86.74 MU. Further, 0.25 MU from solar embedded generation as indicated in the joint signed statement has been considered for Energy Input of the Petitioner.

3.132 In case of net metering, the Commission observed that the net metering is embedded generation and that there shall be no Distribution Loss on account of such energy and has accordingly not considered any energy from net metering consumed by the Consumers directly in the Energy input of the Petitioner.

3.133 Accordingly, the Energy Input of the Petitioner is as follows:

**Table 3. 31: Commission Approved - Energy Input approved for FY 2020-21 (MU)**

Sr. No.	Particulars	Petitioner submission	Commission approved
A	SLDC- Total Input Based on SEM Data	6460.83	6,460.58
B	BYPL Rooftop Solar injection	0.00	0.25
C	Energy Input from Net Metering	0.00	0.00
D	Energy Input from Open Access	86.41	86.74
	<b>Actual Input (A+B+C-D)</b>	<b>6,374.42</b>	<b>6,374.09</b>

**DISTRIBUTION LOSS**

3.134 Regulation 25(1) of *DERC (Business Plan) Regulations, 2017* specifies the Distribution Loss Targets for FY 2020-21 as follows:

**Table 3. 32: Commission Approved - Distribution Loss targets for FY 2020-21**

DISTRIBUTION LICENSEE	FY 2020-21
BYPL	9.00%

3.135 Regulation 159 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states,

*“159. The Financial impact on account of over achievement or under achievement of distribution loss target shall be computed as under:*

$$\text{Incentive or penalty} = Q1*(L1-L2)*P*10^6$$

Where,

*Q1 = Actual Quantum of energy Purchased at Distribution periphery.*

*L1 = Distribution Loss Target in %*

*L2 = Actual Distribution Loss in %*

*P = Trued up Average Power Purchase Cost (APPC) per unit at distribution periphery in (Rs./kWh).”*

3.136 Regulation 25(2) of *DERC (Business Plan) Regulations 2019*, states *“The amount for Overachievement/Underachievement on account of Distribution Loss target shall be computed as per the formula specified in the Regulation 159 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee.”*

3.137 Accordingly, the financial impact of overachievement or under-achievement on account of distribution loss target has been determined in accordance with the Regulation 159 of *DERC (Terms and Condition for Determination of Tariff) Regulations, 2017* as follows:

**Table 3. 33: Commission Approved - Actual Distribution Loss for FY 2020-21**

Sr. No.	Particulars	UoM	Petitioner submission	As approved	Ref.
A	Energy Input	MU	6,374.42	6,374.09	Table No. 3.31
B	Energy Billed	MU	5865.57	5865.27	Table No. 3.17
C	Actual Distribution Loss Level	%	7.98%	7.98%	(A-B)/A

Sr. No.	Particulars	UoM	Petitioner submission	As approved	Ref.
D	Targeted Distribution Loss Level	%	9.00%	9.00%	As per BPR 2019
E	Average Power Purchase Cost	Rs./Unit	4.84	4.76	Table No. 3.58
F	Financial Impact of Overachievement or Underachievement	Rs.Cr	31.39	30.89	$A*(D-C)*E/10$

3.138 Regulation 25(4) of *DERC (Business Plan) Regulations 2019* states,

*“Any financial impact due to Overachievement on account of Distribution Loss target by the distribution licensee for the relevant year shall be shared between the Distribution Licensee and Consumers as follows:*

*i. in case actual Distribution Loss is between the loss target and loss target minus [50%\*(Previous Year Target-Current Year Target)] for the relevant year shall be shared in the ratio of 2/3rd to Consumers and 1/3rd to the Distribution Licensee;*

*ii. in case actual Distribution Loss is less than loss target minus [50%\*(Previous Year Target-Current Year Target)] for the relevant year shall be shared in the ratio of 1/3rd to Consumers and 2/3rd to the Distribution Licensee.”*

3.139 In accordance with the Regulation 25 (4) of *DERC (Business Plan) Regulations 2019*, the sharing of the financial impact of over achievement on account of Distribution Loss target has been computed as follows:

Table 3. 34: Commission Approved - Incentive/Dis-incentive for Distribution Loss for **FY 2020-21**

Sr. No.	Particulars	UoM	Petitioner submission	As approved	Ref.
A	Distribution Loss Target in previous Year	%	10.50%	10.50%	As per BPR 2019, 25(4)
B	Distribution Loss Target in Current Year	%	9.00%	9.00%	As per BPR 2019, 25(4)
C	Actual Distribution Loss	%	7.98%	7.99%	Table 3.33
D	50% of (previous year target - current year target)	%	0.75%	0.75%	$50%*(A-B)$
E	Distribution loss target - 50% of (previous year	%	8.25%	8.25%	B-D

Sr. No.	Particulars	UoM	Petitioner submission	As approved	Ref.
	target - current year target)				
F	Actual Energy Input at Distribution periphery	MU	6,374.42	6,374.09	
G	Average Power purchase Cost	Rs/KWh	4.84	4.76	
H	<b>Total Incentive</b>	<b>Rs. Cr</b>	<b>31.39</b>	<b>30.89</b>	<b>(B-C)*F*G/10</b>
I	Petitioner Share 1 of incentive (less than Loss Target-50%*(PYT-CYT)	Rs. Cr	7.71	7.59	$(B-E)*F*G/10*(1/3)$
J	Petitioner Share 2 of incentive (up to Loss Target-50%*(PYT-CYT)	Rs. Cr	5.50	5.41	$(E-C)*F*G/10*(2/3)$
K	<b>Total Incentive to Petitioner</b>	Rs. Cr	<b>13.21</b>	<b>13.00</b>	I+J
L	Incentive to Consumer	Rs. Cr	18.18	17.89	$(B-E)*F*G/10*(2/3)+(E-C)*F*G/10*(1/3)$

## REVENUE BILLED

3.140 The Regulatory Auditor has verified the Revenue Billed by the Petitioner. Further, during prudence check sessions, the Commission has also verified the Revenue billed by the Petitioner from the Audited Form 2.1 (a), SAP and Audited Books of Accounts (Note 63) for FY 2020-21 and accordingly, the same is approved as follows:

**Table 3. 35: Commission Approved - Revenue Billed trued up for FY 2020-21 (Rs. Cr.)**

Sr. No.	Consumer Category	Petitioner Submission	Commission Approved
1	Domestic	2226.25	2226.25
2	Non Domestic	1892.22	1892.22
3	Industrial	415.28	415.28
4	Agriculture & Mushroom Cultivation	0.12	0.12
5	Public Lighting	69.51	69.51
6	Delhi Jal Board(DJB)	153.39	153.39
7	DMRC	69.82	69.82
8	Temporary Supply	65.28	65.28
9	Advertisement and Hoardings	0.04	0.02
10	Charging Stations for E-Vehicle	7.50	8.06
11	Self-Consumption	-0.22	-0.22
12	Enforcement	15.79	15.79
13	Net Metering	0.00	0.00
14	1% adjustment	0.00	0.00

Sr. No.	Consumer Category	Petitioner Submission	Commission Approved
<b>Gross Amount Billed (Inclusive of Electricity Duty, RA Surcharge and Pension Trust Surcharge)</b>		<b>4914.98</b>	<b>4914.96</b>
Less:			
15	Electricity Duty	175.86	175.86
16	RA Surcharge	316.46	316.46
17	Pension Trust Surcharge	175.14	175.14
18	<b>Net Amount Billed</b>	<b>4247.52</b>	<b>4247.49</b>

## REVENUE COLLECTED

3.141 During the prudence check sessions, the Commission verified the Revenue Collected by the Petitioner from the Audited Form 2.1 (a), SAP and Audited Books of Accounts for FY 2020-21 and the Revenue Collected as approved by the Commission, is as under:

**Table 3. 36: Commission Approved - Revenue Collected for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref
A	Actual Revenue realized including Electricity duty/tax, LPSC, Regulatory Surcharge, Pension trust surcharge	4,956.89	4,956.89	Note 64 of Annual Audited Accounts for FY 2020-21
B	Less: LPSC	21.84	21.85	
C	Less: Electricity Tax	175.45	175.45	
D	Less: 8% RA Surcharge	315.38	315.37	
E	Less: Pension Trust Surcharge	172.58	172.58	
F	<b>Net Revenue Realised</b>	<b>4,271.64</b>	<b>4,271.64</b>	<b>A-B-C-D-E-F</b>

## COLLECTION EFFICIENCY

3.142 Regulation 163 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states:

*“163. The financial impact on account of over or under achievement of collection efficiency targets shall be computed as under:-*

$$\text{Incentive or penalty} = (C1 - C2) * Ab$$

Where,

$$C1 = \text{Actual Collection Efficiency in \%} = [Ar/Ab]*100$$

*Ar = Actual amount collected excluding electricity duty, late payment surcharge, any other surcharge in Rs. Cr.;*

*Ab = Actual Amount Billed excluding Electricity Duty, LPSC and any other surcharges in Rs Cr.*

*C2 = Target Collection Efficiency in %*

3.143 Regulation 164 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states:

*“Any financial impact on account of underachievement less than the target and overachievement above 100% with respect to Collection Efficiency targets shall be to the Licensee’s account:*

*Provided that any financial impact on account of over achievement over and above the target and limited to 100% with respect to Collection Efficiency targets shall be shared as per the mechanism indicated in the Business Plan Regulations of the Control Period.”*

3.144 Regulation 26 of *DERC (Business Plan) Regulations 2019* states:

**“26. TARGET FOR COLLECTION EFFICIENCY**

*(1) The targets for Collection Efficiency for FY2020-21 to FY2022-23 of the Distribution Licensees shall be 99.50%.*

*(2) The financial impact on account of Collection Efficiency target shall be computed as per the formula specified in Regulation 163 of the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* for the Distribution Licensee.*

*(3) The financial impact on account of over-achievement in terms of Regulation 164 of the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* for the Distribution Licensee, from 99.50% to 100% shall be shared equally between Consumers and the Distribution Licensees.”*

3.145 The Commission in its Tariff Order dated 30/09/2021 decided that no incentive or penalty on account of collection efficiency due to COVID-19 causing lockdown from 24/03/2020 to 31/03/2020 and also allowed Actual O&M expenses and Actual Power Purchase Rebate for

FY 2019-20 due to Covid-19 lockdown as under:

*“3.99 The Commission considering the impact of lockdown for the period from 24<sup>th</sup> March, 2020 to 31<sup>st</sup> March, 2020, which has impacted consumers in an un-precedent manner, is of the view that in order to maintain balance between the stakeholders due to the impact of COVID-19, it is judicious to exercise the Power of Relaxation under Regulation 172 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 and Regulation 37 of DERC (Business Plan) Regulations, 2017 and not to True-up Collection Efficiency. Accordingly, no incentive or penalty on account of over/under achievement on account of collection efficiency has been considered and allowed Actual O&M expenses and Actual Power Purchase Rebate for FY 2019-20.*

3.146 As stipulated in above para of the Tariff Order, the Collection Efficiency for the period FY 2019-20 was not trued-up by the Commission due to spill over of collection pertaining to the period 24/03/2020 to 31/03/2020 to next financial year. However, it is observed from the Collection Efficiency claimed for FY 2020-21 i.e. 100.57% by the Petitioner that the spill over collection due to Covid-19 from 24/03/2020 to 31/03/2020 was received in FY 2020-21. Accordingly, after due diligence and in the interest of consumers, the Commission has decided to True-up the Collection Efficiency of FY 2019-20 & FY 2020-21 together as the deferred collection of FY 2019-20 was received during FY 2020-21.

3.147 Accordingly, the Collection Efficiency combined for FY 2019-20 & FY 2020-21 is as follows:

**Table 3. 37: Commission Approved: Incentive/Dis-incentive for Collection Efficiency for FY 2020-21**

Sr. No	Particulars	UoM	Target	As per Petitioner	FY 2019-20	FY 2020-21	Combined
1	Amount billed	Rs. Cr	4,247.52	4,247.51	4,890.20	4247.49	9,137.69
2	Collection Efficiency	%	99.50%	100.57%	98.52%	100.57%	99.47%
3	Amount collected	Rs. Cr	4,226.28	4,271.64	4,817.81	4,271.64	9,089.45
4	Extra Deemed increase in collection Allowed vide TO dated 30/09/2021	Rs. Cr			47.94	(47.94)	-
5	Revised Collection after reducing impact given vide					4,223.70	4,223.70

Sr. No	Particulars	UoM	Target	As per Petitioner	FY 2019-20	FY 2020-21	Combined
	Tariff Order dated 30/09/2021						
6	Collection Efficiency	%		100.57%	-	99.44%	99.44%
7	Over/ Under-achievement	Rs. Cr		45.37	-	(2.55 )	(2.55)
8	Amount to be retained by petitioner and consumer shared 50:50 for achievement of collection efficiency Target from 99.50% to 100%	Rs. Cr		34.75	-	(2.55)	(2.55)
9	Entire 100% to be retained for achievement over 100%	Rs. Cr		0.00	-		
10	<b>Total Incentive/ (Disincentive) towards DISCOM</b>	<b>Rs. Cr</b>		<b>34.75</b>	<b>-</b>	<b>(2.55)</b>	<b>(2.55)</b>

#### CASH COLLECTION EXCEEDING Rs. 4,000/-

3.148 As per the directive of the Commission “No payment shall be accepted by the Distribution Licensees from its consumers at its own collection centres/mobile vans in cash towards electricity bill exceeding Rs. 4000/- except from blind consumers, for court settlement cases & payment deposited by the consumers at designated schedule commercial bank branches upto Rs. 50,000/-. Violation of this provisions shall attract penalty to the level of 10% of total cash collection exceeding the limit.”

3.149 The Commission has analysed the data submitted for cash collection during FY 2020-21 and it is observed that the cash collections above Rs. 4,000/- the Petitioner are on account of court settlement cases which is permitted as per the directive.

#### POWER PURCHASE QUANTUM (MU)

##### PETITIONER’S SUBMISSION

3.150 The Petitioner has submitted that almost 80% of the power is purchased from generating companies owned and/ or fully controlled by the Central Government and State

Government by virtue of long term power purchase agreements which have been inherited from DTL (initially signed by M/s DTL) and assigned by the Commission as per its Orders dated 31/03/2007.

3.151 The Petitioner vide its Letter No. RA/BYPL/2021-22/108 dated July, 2021 has submitted the Power Purchase Cost Statement for the period April 2020 to March 2021 duly certified by the Statutory Auditor.

3.152 The summary of actual power purchase quantum procured by the Petitioner during FY 2020-21 is as follows:

**Table 3. 38: Petitioner Submission - Power Purchase Quantum for FY 2020-21 (MU)**

Sr. No	Particulars	Submission
A	Power Purchase:	
i	Gross Power Purchase Quantum	8066
ii	Power sold to other sources	1412
iii	<b>Net Power Purchase</b>	<b>6654</b>
B	Transmission Loss:	
i	Inter-State Transmission Loss	279
ii	Intra-State Transmission Loss	
iii	<b>Total transmission loss</b>	<b>279</b>
C	<b>Net power available after Transmission Loss*</b>	<b>6374</b>

\*Net of 'net metering'

## SHORT TERM POWER PURCHASE QUANTUM

### PETITIONER'S SUBMISSION

3.153 During FY 2020-21, the Petitioner has procured total of 687 MU through Bilateral/Banking/Intrastate/UI under short term purchase. The summary of source-wise details of short term power purchase is tabulated below:

**Table 3. 39: Petitioner Submission - Details of Short Term Power Purchase**

Sr. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20		FY 2020-21	
		Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)
A	Bilateral	27	3%	1	0%	0	0%	62	9%
B	Banking	805	83%	1019	96%	83	30%	426	62%
C	Exchange	69	7%	8	1%	192	68%	192	28%
D	Intra-State	10	1%	5	0%	0	0%	0	0%
E	UI	59	6%	31	3%	7	2%	7	1%
F	<b>Total</b>	<b>970</b>		<b>1064</b>		<b>282</b>		<b>687</b>	

**SHORT TERM POWER SALES QUANTUM****PETITIONER SUBMISSION**

3.154 During FY 2020-21, the Petitioner has sold short term sale through Bilateral/Banking/Intrastate/UI mode. The Petitioner has tabulated the source-wise details of sale of surplus power as below:

**Table 3. 40: Petitioner Submission - Details of Short Term Power Sales**

Sr. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20		FY 2020-21	
		Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)
A	Bilateral	18	2%	77	3%	0	0%	267	19%
B	Banking	867	74%	1157	46%	466	32%	466	33%
C	Exchange	275	24%	1245	50%	0	0%	614	43%
D	Intra-State	1	0%	3	0%	66	4%	0	0%
E	UI	6	1%	7	0%	947	64%	66	5%
<b>F</b>	<b>Total</b>	<b>1168</b>		<b>2489</b>		<b>1478</b>		<b>1412</b>	

**LONG TERM POWER PURCHASE QUANTUM****PETITIONER SUBMISSION**

3.155 The Petitioner has submitted Plant-wise Power Purchase Quantum for FY 2020-21 as follows:

**Table 3. 41: Petitioner Submission - Details of Power Purchase Quantum Station wise for FY 2020-21 (MU)**

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
<b>Central Sector Generating Stations (CSGS)</b>				
<b>A</b>	<b>NTPC</b>			
1	ANTA GAS POWER PROJECT			3
2	AURAIYA GAS POWER STATION			9
3	BADARPUR THERMAL POWER STATION			0
4	DADRI GAS POWER STATION			26
5	FEROZE GANDHI UNCHAHAR TPS 1			26
6	FEROZE GANDHI UNCHAHAR TPS 2			51
7	FEROZE GANDHI UNCHAHAR TPS 3			34
8	FARAKKA STPS			28
9	KAHALGAON THERMAL POWER STATION 1			65
10	NATIONAL CAPITAL THERMAL POWER			1
11	RIHAND THERMAL POWER STATION 1			0
12	RIHAND THERMAL POWER STATION 2			241
13	SINGRAULI STPS			482
14	KAHALGAON THERMAL POWER STATION 2			191

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
15	TALCHER			
16	DADRI TPS-II			507
17	RIHAND THERMAL POWER STATION 3			387
18	KOLDAM HPS-I			
	Sub Total			2051
<b>B</b>	NHPC Ltd.			
1	BAIRASIUL P S			12
2	SALAL P S			101
3	CHAMERA I P S			45
4	TANAKPUR P S			11
5	URI P S			81
6	DHAULIGANGA PS			38
7	CHAMERA - II PS			22
8	DULHASTI PS			72
9	SEWA-II			12
10	CHAMERA - III PS			32
11	URI II			53
12	PARBATI-III			20
	Sub Total			498
<b>C</b>				0
1	Nuclear Power Corp. of India Ltd.			0
2	Nuclear Power Corp. of India Ltd. Narora			0
3	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP			99
	Sub Total			99
<b>D</b>				
	Satluj Jal Vidyut Nigam Ltd.			0
	Satluj Jal Vidyut Nigam Ltd.			168
	Sub Total			168
<b>E</b>	Tehri Hydro Development Corp. Ltd.			0
	Tehri			0
	KOTESHWAR			0
	Sub Total			0
<b>F</b>	Tala Power thru PTC			25
<b>G</b>	Damodar Valley Corporation			0
1	Mejia Units 6			128
2	CTPS 7 & 8			450
3	MTPS Unit 7			686
	Sub Total			1263
<b>H</b>	Power stations in Delhi			
	Indraprastha Power Generation Co.Ltd. IP			
1	Indraprastha Power Generation Co.Ltd. RPH			0

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
2	Indraprastha Power Generation Co.Ltd. GT			36
3	Pragati Power Corp.Ltd. Pragati I			233
4	Pragati Power Corp.Ltd. Pragati III (Bawana)			310
	Total SGS			578
1	Delhi MSW Soluction Limited			32
2	East Delhi Waste Processing Company			1
I	Total Other			33
	Power stations in Delhi			611
J	Aravali Power Corporation Ltd .			0
	JHAJJAR			13
	Sub Total			13
K	Sasan			2479
L	SECI			
1	SECI - Kilaj S(M)PL			77
2	SECI - Alfana EPL			53
3	SECI - EDEN MSPL			41
	Sub Total			172
	<b>Total (A)</b>			<b>7379</b>

3.156 The Petitioner requested the Commission to consider the actual gross power purchase quantum during FY 2020-21 as submitted in the above table.

#### COMMISSION ANALYSIS ON POWER PURCHASE QUANTUM

3.157 The Commission in its Tariff Order dated 28/08/2020 has approved Gross Power Purchase Quantum of 6,775 MU from all sources including Central & State Sector Generating Stations and Short Term Sources for FY 2020-21.

3.158 The Commission vide its Letter dated 30/03/2022 directed Delhi SLDC to verify the figures of Long Term Power Purchase and Short Term Power purchase/sale for Delhi DISCOMs and submit a reconciliation to the Commission. The jointly signed statement by SLDC and the Petitioner for source wise Long Term Power Purchase and Short Term Power purchase/sale was submitted.

3.159 The Commission observed that there exists deviation in the Power Purchase Quantum submitted by the Petitioner and that submitted by SLDC to the Commission for few plants due to peripheral mismatches. The Petitioner has considered the power at Northern periphery whereas SLDC has considered the same at DTL periphery. During Prudence check, the DISCOMs submitted that the Power Purchase quantum is considered based on the units actually billed to them by the Generators. Due to the differential reporting of the energy by SLDC and the DISCOMs, the Commission considered the units actually billed by the Generators to the DISCOMs for the purpose of arriving at Power Purchase quantum. The summary of the same on account of Long-Term Sources is as follows:

**Table 3. 42: Summary of vairance**

Sr. No	Particulars	MU
1	SLDC	6692.40
2	BYPL	6697.95
3	Difference	5.55
4	Difference in %	0.05%

Note: Minor Difference are on account of revision of REA by Delhi SLDC/NRPC/WRPC/SRPC

3.160 Further, the Commission has considered Net Energy Credits as per Regulation 9 of *Delhi Electricity Regulatory Commission (Net Metering for Renewable Energy) Regulations, 2014*.

3.161 Based on the audited Power purchase certificate and submission of SLDC, the Power Purchase Quantum of the petitioner is trued up for FY 2020-21 as follows:

**Table 3. 43: Commission Approved - Power Purchase Quantum (MU) for FY 2020-21**

Sr. No.	Particulars	As per Petitioner	As per Commission
	<b>Power Purchase Quantum</b>		
I	Long Term Power Purchase	8066.00	7379.00
II	Short Term Power Purchase		261.13
III	Banking Import		425.67
<b>A</b>	<b>Gross Power Purchase Quantum</b>	<b>8066.00</b>	<b>8065.85</b>
I	Banking Export	1412.00	465.75
II	Short Term Sale		946.50
<b>B</b>	<b>Net Power Purchase Quantum</b>	<b>6654.00</b>	<b>6653.60</b>
<b>C</b>	<b>Transmission Loss</b>	<b>279.00</b>	<b>279.00</b>

Sr. No.	Particulars	As per Petitioner	As per Commission
D	Total Power MU	6374.00	6374.60

**POWER PURCHASE COST****PETITIONER SUBMISSION****LONG TERM POWER PURCHASE**

3.162 The Petitioner has submitted that the power purchase cost is primarily based on the Tariff determined by the Appropriate Commission under Section 62(1)(a) or adopted under Section 63 of the 2003 Act for the supply of electricity from generating companies to distribution licensees. Accordingly, the Petitioner has considered the total cost on account of long term sources during FY 2020-21 which includes fixed cost, variable cost, arrears, other charges etc. as scheduling of power is controlled by SLDC.

**Merit Order Dispatch (MOD) under the control of Delhi SLDC, Sale of surplus power and incentive thereon**

3.163 As per Section 32 of the Electricity Act 2003, the scheduling is being done by Delhi SLDC and DISCOMs have no control over backing-down of the costly power plants.

3.164 Following points may be noted with respect to actual power purchase cost.

- a) SLDC has clearly intimated that scheduling of Central Generating Stations and other inter-state Generating Stations is controlled by RLDC and hence DISCOM wise scheduling is not possible.
- b) The availability of Plants is beyond the control of DISCOMs and the actual availability of Plants differs from the projections. The monthly MOD submitted by the DISCOMs is based on past Month ECR which may not be valid on real time basis.
- c) Further, CERC (IEGC) 4<sup>th</sup> amendment 2016 Regulation provides as under:

*“The CGS or ISGS may be directed by concerned RLDC to operate its unit(s) at or above the technical minimum but below the normative plant availability factor on account of grid security or due to the fewer schedules given by the beneficiaries and it is further stated that where the CGS or ISGS, whose tariff is either determined or adopted by the Commission, is directed by the concerned RLDC to operate below normative plant availability factor but at or above technical minimum, the CGS or*

ISGS may be **compensated** depending on the average unit loading duly taking into account the forced outages, planned outages, PLF, generation at generator terminal, energy sent out ex-bus, number of start-stop, secondary fuel oil consumption and auxiliary energy consumption, in due consideration of actual and normative operating parameters of station heat rate, auxiliary energy consumption and secondary fuel oil consumption etc. on monthly basis duly supported by relevant data verified by RLDC or SLDC, as the case may be...

In case of coal / lignite based generating stations, following station heat rate degradation or actual heat rate, whichever is lower, shall be considered for the purpose of compensation:

Sr. No.	Unit loading as a % of Installed Capacity of the Unit	Increase in SHR (for supercritical units) (%)	Increase in SHR (for sub-critical units) (%)
1.	85-100	Nil	Nil
2.	75-84.99	1.25	2.25
3.	65-74.99	2	4
4.	55.64.99	3	6

*Compensation for the Station Heat Rate and Auxiliary Energy Consumption shall be worked out in terms of energy charges."*

As can be inferred from above, there are multiple buyers from each generator and this part load operation will impact the MOD schedule of the buyers.

- d) Further to the above, it is submitted that operation of Plant is not under the control of DISCOMs, and Delhi DISCOMs allocation is around 10%-20% in a significant number of Plants. Since allocation of these Plants are on shared basis and operation of the same is on the basis of aggregation of demand and keeping into account the Grid Security, therefore, the decision of actual operation/availability of plant is not under control of the DISCOMs.
- e) There are various instances where forced scheduling is done to maintain Grid security and the Petitioner vide letters dated 09.04.2020, 05.05.2020, 08.06.2020, 06.07.2020,04.08.2020, 05.10.2020, 02.11.2020, 04.01.2021, 04.03.2021 submitted the details with reasons to Commission/SLDC for the same (on monthly basis).

3.165 Besides above uncontrollable situation, the Petitioner strictly follows of Merit Order Dispatch (MOD) while giving request of schedules to Delhi SLDC on daily basis.

3.166 As per Para 3.152 of Tariff Order of FY 2020-21, the Commission has excluded various power stations from Merit Order Dispatch principle which have must run status like Nuclear & Hydro, State GENCOs which are considered in the islanding scheme of Delhi (Even though, no such “islanding scheme” has ever either seen the light of day or been approved by this Commission and Eastern Region Plants where there is time delay in revision of schedule.

3.167 Further, the Petitioner also requested the Commission to consider forced outage/Force Majeure data while considering scheduling and other factors which are beyond the control of Petitioner. In this regard, the Petitioner requested the Commission to consider the following:

#### **FORCE SCHEDULING WHILE FOLLOWING MERIT ORDER DESPATCH PRINCIPLE**

3.168 Regulations 123 & 152 of the Tariff Regulations, 2017 provide as under:

*“123.To promote economical procurement of power as well as maximizing revenue from Sale of Surplus Power the distribution licensee shall ensure the cost benefit for rate of sale of surplus power in the relevant slots through Banking, Bilateral and Power Exchange transactions **other than the forced scheduling, as certified by the SLDC**, in comparison with the next higher variable cost of the generating stations from which power is surplus after meeting the demand of power in its area of supply;*

*152. True up of ARR for Distribution (Wheeling & Retail Supply) Licensee shall be conducted on the following principles:*

*.....Provided that the distribution licensee shall **submit report from State Load Despatch Centre (SLDC) for instances of forced scheduling** due to the reasons not attributable to the Distribution licensee for scrutiny of dispatch of power in Delhi on merit order basis in its area of supply;*

*Provided that Sale through Deviation Settlement Mechanism (Unscheduled Interchange) transactions other than **forced scheduling of power as certified by SLDC on monthly basis***

shall be limited to the contingency limit as specified by the Commission in the Business Plan Regulations in order to promote Grid Discipline and optimise Power Purchase Cost;

*Provided that any Additional/Penal Deviation Settlement Mechanism (Unscheduled Interchange) Charges other than forced scheduling of power as certified by SLDC paid by the Distribution Licensee shall not be allowed in Power Purchase Cost;*

..... “

3.169 Accordingly, the Petitioner has requested Delhi SLDC for certifying the Force Scheduling during FY 2020-21 vide letter dated 11/11/2021 and hence there should be no disallowance on account of Merit Order Despatch.

3.170 In view of the above, the details of station-wise power purchase cost during FY 2020-21 is as follows:

**Table 3. 44: Petitioner Submission - Details of Power Purchase Cost Station wise for FY 2020-21**

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
1	2	3	4	5	6	7	8	9
<b>Central Sector Generating Stations (CSGS)</b>								
<b>A</b>	<b>NTPC</b>							
1	ANTA GAS POWER PROJECT	3	6	1	0	0	7	26.62
2	AURAIYA GAS POWER STATION	9	8	2	2	0	13	14.15
3	BADARPUR THERMAL POWER STATION	0	0	0	0	17	21	0.00
4	DADRI GAS POWER STATION	26	10	7	1	-1	17	6.43
5	FEROZE GANDHI UNCHAHAH TPS 1	26	4	8	0	0	13	4.98
6	FEROZE GANDHI UNCHAHAH TPS 2	51	8	16	1	1	25	4.91
7	FEROZE GANDHI UNCHAHAH TPS 3	34	7	10	1	0	18	5.35
8	FARAKKA STPS	28	3	8	0	0	12	4.08
9	KAHALGAON THERMAL POWER STATION 1	65	9	15	0	0	23	3.60

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
10	NATIONAL CAPITAL THERMAL POWER	1	40	0	1	11	52	
11	RIHAND THERMAL POWER STATION 1	0	0	0	0	0	0	0.00
12	RIHAND THERMAL POWER STATION 2	241	16	35	0	0	51	2.09
13	SINGRAULI STPS	482	33	68	0	0	101	2.09
14	KAHALGAON THERMAL POWER STATION 2	191	25	41	0	0	66	3.47
15	TALCHER	0	0	0	0	0	0	0.00
16	DADRI TPS-II	507	175	165	10	29	379	7.47
17	RIHAND THERMAL POWER STATION 3	387	54	55	0	0	109	2.83
18	KOLDAM HPS-I	0	0	0	0	0	0	0.00
	Sub Total	2051	396	431	15	58	905	4.41
B								
	NHPC Ltd.							
1	BAIRASIUL P S	12	1	1	1	0	3	2.45
2	SALAL P S	101	8	6	11	7	32	3.16
3	CHAMERA I P S	45	4	5	0	0	10	2.13
4	TANAKPUR P S	11	3	2	0	0	4	4.17
5	URI P S	81	7	7	3	4	21	2.60
6	DHAULIGANGA PS	38	6	5	0	2	12	3.16
7	CHAMERA - II PS	22	3	2	0	0	6	2.63
8	DULHASTI PS	72	19	18	4	5	46	6.39
9	SEWA-II	12	3	3	0	7	16	12.69
10	CHAMERA - III PS	32	8	6	0	0	15	4.72
11	URI II	53	12	10	4	-2	22	4.19
12	PARBATI-III	20	10	3	0	0	13	6.49
	<b>Sub Total</b>	<b>498</b>	<b>83</b>	<b>68</b>	<b>23</b>	<b>24</b>	<b>199</b>	<b>4.00</b>
C								
1	Nuclear Power Corp. of India Ltd.	0	0	0	0	0	0	0.00
2	Nuclear Power Corp. of India Ltd. Narora	0	0	0	0	-9	-9	0.00
	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	99	0	37	1	-16	22	2.21

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
	<b>Sub Total</b>	<b>99</b>	<b>0</b>	<b>37</b>	<b>1</b>	<b>-25</b>	<b>13</b>	<b>1.30</b>
D								
	Satluj Jal Vidyut Nigam Ltd.	0	0	0	0	0	0	0.00
	Satluj Jal Vidyut Nigam Ltd.	168	21	19	0	0	40	2.38
	<b>Sub Total</b>	<b>168</b>	<b>21</b>	<b>19</b>	<b>0</b>	<b>0</b>	<b>40</b>	<b>2.38</b>
E	Tehri Hydro Development Corp. Ltd.							
	Tehri	0	0	0	0	0	0	0.00
	KOTESHWAR	0	0	0	0	0	0	0.00
	<b>Sub Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.00</b>
F	Tala Power thru PTC	25	0	5	0	0	5	2.16
G	Damodar Valley Corporation							
1	Mejia Units 6	128	24	37	0	0	62	4.83
2	CTPS 7 & 8	450	81	116	0	0	197	4.37
3	MTPS Unit 7	686	113	188	0	0	302	4.40
	<b>Sub Total</b>	<b>1263</b>	<b>218</b>	<b>341</b>	<b>0</b>	<b>0</b>	<b>560</b>	<b>4.43</b>
H	Power stations in Delhi							
	Indraprastha Power Generation Co.Ltd. IP	0	0	0	0	-1	-1	0.00
1	Indraprastha Power Generation Co.Ltd. RPH	0	0	0	0	0	0	0.00
2	Indraprastha Power Generation Co.Ltd. GT	36	10	12	0	-9	18	4.96
3	Pragati Power Corp.Ltd. Pragati I	233	21	99	0	3	124	5.31
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	310	144	79	1	0	224	7.22
	<b>Total SGS</b>	<b>578</b>	<b>175</b>	<b>189</b>	<b>1</b>	<b>-7</b>	<b>364</b>	<b>6.30</b>
1	Delhi MSW Solution Limited	32	0	23	0	0	23	7.03

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
2	East Delhi Waste Processing Company	1	0	0	0	0	0	3.32
I	Total Other	33	0	23	0	0	23	6.92
	<b>Power stations in Delhi</b>	<b>611</b>	<b>175</b>	<b>212</b>	<b>1</b>	<b>-7</b>	<b>387</b>	<b>6.33</b>
J	Aravali Power Corporation Ltd .							
	JHAJJAR	13	76	4	3	0	83	
	<b>Sub Total</b>	<b>13</b>	<b>76</b>	<b>4</b>	<b>3</b>	<b>0</b>	<b>83</b>	
K	<b>Sasan</b>	<b>2479</b>	<b>36</b>	<b>285</b>	<b>33</b>	<b>3</b>	<b>357</b>	<b>1.44</b>
L	SECI	0	0	0	0	0	0	0.00
1	SECI - Kilaj S(M)PL	77	0	20	0	0	20	2.61
2	SECI - Alfanar EPL	53	0	10	0	0	10	1.91
3	SECI - EDEN MSPL	41	0	23	0	0	23	5.50
	Sub Total	172	0	53	0	0	53	3.09
	<b>Total (A)</b>	<b>7379</b>	<b>1005</b>	<b>1456</b>	<b>77</b>	<b>53</b>	<b>2603</b>	<b>3.53</b>

3.171 In accordance with the above, the Petitioner requested the Commission that the aforesaid power purchase cost incurred from long term sources during FY 2020-21 may kindly be allowed.

### COMMISSION ANALYSIS

3.172 The Commission, in its Tariff Order dated 28/08/2020 had projected the Long-term Power Purchase cost at Rs. 2,894 Cr.

3.173 The Consultant in their Regulatory Audit Report has submitted that they had verified all the invoices raised by Generating Stations consisting of Capacity Charges (Fixed Charges), Energy Charges (Variable Charges) and other charges for FY 2020-21 vis-à-vis Petitioner's claim submitted in the Petition and Audited Power Purchase Certificate.

3.174 Further, the Commission during the prudence check sessions has verified all the invoices

raised by Generating Stations consisting of Capacity Charges (Fixed Charges), Energy Charges (Variable Charges) and other charges for FY 2020-21 as submitted in the Petition and Audited Power Purchase Certificate.

3.175 Accordingly, the Long-Term Power Purchase Cost as considered by the Commission for True-up is as follows:

**Table 3. 45: Commission Approved - Long Term Power Purchase Cost for FY 2020-21**

Sr. No.	Particulars	Quantum (MU)	Amount (Rs. Cr.)
<b>1</b>	<b>Long Term Sources (Other Than Renewables)</b>	<b>7379.05</b>	<b>2599.57</b>
<b>1a</b>	NTPC	<b>2050.94</b>	<b>905.03</b>
<b>1b</b>	NHPC	<b>497.93</b>	<b>199.24</b>
<b>1c</b>	Others	<b>4830.17</b>	<b>1499.21</b>
<b>1d</b>	Reactive Energy Charges (DTL)		<b>(3.91)</b>

## SHORT TERM POWER PURCHASE

### PETITIONER SUBMISSION

3.176 The Petitioner has considered the power purchase cost through short term sources during FY 2020-21 which includes the cost on account of purchase through bilateral, banking, Exchange, intra-state and UI.

3.177 The source-wise details of short term power purchase cost during FY 2020-21 as follows:

**Table 3. 46: Petitioner Submission - Details of Short Term Power Purchase for the year FY 2020-21**

Sr. No	Particulars	FY 2018-19		FY 2019-20		FY 2020-21	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	( Cr.)
A	Bilateral	3.58	0.4	4.07	2	4.65	29
B	Banking	4.24	432	4.71	355	4.63	197
C	Exchange	4.32	3	4.06	32	3.51	67
D	Intra-State	2.57	1	1.39	0.01	-	0
E	UI	5.12	16	4.90	9	4.90	3
<b>F</b>	<b>Total</b>	<b>4.26</b>	<b>453</b>	<b>4.65</b>	<b>398</b>		<b>297</b>

## SALE OF SURPLUS POWER

### PETITIONER SUBMISSION

3.178 The Petitioner has submitted that it has realized the revenue of Rs.443 Crore from sale of

surplus power during FY 2020-21.

3.179 The source-wise details of revenue realized through sale of surplus energy during FY 2020-21 are tabulated as follows:

**Table 3. 47: Petitioner Submission –Revenue from Short Term Power Sales FY 2020-21**

Sr. No	Particulars	FY 2018-19		FY 2019-20		FY 2020-21	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
A	Bilateral	4.92	38	3.20	34	2.97	79
B	Banking	3.78	438	4.35	355	4.53	211
C	Exchange	3.73	464	2.40	132	2.27	139
D	Intra-State	2.50	0.7	1.53	0.04	-	0
E	UI	5.44	-4	0.39	1	2.06	14

3.180 The Petitioner requested the Commission to consider the revenue on account of sale of surplus power while approving the net power purchase.

3.181 In addition to Regulations, the Petitioner has referred to the Commission letter dated 16/11/2018 issuing a clarification regarding the computation of incentive. While the Petitioner submits not to be in agreement to the said methodology, without prejudice to its rights, the Petitioner has claimed its entitlements on similar methodology as stated in the clarifactory letter. Accordingly, the petitioner has claimed an incentive as follows:

**Table 3. 48: Petitioner Submission - Details of Total Sale Rate Incentives (Rs.Cr.)**

Sr. No	Particulars	Amount
1	Total Incentive earned	37.82
2	DISCOM Share (1/3rd as per BPR 2019)	12.61

*\*Excludes banking incentive;*

3.182 The Petitioner requested the Commission to allow aforesaid incentive of Rs.12.61 Cr. for FY 2020-21.

## COMMISSION ANALYSIS

3.183 The Commission in its Tariff Order dated 28/08/2020 has directed the Petitioner as follows:

*“6.10m. To strictly adhere to the guidelines on short-term power purchase/sale of power issued by the Commission from time to time and to take necessary steps to restrict the cost of power procured through short term contracts, except trading*

*through Power Exchange & IDT, at Rs.5/kWh. In case the cost of power proposed to be procured exceeds the above ceiling limit, this may be brought to the notice of the Commission within 24 hours detailing the reasons or exceptional circumstances under which this has been done. In the absence of proper justification towards short term power purchase at a rate higher than the above ceiling rate (of Rs.5/kWh), the Commission reserves the right to restrict allowance of impact of such purchase on total short term power purchase not exceeding 10 Paisa/kWh during the financial year.”*

3.184 The Commission has examined the Short-Term Power Purchase transactions and found that the Petitioner has not violated the above mentioned directive.

#### **CONTINGENCY LIMIT OF 5% ON UI SALE**

##### **PETITIONER SUBMISSION**

3.185 The Petitioner has submitted that as per *Business Plan Regulations 2019*, the Commission has defined a contingency limit on UI. Relevant extract is shown below:

***“28. CONTINGENCY LIMIT FOR SALE OF POWER THROUGH DEVIATION SETTLEMENT MECHANISM (UNSCHEDULED INTERCHANGE CHARGES)***

*(1) The Contingency Limit for disposing off of Power through Deviation Settlement Mechanism in terms of the Regulation 152 (c) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 from FY 2020-21 to FY 2022-23 of the Distribution Licensees shall be 5% of Net Power Procured by the Distribution Licensee for the relevant month.”*

3.186 Petitioner has submitted that Petitioner is well within the limits during the FY 2020-21 as stipulated by the Commission in *Business Plan Regulations, 2019*.

##### **COMMISSION ANALYSIS**

3.187 Regulation 28 of *DERC (Business Plan) Regulations, 2019* stipulates,

*“28(1)The Contingency Limit for disposing off of Power through Deviation Settlement Mechanism in terms of the Regulation 152 (c) of the DERC (Terms and Conditions for*

*Determination of Tariff) Regulations, 2017 from FY 2020-21 to FY 2022-23 of the Distribution Licensees shall be 5% of Net Power Procured by the Distribution Licensee for the relevant month.”*

*“28(2)In case the Distribution Licensee disposes off more than 5% of the net Power procured by the Licensee for the relevant month through Deviation Settlement Mechanism (Unscheduled Interchange Charges) than the rate of realisation through UI shall be considered at the average rate of power purchase/sale through exchange during same month for Delhi region.”*

3.188 The Commission has verified the same. Accordingly, no impact on account of Contingency Limit is considered for FY 2020-21 by the Commission.

## **ADDITIONAL UI CHARGES AND SUSTAINED DEVIATION CHARGES**

### **PETITIONER SUBMISSION**

3.189 The Petitioner has stated that Commission in Tariff Order dated July 13,2012 had deducted the additional UI Charges borne below 49.5 Hz frequency based on the recommendations given by Forum of Regulators (FOR). The Petitioner had challenged the issue of additional UI Charges borne on account of UI power purchased below 49.50 Hz before Hon’ble APTEL. The Hon’ble APTEL in Judgment dated March 2, 2015 (Appeal 177& 178 of 2012) has given its observations on the said issue against the Petitioner. However, the Petitioner has preferred a statutory appeal before the Hon’ble Supreme Court against the aforesaid Judgment of the Hon’ble APTEL dated March 2, 2015. Without pre-judice to the pendency of aforesaid Appeal, and without admitting or waiving any of its contentions against the said Judgment dated March 2, 2015 or this Hon’ble Commission’s order dated July 13, 2012 insofar as the decision on additional UI Charges is concerned, the Petitioner has considered the actual UI purchase while computing the power purchase cost.

3.190 The Petitioner has filed following petitions before the Commission for issues related to Additional UI and sustained deviation. The Commission is requested to consider the same while Truing-up of FY 2020-21:

1. Petition (42 of 2017) under Section 86(1) (k) read with Section 33(4) of the Electricity Act, 2003 seeking adjudication of dispute regarding incorrect methodology adopted by SLDC while preparing intra-state deviation settlement accounts and unlawfully retaining the UI Pool Accounts.
2. Petition (47 of 2020) under Regulation 57 of the Delhi Electricity Regulatory Commission Comprehensive (Conduct of Business) Regulations, 2001 for direction for revision of the methodology for levying Sustained Deviation Penalty to Distribution Licensees of NCT of Delhi

3.191 Further, the Petitioner has stated that as per clause 152 of Tariff Regulations, 2017, the additional/penal UI Charges is not pass through. Relevant extract is shown below:

*“Provided that any Additional/Penal Deviation Settlement Mechanism (Unscheduled Interchange) Charges **other than forced scheduling of power as certified by SLDC paid by the Distribution Licensee shall not be allowed in Power Purchase Cost; (Emphasis Added)**”*

3.192 In this regard, the Petitioner has requested Delhi SLDC for certifying the Force Scheduling during FY 2020-21.

3.193 Accordingly, the Petitioner requested the Commission for considering the Additional UI and Sustained Deviation Charges in Power Purchase cost of the Petitioner pending certification from Delhi SLDC.

3.194 **With regard to the Banking Transactions**, Regulation 121(3) of the Tariff Regulations, 2017 states as under:

*“121. While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering:*

....

***(3) Normative cost of banking transaction at the rate of average power purchase cost of the portfolio of the distribution licensee;”***

***(Emphasis Added)***

3.195 However, the Commission vide its letter dated 16/11/2018 indicated that the normative cost of banking transactions shall be weighted average rate of all long term sources considering only variable cost for the relevant year.

- 3.196 In such event of conflict between the provisions of Regulations and DERC letter, the Petitioner has considered the average rate of banking transactions @Rs. 4.53/kWh as per applicable Tariff Regulations, 2017, as Hon'ble Commission in its Order dated 28/12/2017 in Petition No. 39 of 2017 has itself taken the view that *"if there is some conflict between the provisions of Regulations and the provisions of the Orders made thereunder, the law is very clear on the supremacy of the Regulations over the Orders.*
- 3.197 In view of the above, the Petitioner requested the Commission to allow the power purchase cost during FY 2020-21 from short term sources.

## OVERLAPPING OF BANKING TRANSACTIONS

### PETITIONER SUBMISSION

- 3.198 The Petitioner has submitted that as regards banking transactions, it is submitted that banking of power is done ex-ante based on estimates and forecasts done at the beginning of a period. Power so banked is used only for the consumers of the Licensee and is not used elsewhere.
- 3.199 Further, the Hon'ble Commission in the interest of consumers has emphasised on purchase and sale of surplus power through banking transactions. While complying with the directions of the Hon'ble Commission, there may be few instances when there is overlapping of banking transactions to meet the demand. Accordingly, the Petitioner needs to purchase power in few slots during the day rather than RTC purchase.
- 3.200 However, the Petitioner further submits that there is no violation by the Petitioner on account of banking overlapping within the period of 3 months.
- 3.201 In accordance with the above, the Petitioner has requested the Commission to allow all banking transactions as they are revenue neutral in nature.

### COMMISSION ANALYSIS

- 3.202 The Commission has considered the penalty on account of Additional UI Charges and Sustained Deviation Charges to the extent of Rs. 0.84 Cr. and Rs. 0.24 Cr. respectively for FY 2020-21 as submitted by SLDC. Such Additional UI charges are imposed on the Petitioner to

maintain the Grid discipline. The third proviso of Regulation 152 (c) of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates as follows:

*“Provided that any Additional/Penal Deviation Settlement Mechanism (Unscheduled Interchange) Charges other than forced scheduling of power as certified by SLDC paid by the Distribution Licensee shall not be allowed in Power Purchase Cost”*

3.203 The Commission in its Tariff Order dated 28/03/2018 in line with Hon’ble APTEL’s Judgment dated 20/07/2016 decided as follows:

**“COMMISSION’S ANALYSIS**

3.235 *The Commission has given the detailed reasoning regarding penal nature of payment towards additional UI Charges due to non-adherence of the scheduled drawl by the Petitioner in its various Tariff Orders which has also been upheld by the Hon’ble APTEL in its judgement in Appeal No. 271/2013 as follows:*

*“ 7.6) Penal interests are applicable at the specified rates for over-drawal of electricity for each time block when grid frequency is below 49.5 Hz. The time block under UI Regulations is 15 minutes. We are totally unable to accept the contention of the appellant that the appellant has taken all the necessary steps to ensure compliance with the requirements of UI Regulations, overdrawal from grid below 49.5 Hz frequency is inevitable despite efficient management of the appellant. These are the problems which are to be sorted out by a Discom by making efficient management, proper scheduling of power and procurement etc. What is provided under the Regulation is that the State Commission is bound to follow those Regulations, without giving any dilution or relaxation in the provisions of Act or Rules. We are unable to accept the appellant’s contention that over-drawal or under-drawal depends on the scheduled generation available, since, the generation available changes constantly and further due to loss of generation the schedules are affected resulting in over-drawal by Discoms. In view of the above discussions, we do not find any merit in the contentions of the appellant and hence, this Issue No.8 is decided against the appellant.”*

3.236 *Therefore, this matter does not merit consideration.”*

3.204 **Banking Transactions:** The Commission has analysed the Banking Transactions made by the Petitioner for FY 2020-21. *Regulation 121 (3) of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* specifies that the Normative cost of banking transaction is considered at the rate of average power purchase cost of the portfolio of the distribution licensee read as follows:

*“While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering:*

- 1. Availability of Generating Stations which may be based on Load Generation Balance Report published by Central Electricity Authority (CEA) for relevant Financial Year;*
- 2. Principles of merit order schedule and dispatch based on the ranking of all approved sources of supply in the order of their variable cost of power purchase on monthly basis;*
- 3. Normative cost of banking transaction at the rate of Average Power Purchase Cost of the portfolio of the Distribution Licensee;*
- 4. The gap between Average Power Purchase Cost of the power portfolio allocated and average revenue due to different consumer mix of all the distribution licensee:*

*Provided that the Commission may adjust the gap in Power Purchase Cost by reassigning the allocation of power amongst the Distribution Licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi by Ministry of Power, Government of India.”*

3.205 Further, the Commission vide its letter dated 16/11/2018 provided clarification to DISCOMs that Normative Cost of Banking Transactions shall be weighted average rate of all long-term sources considering only Variable Cost for the relevant year. Relevant extract of the Commission’s letter dated 16/11/2018 is as follows:

*“.....that the normative cost of Banking transactions shall be weighted average rate of all long-term sources considering only variable cost for the relevant year. Further, the sample calculation for incentive on sale of surplus power is annexed herewith.”*

3.206 During the prudence check sessions and further scrutiny of the information submitted by the Petitioner, it is observed that the Petitioner has not considered the Variable Cost for the

relevant year for evaluating the normative cost of Banking transactions for FY 2020-21 as mandated in above mentioned letter.

3.207 It is pertinent to state that when Delhi Distribution Licensee is in Surplus, then they Bank their Surplus Energy to those entities (especially outside Delhi) which are in power deficit. This Surplus Banked power is out of the Long Term sources of Delhi Distribution Licensee whose Fixed Cost is borne by them, however, the power not being put to use in Delhi is being Banked to other Deficit State. Accordingly, the Commission vide its letter dated 16/11/2018, has considered the Variable Cost of Weighted Average Rate of all Long-Term Sources as the Normative Cost of Banking Transactions.

3.208 Further, it is pertinent to state that the Banking Transactions are revenue neutral in nature i.e., the variable cost considered for Forward Banking & Reverse Banking leads to no impact in Power Purchase Cost since the Forward Banking & Reverse Banking transactions spill over to multiple years after considering the impact of Banking Return Ratio. The concept of revenue neutral in Banking transactions has also been endorsed by Hon'ble APTEL in Appeal No. 14 of 2012, wherein Hon'ble APTEL rejected the claim of the Distribution Licensee related to Financing Cost incurred in relation to Power Banking, as follows:

*"113. The learned Counsel for the Delhi Commission submits that the Banking contracts have to be revenue neutral in nature and hence if power has been bought under "banking arrangement", then the same power will be sold back by the utility with 4% extra power. This extra power that is sold at the rate at which it had bought power at the first place serves like the financing cost of the power banked. Hence, no additional funding cost for banked power has been allowed.*

...

*117. Thus, the licensee loses carrying cost for Rs 40 Cr. However, in order to make banking arrangements tariff neutral some element of interest is also added. Accordingly, the utility which had banked energy would get 4% additional energy at the time of return to offset the carrying cost for the banked energy...*

..

118. Thus the Licensee gets Rs 1.6 Cr extra as Notional cost of additional energy received to offset the carrying costs. Accordingly, the issue is decided against the Appellant.”

3.209 The Commission in its Tariff Order dated 30/09/2021 revised the Normative Cost of Banking Transactions based on letter dated 16/11/2018. The Commission has considered the same approach for FY 2020-21 for determining the Normative cost of Banking Transmission, considering Variable Cost of weighted average rate of all Long-Term Sources for FY 2020-21 as follows:

**Table 3. 49: Revised working of Normative Cost of Bank transaction**

Particulars	UoM	FY 2020-21
Banking Export	MU	(465.75)
Banking Import	MU	425.67
Banking Export Rate- As per Petitioner	Rs. /kWh	4.53
Banking Import Rate- As per Petitioner	Rs. /kWh	4.63
Banking Export	Rs. Cr.	(210.78)
Banking Import	Rs. Cr.	197.10
Net Banking (Import - Export)	MU	(40.08)
Normative Cost on Banking i.e., Variable Cost of weighted average rate of all long-term sources - as per Clarification issued vide DERC letter dated 16/11/2018 on DERC Tariff Regulations, 2017 and BPR, 2017	Rs. /kWh	1.97
Net Normative Cost / (Sale) to be allowed	Rs. Cr.	(7.90)

### **INCENTIVE ON SALE OF SURPLUS POWER**

3.210 Regulation 121 of DERC (Terms and Conditions for determination of Tariff) Regulations 2017, stipulates that *while approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering the principles of merit order schedule and despatch based on ranking of all approved sources of supply in the order of their variable cost of power purchase on monthly basis.*

3.211 As per the above mentioned Regulation, the Petitioner is required to procure the power in an economical manner following the principle of Merit Order Dispatch which is an integral part of this process. As per Merit Order Dispatch principle, the plants are stacked in least cost approach of their Variable Cost. The demand is then met through stations in ascending

order of their Variable Cost subject to various technical constraints and the balance power though available from the left over stations after meeting the required demand, are thus not scheduled. Such balance power as available from the left over stations could have been backed down considering Technical Constraints or kept under reserve shutdown and such surplus costly power could have been avoided.

3.212 The Commission further observes that it has directed SLDC vide its letter dated 21/11/2013 to implement DISCOM-wise scheduling in Delhi based on the request of the Distribution Licensees.

3.213 The Commission has excluded various power stations from Merit Order Dispatch principle which have must run status like Nuclear & Hydro, State GENCOs which are also considered in the islanding scheme of Delhi and Eastern Region Plants where there is time delay in revision of schedule.

3.214 Regulation 123 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

*“123.To promote economical procurement of power as well as maximizing revenue from Sale of Surplus Power the distribution licensee shall ensure the cost benefit for rate of sale of surplus power in the relevant slots through Banking, Bilateral and Power Exchange transactions other than the forced scheduling, as certified by the SLDC, in comparison with the next higher variable cost of the generating stations from which power is surplus after meeting the demand of power in it’s area of supply;”*

3.215 Regulation 165 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

*“165. Any financial impact of over realisation on account sale of Surplus Power as, specified in Regulation 123 of these Regulations, shall be adjusted as per the mechanism indicated in the (Business Plan) Regulations of the control period: Provided that any financial impact of under realisation on account sale of Surplus Power as specified in Regulation 123 of these Regulations shall be to the account of distribution licensee.”*

3.216 Regulation 29 of DERC (Business Plan) Regulations 2019 defines the incentive sharing mechanism as follows:

**“29. INCENTIVE SHARING MECHANISM FOR SALE RATE OF SURPLUS POWER**

*(1) The computation of incentive for Sale Rate of Surplus Power in terms of the Regulation 165 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 from FY 2020-21 to FY 2022-23 of the Distribution Licensees shall be as follows:*

*i. The variable cost of the generating station for which power is surplus and required to be sold through Power Exchanges shall be considered as the previous month’s billed variable cost of such generating station.*

*ii. The variable cost of the generating station for which power is surplus and required to be sold through Banking and Bilateral arrangements shall be considered as the previous month’s billed variable cost of such generating station prevalent at the date of entering into such contracts:*

*Provided that the normative cost of banking transactions shall be weighted average rate of variable cost of all long term sources.*

*iii. The incentive shall be the product of Rate difference (Actual Sale Rate-Variable Cost) and Quantum of Power actually sold.*

*(2) The incentive computed under sub-clause (1) above shall be shared between the Consumers and the Distribution Licensees in the following prescribed manner: -*

*i. The incentive realisation upto 100% recovery of Average Fixed Cost per unit of all Generating sources of relevant year, projected by the Commission in the relevant Tariff Order, prorated to actual sale of Surplus Power shall be shared in the ratio of 2/3rd to the Consumers and 1/3rd to the Distribution Licensees.*

*ii. The incentive realisation above 100% recovery of Average Fixed Cost per unit of all Generating sources of relevant year, projected by the Commission in the relevant Tariff Order, prorated to actual sale of Surplus Power shall be shared in the ratio of 1/3rd to the Consumers and 2/3rd to the Distribution Licensees.”*

3.217 The Commission vide its letter dated 16/11/2018, in respect of clarification sought by the

Petitioner for rate of Banking transaction and mechanism for incentive of surplus power as per various provisions of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and *DERC (Business Plan) Regulations, 2017*, has clarified as under:

*“the normative cost of banking transactions shall be weighted average rate of all long term sources considering only variable cost for the relevant year. Further the sample calculation for incentive on sale of surplus power is annexed herewith.”*

- 3.218 The Commission through the above referred letter dated 16/11/2018 clarified by way of sample calculation the computation of the incentive on a monthly basis in line with the Regulation 165 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017*.
- 3.219 Further, it is observed that the Petitioner has not submitted the month-wise data of sale on account on banking transactions, the same has not been considered while computing the incentive/(dis-incentive) on sale of surplus power. Accordingly, the methodology followed by the Commission is as per the above letter of the Commission and whenever there was a surplus sale of power, such surplus sale of power has been considered from the station having higher variable cost as lower variable cost stations must have been used first for the consumers.
- 3.220 Further, in the cases where the sale rate of surplus power was excess of power purchase cost of high variable cost station, that case only was considered for the calculation of Incentive on surplus power.
- 3.221 For the purpose of calculation of cost of higher variable cost station, ECR of previous month has been considered which is as per Regulation 29 of Business Plan Regulations, 2019. Incentive on sale of surplus power, in line with the Regulation and the clarification issued by the Commission for FY 2020-21 is as follows:

**Table 3. 50: Commission Approved - Incentive on Sale of Surplus Power (Rs. Cr.)**

Months	As approved by the Commission		
	Exchange	Bilateral	Intrastate
Apr-20	0.09	-	-
May-20	-5.81	-	-
Jun-20	-	-	-
Jul-20	-	-	-

Months	As approved by the Commission		
Aug-20	-	-	-
Sep-20	-	-	-
Oct-20	-0.96	-	-
Nov-20	4.01	-	-
Dec-20	4.37	-	-
Jan-21	0.74	-	-
Feb-21	4.75	-	-
Mar-21	4.67	-	-
<b>Total</b>	<b>11.86</b>	-	-
<b>Total (1/3<sup>rd</sup> for the DISCOM)</b>			<b>3.95</b>

3.222 Accordingly, incentive of Rs. 3.95 Cr. has been considered by the Commission in Revenue towards ARR in True up of FY 2020-21.

#### TRANSMISSION CHARGES

#### PETITIONERS SUBMISSION

3.223 The Petitioner has considered the Transmission charges for FY 2020-21 as follows:

**Table 3. 51: Petitioner Submission - Transmission Charges for FY 2020-21(Rs. Cr.)**

Sr. No	Particulars	Submission
i	Power Grid Corp. of India Ltd.	437
ii	Delhi Transco Ltd.	173
iii	Other Transmission etc.	12
iv	Open Access Charges	45
<b>v</b>	<b>Total Transmission charges</b>	<b>666</b>

#### COMMISSION ANALYSIS

3.224 The Commission has verified the Transmission charges from the books of accounts and bills raised by various parties. Accordingly, the Commission allows the total Transmission and Open Access charges of Rs. 665.73 Cr. for FY 2020-21.

**REBATE ON POWER PURCHASE AND TRANSMISSION CHARGES****PETITIONER SUBMISSION**

3.225 The Petitioner has submitted that the Commission vide letter dated 05/06/2014 specified the format for submission of details of rebate on power purchase and transmission charges. As regards the long term generating and transmission companies charges, rebate is not allowed on interest charges and other billing items which are in nature of reimbursement, such as Income Tax, Other Taxes, Cess, Duties etc. Rebate is generally allowed on all other billing items. The rebate on power purchase and Transmission Charges is tabulated below:

**Table 3. 52: Petitioner Submission - Details of Rebate Claimed for FY 2020-21 (Rs. Cr.)**

Sr. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed
1	NTPC	908	(3)	1.75
2	NHPC	155	44	0.34
3	Nuclear	17	(4)	
4	SJVNL	40	-	0.38
5	THDC	-	-	
6	Tala HEP	5	-	0.02
7	DVC	559	0	
8	<b>Power stations in Delhi</b>			
8.1	PPCL	347	(0)	
8.2	IPGCL	17	-	
9	ARAVALI	84	(1)	
10	SASAN	323	35	0.39
11	SECI	-	53	
12	EDWPCPL	0	-	0.00
13	DMSWSL	23	-	0.02
<b>A</b>	<b>Total Long Term Purchase</b>	<b>2,479</b>	<b>124</b>	<b>2.90</b>
11	Short Term Purchase	28		0.56
12	Short Term sale	36		1
13	<b>Transmission Charges</b>			
13.1	Power Grid Corp. of India Ltd.	431	6	
13.2	Delhi Transco Ltd.	173	-	
13.3	Bhakra Beas Management Board		0	

Sr. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed
13.4	NTPC	4	-	
13.5	Arawali Power Company Private Ltd.	-		
13.6	Damodar Valley Corporation	1		
13.7	SECI		4	
13.8	DTL SLDC Chg		1	
<b>B</b>	<b>Total Transmission Charges</b>	<b>609</b>	<b>11</b>	<b>0</b>
<b>C</b>	<b>Total</b>	<b>3,080</b>	<b>136</b>	<b>2.73</b>

3.226 The Petitioner has submitted that the normative rebate ought not be applied at the time of true-up due to the following reasons:

- a) The normative rebate cannot be considered at the stage of true-up. In any event, the deduction of a normative rebate assuming a maximum of 1.5% - 2% of the power purchase cost is ex-facie in contravention of the Hon'ble APTEL's Judgment in Appeal No. 153 of 2009 which expressly restricted such a deduction to 1% of the power purchase cost.
- b) A similar issue is pending before Hon'ble Tribunal in Appeal No. 235-236 of 2014. Further, in true-up proceedings for FY 2015-16, the Petitioner has again raised the issue before the Hon'ble Commission, vide its letter dated 18.08.2017
- c) The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 177 of 2012) has again confirmed the Judgment dated July 30, 2010 (Appeal 153 of 2009) and directed that normative rebate of upto 1% can be considered as per the norms specified for working capital in DERC Tariff Regulations, 2011 which means that actual rebate is to be considered and if actual rebate availed exceeds 1% then 1% is to be considered. Relevant extracts are reproduced below:

*"6.1 According to the Appellant, the State Commission has acted contrary to the findings of this Tribunal in Appeal no. 142 of 2009 wherein the Tribunal directed to consider rebate upto 1% as non-tariff income from the total rebate of 2% on power purchase.*

6.2 According to Shri Pradeep Misra, Learned Counsel for the State Commission this issue is pending consideration in Appeal no. 14 of 2012 wherein the judgment has been reserved. The State Commission has made detailed submissions in Appeal no. 14 of 2012. The Learned Counsel reiterated the detailed submissions made in Appeal no. 14 of 2012. 6.3 The Tribunal in Appeal no. 14 of 2012 on 28.11.2013 reiterated the view taken by this Tribunal in Appeal no. 153 of 2009. This Tribunal in Appeal no. 153 of 2009. Decided as under: "The second issue relates to the deduction of rebate due to the early payment of the power purchase cost from the ARR. The Appellant, through its efficient management, has paid all the bills immediately on raising of the bills by the generating company and, therefore, it has to be allowed a rebate of 2 per cent. Therefore, there is no justifiable reason for the State Commission to reduce the power purchase cost by rebate earned by the Appellant. The normative working capital provides for power purchase cost for one month. Therefore, rebate of 1 per cent available for payment of power purchase bill within one month should be considered as non-Tariff income and to that extent benefit of 1 per cent rebate goes to reducing the ARR of the Appellant. The rebate earned on early payment of power purchase cost cannot be deducted from the power purchase cost and rebate earned **only up to 1 per cent alone** can be treated as par of the non-Tariff income. Therefore, treating the rebate income for deduction from the power purchase cost is contrary to the MYT Regulations. As such this issue is answered in favour of the Appellant." The Tribunal in Appeal no.142 of 2009 reiterated the above decision of the Tribunal."

- d) The concept of normative rebate is based on assumptions that the system is perfect and business is being conducted as usual. The assumption that:
- i. There is no creation of Regulatory Asset. However, there is an accumulated figure of Rs.3111 Crore upto FY 2019-20 as Regulatory Asset (as per Tariff Order dated 30.09.2021);
  - ii. Various APTEL's judgments have been implemented. However, in point of fact, that is not the case and various judgments are yet to be implemented;
  - iii. There is no major variation in power purchase cost, which is also not the case.
- In fact, to the best of the knowledge of the Petitioner, in no other state any DISCOM has been able to avail maximum normative rebate when aforesaid conditions are not met.

3.227 The Petitioner has submitted that it could not make payment of bills to any generating

company and transmission licensee through letter of credit on presentation.

3.228 Further, the Petitioner also has to pay LPSC to the generators which is not allowed by Hon'ble Commission and where there is a difference in the rate of LPSC charges (18%) vis-a-vis rate of funding & carrying cost resulting in further adverse financial to the Petitioner.

3.229 In view of the above submissions, the Petitioner requested the Commission to consider the actual rebate on power purchase and Transmission Charges during FY 2020-21 as there was steep surge in adverse impact of COVID-19 in FY 2020-21.

### COMMISSION ANALYSIS

3.230 Regulation 119 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, specifies that:

*“Distribution Licensee shall be allowed to recover the net cost of power purchase from the long term sources whose PPAs are approved by the Commission, assuming maximum normative rebate available from each source, for supply to consumers”*

3.231 The Commission noted from power purchase agreement that the maximum normative rebate in case of NPCIL is 2.5% and 2% for other CGS, SGS and Transmission Companies. Accordingly, the Commission has considered the maximum normative rebate on Rebatable amount based on the submissions of the Petitioner as follows:

Rebate for FY 2020-21						
S. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed	Rebate %	Maximum Normative Rebate
1	NTPC	908.00	(3.00)	1.75	1.50%	13.62
2	NHPC	155.00	44.00	0.34	1.50%	2.33
3	Nuclear	17.00	(4.00)	-	2.50%	0.43
4	SJVNL	40.00	-	0.38	1.50%	0.60
5	THDC	-	-	-	1.50%	-
6	Tala HEP	5.00	-	0.02	1.50%	0.08
7	DVC	559.00	-	-	1.50%	8.39
8	<b>Power stations in Delhi</b>					
8.1	PPCL	347.00	-	-	2.00%	6.94
8.2	IPGCL	17.00	-	-	2.00%	0.34
9	ARAVALI	84.00	(1.00)	-	1.50%	1.26
10	SASAN	323.00	35.00	0.39	1.50%	4.85
11	SECI	-	53.00	-	0.00%	-
12	EDWPCPL	-	-	-	0.00%	-
13	DMSWSL	23.00	-	0.02	2.00%	0.46
<b>A</b>	<b>Total Long Term Purchase</b>	<b>2,479.00</b>	<b>124.00</b>	<b>2.90</b>		<b>39.28</b>
11	Short Term Purchase	28.00	-	0.56		0.56
12	Short Term sale	36.00	-	1.00		0.72
<b>13</b>	<b>Transmission Charges</b>					
13.1	Power Grid Corp. of India Ltd.	431.00	6.00	-	1.50%	6.47
13.2	Delhi Transco Ltd.	173.00	-	-	2.00%	3.46
13.3	Bhakra Beas Manegment Board	-	-	-	1.50%	-
13.4	NTPC	4.00	-	-	1.50%	0.06
13.5	Aravali Power Company Private Ltd.	-	-	-	2.00%	-
13.6	Damodar Valley Corporation	1.00	-	-	1.50%	0.02
13.7	SECI	-	4.00	-	0.00%	-
13.8	DTL Pension Trust	-	1.00	-	0.00%	-
<b>B</b>	<b>Total Transmission Charges</b>	<b>609</b>	<b>11.00</b>	<b>-</b>		<b>10.00</b>
<b>C</b>	<b>Total</b>	<b>3,080</b>	<b>136</b>	<b>2.73</b>		<b>49.12</b>

## RENEWABLE PURCHASE OBLIGATION

### PETITIONER SUBMISSION

3.232 The Petitioner has submitted target vis-à-vis actual purchase for Renewable Purchase Obligation for FY 2020-21 is tabulated below:

**Table 3. 53: Petitioner Submission - Details of RPO for the year FY 2020-21**

Sr. No.	Particulars	Solar	Non-Solar	Total
i	Sales (MU)		5867	
ii	Hydro Purchases (MU)		691	
iii	Base for RPO (MU)		5174	
iv	RPO Target (%)	7.25%	10.25%	
v	RPO target (MU)	375	530	906
	RPO met			
vi	EDWPCL		1	
vii	DMSW		32	
viii	SECI	119	53	

Sr. No.	Particulars	Solar	Non-Solar	Total
ix	Self-Generation	0.3		
x	Solar roof-top gross generation from Net metering consumer*	23		
xi	REC			
xii	RE Power in lieu of EDWPCL (as per Hon'ble DERC order 21.02.2020)		31	
xiii	Sub-Total - RPO met	142	117	259
xiv	<b>Shortfall (MU)</b>	<b>233</b>	<b>414</b>	<b>647</b>

3.233 The Petitioner has submitted that they are making consistent efforts for the last few years to procure renewable energy to meet RPO as specified by the Hon'ble Commission. As on 31<sup>st</sup> March 2021, the Petitioner had successfully issued 669 net metering connections for a cumulative capacity of 27 MW solar rooftop projects developed by individual developers.

3.234 The Petitioner has filed Petition No. 23 of 2021 in the matter of waiver/deferment/relaxation of RPO targets for FY 2019-20 and FY 2020-21 and relaxation of norms of RPO for period FY 2019-20 onwards up till FY 2021-22. This Petition is pending for adjudication before the Hon'ble Commission.

3.235 Therefore, in view of the above, the Petitioner has requested the Commission to take cognizance of the pending adjudication matter before the Commission and allow the prayers in the Petitioner No. 23 of 2021.

#### COMMISSION ANALYSIS

3.236 Regulation 27 of *DERC (Business Plan) Regulations 2019* states,

*"27. TARGET FOR RENEWABLE PURCHASE OBLIGATION*

*The targets for Renewable Purchase Obligation (RPO) in terms of Regulation 124 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 of a Distribution Licensee from FY 2020-21 to FY 2022-23 shall be computed as a percentage of total sale of power to its retail consumers in its area of supply excluding procurement of hydro power. The target for RPO shall be met through purchase of*

power from various Renewable Energy sources or purchase of Renewable Energy Certificates ('REC') or combination of both, and shall be as follows:

Sr. No.	Distribution Licensee	2020-21	2021-22	2022-23
1	Non Solar Target	10.25%	10.25%	10.50%
2	Solar Target	7.25%	8.75%	10.50
3	Total	17.50%	19.00%	21.00%

- 3.237 Regulation 27(5) of *DERC (Business Plan) Regulations 2019* states that non-compliance of the RPO targets shall attract penalty @10% of the weighted average floor price of solar and non-solar renewable energy certificate, as specified by CERC for the relevant year, for quantum of shortfall in RPO.
- 3.238 Regulation 27(6) of *DERC (Business Plan) Regulations 2019* states that amount of penalty imposed on the distribution licensee due to non-compliance of the RPO targets shall be reduced from the ARR during the true up of the relevant financial year in terms of Regulation 124 of *DERC (Terms and Conditions of Determination of Tariff) Regulations 2017*.
- 3.239 It is observed that Petitioner has purchased 691.45 MU power from Hydro Stations which is to be excluded from total MU billed for the purpose of calculation of MU to achieve the RPO targets.
- 3.240 Accordingly, the Petitioner's RPO targets and penalty on account of non-fulfilment of RPO targets for FY 2020-21 has been computed as follows, which is reduced from power purchase cost as per above stipulated Regulations:

**Table 3. 54: Commission Approved - Penalty on account of non-fulfilment of RPO targets for FY 2020-21**

Particular	Solar	Non Solar	Total
Total MU Billed			5,865.27
Less:- Procurement of Hydro Power			691.45
<b>MU Billed excluding Hydro</b>			<b>5,173.83</b>
Actual RP obligation for 2020-21 (%)	7.25%	10.25%	17.50%
Actual RP obligation for 2020-21 (MU)	375.10	530.32	905.42
Actual RP Purchase 2020-21 (MU)	141.77	117.08	258.84
REC Purchased	-	60.43	60.43
Balance Obligation	233.34	352.81	586.15
RPO Penalty@10%REC @Rs 1/unit (Cr.)			<b>5.86</b>

**TOTAL POWER PURCHASE COST****PETITIONER SUBMISSION**

3.241 The Petitioner has submitted the gross power purchase cost claimed during FY 2020-21 is as follows:

**Table 3. 55: Petitioner Submission - Gross Power Purchase Cost before rebate during FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	Submission
A	Audited Gross Power Purchase Cost (Before Rebate)	
i	Purchase of Energy	2,651
ii	Transmission cost	666
B	Total Gross Power Purchase Cost excluding LPSC (i+ii)	<b>3,317</b>

3.242 The Petitioner submitted the reconciliation of the Power cost as per Audited accounts and the break-up of the same is tabulated below:

**Table 3. 56: : Petitioner Submission: Reconciliation with Table above (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Long Term Power Purchase	2,603
B	Short Term Power Purchase	297
C	Less: Banking Sale	211
D	Other Payments	-4
E	<b>Total</b>	<b>2,686</b>
F	Transmission cost	666
G	Less: Special rebate	35
H	Less: Rebate	3
I	Add: Net Metering	4
J	Add: Self Generation (at BYPL Roof Top)*	0.1
K	<b>Total Gross Power Purchase Cost excluding LPSC and rebate</b>	<b>3,317</b>

\* Self Generation @ ₹ 5.36/unit vide Hon'ble DERC order dt. 26.02.18

3.243 Accordingly, the Petitioner has submitted the total power purchase cost during FY 2020-21 as tabulated below:

**Table 3. 57: Petitioner Submission –Total Power Purchase Cost during FY 20-21 based on Auditor's Certificate (Rs.Cr.)**

Sr. No	Particulars	Submission
<b>A</b>	<b>Power Purchase Cost</b>	
i	Gross Power Purchase Cost	2,900.31
ii	Power sold to other sources	442.68
iii	Other Payments	(3.91)
iv	Net Power Purchase Cost	2,453.71

Sr. No	Particulars	Submission
<b>B</b>	<b>Transmission Charges</b>	
i	Inter-state transmission charges	437.11
ii	Intra-state transmission charges	172.56
iii	Other Transmission charges	56.56
iv	Total Transmission charges	<b>666.23</b>
<b>C</b>	<b>Rebate</b>	
i	Power Purchase Rebate	2.73
ii	Special Rebate	34.86
	Less: Total rebate	37.59
<b>D</b>	Add:Net Metering	3.77
<b>E</b>	Add: Self Generation	0.14
<b>F</b>	<b>Net Power Purchase Cost including Transmission charges net of rebate</b>	<b>3,086.3</b>

3.14.1 The Petitioner requested the Commission to approve the Power Purchase cost of Rs. 3086.3 Cr. and incentive on short term sale of Rs. 12.6 Cr. (Petitioner's share) during FY 2020-21.

#### COMMISSION ANALYSIS

3.244 Based on the above submissions, the Commission approves the power purchase cost for the Petitioner for FY 2020-21 as follows:

**Table 3. 58: Commission Approved - Trued-up Power purchase cost for FY 2020-21 (Rs.Cr.)**

S. No.	Particulars	Petitioner Submission		As Approved	
		Quantum (MU)	Amount (Rs Cr)	Quantum (MU)	Amount (Rs Cr)
<b>A</b>	<b>Power Purchase Cost</b>				
I	Long Term Power Purchase	8066.00	2,603.31	7379.04	2,603.48
II	Short Term Power Purchase		297.00	261.13	99.73
III	Banking Import			425.67	
IV	Net Metering & Roof Top		3.91		1.33
<b>V</b>	<b>Gross Power Purchase Cost</b>	<b>8,066.00</b>	<b>2,904.22</b>	<b>8065.85</b>	<b>2,704.54</b>
VI	Banking Export	1412.00	442.68	465.75	
VII	Short Term Sale			946.50	231.90

S. No.	Particulars	Petitioner Submission		As Approved	
		Quantum (MU)	Amount (Rs Cr)	Quantum (MU)	Amount (Rs Cr)
	Normative Cost on Banking i.e. Variable Cost of weighted average rate of all long term sources- as per Clarification issued vide DERC letter dated 16/11/2018 on DERC Tariff Regulations, 2017 and BPR, 2017				(7.90)
	<b>Net Power Purchase Cost</b>	<b>6,654.00</b>	<b>2,461.54</b>	<b>6653.60</b>	<b>2,464.74</b>
<b>B</b>	<b>Transmission Cost</b>				
I	Transmission Charges	279.00	662.32	279.00	620.93
II	Open Access Charges				44.80
III	Other Charges including Reactive Charges				(3.41)
	<b>Total Transmission Loss/Cost</b>	<b>279.00</b>	<b>662.32</b>	<b>279.00</b>	<b>662.32</b>
<b>C</b>	<b>Additional UI</b>				0.84
	<b>Sustain Deviation</b>				0.24
<b>D</b>	<b>Rebate</b>				-
I	Special Rebate		34.86		34.86
II	Rebate on Power Purchase and Transmission		2.73		49.12
	<b>Total Rebate</b>		<b>37.59</b>		<b>83.98</b>
	<b>Less: RPO penalty</b>				<b>5.86</b>
	<b>Incentive on Short Term Sale</b>		<b>0.00</b>		<b>0.00</b>
<b>E</b>	<b>Net Power Purchase including Transmission Loss/ charges net of rebate</b>		<b>3,086.3</b>		<b>3,036.13</b>
<b>F</b>	<b>MU</b>	<b>6,374</b>		<b>6,374.6</b>	
<b>G</b>	<b>Per Unit Power Purchase Cost (Rs/Kwh)</b>		<b>4.84</b>		<b>4.76</b>

## OPERATION AND MAINTENANCE EXPENSES (O&M) EXPENSES

### PETITIONER SUBMISSION

3.245 The Petitioner has submitted that the normative O&M expenses for FY 2020-21 are computed by multiplying the average capacity of line length and transformers during FY 2020-21 with approved per unit rates for FY 2020-21.

3.246 The Petitioner has accordingly computed the normative O&M expenses for FY 2020-21 as follows:

**Table 3. 59: Petitioner Submission - O&M Expenses during FY 2020-21 (Rs. Cr.)**

Assets/ lines	Avg. Quantity	Norms		Amount (Rs. Cr)
66 kV lines	230	4.857	Rs. Lakh/ ckt km	11.2
33 kV lines	408	4.857	Rs. Lakh/ ckt km	19.8
11 kV lines	2983	2.036	Rs. Lakh/ ckt km	60.7
LT lines system	5622	9.173	Rs. Lakh/ ckt km	515.7
33/11 kV grid sub-station	1815	1.157	Rs. Lakh/ MVA	21.0
66/11 kV grid sub-station	2056	1.157	Rs. Lakh/ MVA	23.8
11/0.415 kV DT	3485	2.534	Rs.Lakh/ MVA	88.3
<b>Total</b>				<b>740.5</b>

3.247 The Petitioner has requested the Commission to allow the normative O&M expenses of Rs.740.5 Crore during FY 2020-21 as submitted in the above table as per the DERC (*Business Plan*) Regulation, 2019.

#### COMMISSION ANALYSIS

3.248 The Commission at Regulation 23 of DERC (Business Plan) Regulations, 2019 has notified norms for Operation and Maintenance Expenses for FY 2020-21 in terms of Regulation 4(3) of DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 as follows:

#### **“23. Operation and Maintenance Expenses**

(1) Normative Operation and Maintenance Expenses in terms of Regulation 4(3) and Regulation 92 of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 for the Distribution Licensees shall be follows:

**Table 3: O&M Expenses for BYPL for the Control Period**

Particulars	Unit	2020-21	2021-22	2022-23
66 kV Line	Rs. Lakh/ckt. Km	4.857	5.043	5.236
33 kV Line	Rs. Lakh/ckt. Km	4.857	5.043	5.236
11kV Line	Rs. Lakh/ckt. Km	2.036	2.114	2.195
LT Line system	Rs. Lakh/Ckt. Km	9.173	9.524	9.890
66/11 kV Grid S/s	Rs. Lakh/MVA	1.157	1.201	1.247
33/11 kV Grid S/s	Rs. Lakh/MVA	1.157	1.201	1.247
11/0.415 kV DT	Rs. Lakh/MVA	2.534	2.631	2.732

.....”

3.249 The Petitioner has submitted the actual network capacity as on 31/03/2021 as above and claimed towards the O&M expenses Rs. 740.448 Cr. The physical verification of the assets capitalised is still being undertaken by the Commission for FY 2020-21. Accordingly, the Commission provisionally considered 100% of capitalisation as per Audited book of Accounts for FY 2020-21. The petitioner has demanded the O&M Expenses of Rs. 740.448 Cr. and the Commission has approved the amount of Rs. 740.448 Cr. on Normative basis subject to finalization of capitalization.

**Commission Approved: Normative O&M Expenses for FY 2020-21 (Rs. Cr.)**

Particulars	Capacity as on 31st March 2020 (a)	Capacity addition during FY 2020-21 (b)	Capacity as on 31st March 2021 (c=a+b)	Average Capacity for FY 2020-21 (d=(a+c)/2)	Multiplying factor (as per BPR 2019) (e)	Provisional Commission approved O&M for FY 2020-21 (Rs. Crore) (f=d*e)
66KV line	618.300	38.000	656.300	637.3	4.857	30.954
33KV line						
11KV line	2953.800	59.000	3012.800	2983.3	2.036	60.740
LT Line System	5559.400	124.000	5683.400	5621.4	9.173	515.651
66/11KV Grid Substation	3821.000	100.000	3921.000	3871.0	1.157	44.787
33/11KV Grid Substation						
11/0.415KV DT	3455.250	60.000	3515.250	3485.25	2.534	88.316
<b>Total</b>						<b>740.448</b>

**ADDITIONAL O&M EXPENSES**

**PETITIONER SUBMISSION**

3.250 As regards additional expenses, Regulation 23 (5) of Business Plan Regulation, 2019 states as under:

“23...

*(5)The impact of difference of amount on account of actual implementation of Seventh Pay Revision and Interim Relief already considered for determination of norms for O&M Expenses, if any, shall be allowed separately in line with the methodology adopted for computation of norms for O&M Expenses, at the time of True up of ARR for relevant Financial year subject to prudence check.”*

3.251 Accordingly, the Petitioner in terms of above Regulations claims item wise amount on account of additional O&M expenses which are uncontrollable in nature as well as not covered in the above-mentioned normative O&M expenses

3.252 The Petitioner has claimed the additional O&M expenses as a part of truing-up requirement for FY 2020-21 are tabulated as follows:

**Table 3. 60: Additional O&M Expenses for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Amount
1	Arrears paid on account of 7th Pay Commission revision	78.6
2	Legal Expenses	14.2
3	Loss on Sale of Retired Assets	5.6
4	COVID-19 expenses	5.1
5	Expenses for raising loan for funding of Working Capital and Regulatory Assets	0.9
6	Ombudsman Fees	0.22
7	GST	6.0
8	New Initiatives	0.34
	<b>Total</b>	<b>111</b>

#### **ARREARS PAID ON ACCOUNT OF 7<sup>TH</sup> PAY COMMISSION**

##### **PETITIONER SUBMISSION**

3.253 The Petitioner has submitted that a Wage Revision Committee was constituted by the GoNCTD vide office memorandum bearing No. F.11(62)/2015/Power/271 dated January 25, 2016 to examine and recommend to the Government the Pay Revision for the employees. Such recommendations become applicable on the Petitioner as per the tripartite agreement. The Committee had given recommendation vide order no DTL/108/04/2017-HR(Policy) /101 dated July 28, 2017 for payment of Interim Relief (IR) to the eligible employees at the rate of 2.57 times of Basic pay + Grade Pay w.e.f. January 01, 2016. Accordingly, the Petitioner

has disbursed Rs.128.04 Cr. from FY 2017-18 to FY 2019-20 as Special Interim Relief (IR).

3.254 The Petitioner has submitted that DTL Board vide its office order HR/CC/2020-211208 dated October 15, 2020 accepted the recommendation for payment of 7<sup>th</sup> Pay Commission to the eligible employees of the erstwhile DVB during the year. The total impact of 7<sup>th</sup> Pay Commission for FY 2020-21 is Rs.154.74 Cr. and the Petitioner has disbursed Rs.107.93 Cr. to their eligible employees as tabulated below:

**Table 3. 61: Petitioner Submission - Total impact of 7th Pay Commission for FY 2020-21 (Rs. Cr.)**

Particulars	To be Payable	Actual Paid
Gross Earnings	112.95	103.98
LSC & PC	41.79	3.95
<b>Total</b>	<b>154.74</b>	<b>107.93</b>

3.255 Further, the Petitioner has provided Rs.235.97 Cr. till FY 2020-21 out of total Rs.361.82 Cr. to be paid on account of 7<sup>th</sup> Pay Commission impact which is tabulated as under:

**Table 3. 62: Petitioner Submission - Total impact of 7th Pay Commission for FY 2020-21 (Rs. Cr.)**

Particulars	Gross Earnings	LSC & PC	Total	Actual Paid
FY 2017-18 (Including Arrear w.e.f 01.01.2016)	47.62	42.52	90.14	47.62
FY 2018-19	36.16	18.16	54.32	36.16
FY 2019-20	44.26	18.36	62.62	44.26
FY 2020-21	112.95	41.79	154.74	107.93
<b>Total –till FY 2020-21 (1+4)</b>	<b>240.99</b>	<b>120.83</b>	<b>361.83</b>	<b>235.97</b>

3.256 Accordingly, the differential amount yet to be paid by the Petitioner is Rs.125.85 Cr. This amount includes Rs.9 Cr. towards retirees and the balance amount Rs.117 Cr. pertains to LSC and PC both for active employees and retirees.

3.257 Further, the Petitioner has submitted that the payment related to LSC and PC are regularly being paid from January'21 onwards with respect to revised LSC and PC derived after implementation of 7th Pay. The balancing amount of LSC and PC i.e. Rs.117 Cr. for the period from 01.01.2016 to 31.12.2020 is not paid in view of cash crunch situation.

3.258 In line with the methodology considered by the Commission in arriving at the normative O&M rates for FY 2020-21 to FY 2022-23, the average of Interim Relief payment of past 3

years is taken and multiplied by the escalation factor of 3.83% (3 times) in order to arrive at normative Interim Relief (IR) payment of FY 2020-21. Thus, the differential amount on account of actual implementation of 7th Pay Revision and Interim Relief already considered for determination of norms for O&M Expenses is Rs.78.65 Cr. is tabulated below:

**Table 3. 63: Petitioner Submission - Incremental Amount of 7th Pay impact over and above normative O&M expenses (Rs. Cr.)**

Particulars	FY 16-17	FY 17-18	FY 18-19	Average (FY 17-18)	FY 20-21
IR payment	-	47.62	36.16		
IR w.e.f. Apr'16	-	42.33	36.16		
IR in Normative O&M				26.16	29.29
Actual Paid					107.93
<b>Differential Amount to be paid</b>					<b>78.65</b>

3.259 The Petitioner has requested the Commission to allow an impact of Rs.78.65 Cr. on account of revised payment of 7th Pay Commission as the expenses are beyond the control of the Petitioner.

### COMMISSION ANALYSIS

3.260 In view of Regulation 23(5) of DERC (Business Plan) Regulations, 2019, the Commission has considered the revision in its employees' cost on account of the 7th Pay revision subject to actual payment of the dues. During the prudence check, the Commission observed from the audited financial statement indicated the actual payment of such dues at Rs. 107.93 Cr. towards revision in its employees' cost on account of the 7th Pay Commission. Thus, Commission has allowed Rs. 78.65 Cr towards statutory pay revision under additional O&M expenses, as calculated above table.

### LOSS ON SALE OF RETIRED ASSETS

#### PETITIONER SUBMISSION

3.261 The Petitioner has referred the Regulation 45 of Tariff Regulations, 2017 states as under:

*"45. Loss or Gain due to de-capitalisation of asset based on the directions of the Commission due to technological obsolescence, wear & tear etc. or due to change in*

*law or force majeure, which cannot be re-used, shall be adjusted in the ARR of the Utility in the relevant year.”*

3.262 In view of the above and as per the methodology provided in the Tariff Regulations 2017, the Petitioner claims Rs. 5.62 Crore for retirement of assets as per Audited Accounts for FY 2020-21.

### COMMISSION ANALYSIS

3.263 Regulation 45 to 47 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 stipulates as under:

*“45. Loss or Gain due to de-capitalization of asset based on the directions of the Commission due to technological obsolescence, wear & tear etc. or due to change in law or force majeure, which cannot be re-used, shall be adjusted in the ARR of the Utility in the relevant year.*

*46. Loss or Gain due to de-capitalization of asset proposed by the Utility itself for the reasons not covered under Regulation 45 of these Regulations shall be to the account of the Utility.*

*47. Loss or Gain due to de-capitalization of asset after the completion of useful life of asset shall be to the account of the Utility.”*

3.264 DISCOM has submitted the data, and the analysis and prudence check of the submitted data is going on. DISCOMs are still submitting various justifications/ clarifications/ data in order to get their claims verified. The actual impact shall be considered, once finalized.

### LEGAL EXPENSES

#### PETITIONER SUBMISSION

3.265 The Petitioner has referred Regulation 23(7) of *Business Plan Regulations, 2019* states as under:

*“23...*

*(7) The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:*

*Provided that the legal expenses on account of cases filed against the Orders or Regulations of the Commission before any Court and the legal claims (compensation/penalty) paid to the consumer, if any, shall not be allowed.”*

- 3.266 With respect to the above Regulation, the Petitioner mention that Distribution business is a regulated business under the aegis of this Commission and the right to avail a statutory remedy is also a right guaranteed under Article 14 and 19 of the Constitution. The right to do business under Article 19 (1) (g) of the Constitution includes the right to avail of statutory legal remedies to protect and safeguard the business which is part and parcel of the right to do business. Moreover, the Electricity Act, 2003, allows the Petitioner the right to avail its statutory remedies under section 111 and other applicable provisions. Therefore, actual legal expenses without any distinction should be allowed as an expense in the ARR.
- 3.267 Out of the total expenses, Rs.0.37 Cr. pertains towards filing appeals against the Orders including Tariff Orders to protect the stakeholder’s interest. Further, the legal expenses incurred by the Petitioner related to enforcement cases amounts to Rs.1.2 Cr. The category wise total legal expenses amounting to Rs.14.1 Cr.
- 3.268 Thus, the Petitioner requested the Commission to allow legal expenses over and above the normative O&M expenses.

### COMMISSION ANALYSIS

- 3.269 Regulation 23(7) of DERC (Business Plan) Regulations, 2019 stipulates as under:

*“The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:*

*Provided that the legal expenses on account of cases filed against the Orders or Regulations of the Commission before any Court and the legal claims (compensation/penalty) paid to the consumer, if any, shall not be allowed.”*

- 3.270 During the prudence check, the commission observed that the petitioner has claimed the total legal expenses of Rs. 14.1 Cr. The Commission is of the view that the legal expenses incurred by the petitioner on account of cases filed against the Orders or Regulations of the

Commission before any Court and the legal Claims is not allowed as per DERC (Business Plan) Regulations, 2019. The DISCOM was asked to submit the Legal Expenses bifurcation as per DERC (Business Plan Regulation), 2019. However, the detailed case-wise data is not submitted by the BYPL. Hence, the Commission is not considering the same.

#### **OMBUDSMAN FEES:**

##### **PETITIONER SUBMISSION**

3.271 As per the directions of the Commission, the Petitioner has incurred an expenditure of Rs.0.22 Crore for the year FY 2020-21. Further, the Commission excluded the said expense for determining the norms of O&M expenses from FY 2020-21 to FY 2022-23. Accordingly, the Petitioner is claiming ombudsman expenses of Rs. 0.22 Crore as the said expenses is not the part of normative O&M expenses.

##### **COMMISSION ANALYSIS**

3.272 During the prudence check, BYPL has clarified that the above expenses have been incurred for the establishment of the expense for the office of the Ombudsman. The Ombudsman Expenses of Rs. 0.22 Cr. during FY 2020-21 has been considered by the Commission as the Ombudsman Expenses are the expenses which are used in the running the establishment of Ombudsman, Electricity. Hence, allowed.

#### **RAISING LOAN FOR FUNDING OF WORKING CAPITAL & REGULATORY ASSET**

##### **PETITIONER SUBMISSION**

3.273 The Petitioner has submitted that the Commission in its Business Plan Regulations 2019 stated as under:

*“23..(6) The Distribution Licensee may claim the expenses for raising loan for working capital and regulatory assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:*

*Provided that if this amount has been included in the interest on working capital and/or*

*Regulatory assets, the same shall not be allowed.”*

3.274 Accordingly, the Petitioner is claiming the expenses for raising loan for funding of Working Capital amounting to Rs.1.07 Crore as the said expenses is not the part of normative O&M expenses.

### COMMISSION ANALYSIS

3.275 Regulation 23(6) of DERC (Business Plan) Regulations, 2019 stipulates as under:

*“The Distribution Licensee may claim the expenses for raising loan for working capital and regulatory assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:*

*Provided that if this amount has been included in the interest on working capital and/or Regulatory assets, the same shall not be allowed.”*

3.276 The charges for raising working capital loans and loan for financing RA shall be allowed if the same do not form part of Interest cost. The fresh borrowings are already netted-off with processing charges and the impact of same shall come in the Interest Cost. Moreover, there is nothing on record (or mentioned separately in Annual Audit Report of 2020-21) to prove that the petitioner has paid Rs. 1.07 Cr. towards raising working capital loans and loan for financing RA, hence the above claim regarding loan on working capital and regulatory assets cannot be accepted.

### COVID EXPENSES:

#### PETITIONER SUBMISSION

3.277 The Petitioner submitted that it has taken following measures on urgent basis which was not contemplated earlier and thus not factored in while projecting the ARR for FY 2020-21:

- **Medical Facilities**

The Petitioner provided a special COVID Protection & Medical Kit at the door step of employees who were home quarantined (Mask, Sanitizer, Oximeter, Thermometer,

medicine box, etc.) prepared under guidance of our senior doctors. This was done to ensure that there is a minimal impact of COVID-19 on such employees who contracted COVID-19 disease while on duty so that they recovered early and were back to serve its consumers.

- **Distribution of COVID Protection Kits**

Employees were provided with, masks, gloves, face shields, sanitizer etc. for their personal protection and we were doing sanitization of all our building and offices on regular basis in order to reduce employee's downtime and maintain continuous supply of power during COVID-19 pandemic.

- **Establishment of Quarantine facility**

The Petitioner submitted that it had established centers and rooms with all the facilities for workers to safely quarantine themselves and provide proper medical aid/facility to them.

- **Insurance Facility**

Every worker was provided a one-time COVID life cover of minimum Rs.10 lakhs during the pandemic situation. An emergency fund has been created to provide immediate financial help to an employee for treatment of COVID-19.

- **Incentive Schemes for the Workers**

In an attempt to boost the morale of workers and to motivate them to keep performing their duties of providing essential service to the citizens of NCT of Delhi, Petitioner have launched special incentive scheme for their workers. Under this scheme the Petitioner provided incentives to those employees who worked in the field, including the containment zones and were exposed to COVID-19.

3.278 In view of above, the Petitioner is claiming Rs.5.2 Crore as expenses incurred on account COVID-19. These expenses were unforeseen and therefore, do not form part of normative O&M expenses allowed by the Commission in the Business Plan Regulations, 2019. The Petitioner requested the Commission to allow the above expenses on actual basis.

**COMMISSION ANALYSIS**

3.279 The Petitioner has claimed various expenses to the tune of Rs. 5.2 Cr. during the COVID period. In Commission's Suo-moto Order dated 7/04/2020 regarding mitigation of impact of covid-19 on electricity distribution licensees and consumers of delhi has considered the following rebate scheme is approved for all consumers for the actual/provisional bills raised during the period of March 24, 2020 till June 30, 2020 as below:

- i. Payment in Day 1-7 of the Billing Date: 1.0% of the Bill amount (excluding arrears if any) or Rs 200 (whichever is lower)
- ii. Payment in Day 8-14 of the Billing Date: 0.5% of the Bill amount (excluding arrears if any) or Rs 150 (whichever is lower)
- iii. No rebate if the consumer is making part payment
- iv. Additional rebate of Rs 20 per bill shall be provided to the consumer if the consumer furnishes the meter reading(s) himself.

3.280 However, BYPL has claimed Rs. 5.2 Cr. amount under the head of Medical Facilities, Distribution of COVID Protection Kits, Establishment of Quarantine facility, Insurance facility and Incentive Schemes for the Workers which is not covered in the Commission's Order dated 7/04/2020, therefore, the same is not allowed by the Commission.

**EXPENSES ON ACCOUNT OF NEW INITIATIVES****PETITIONER SUBMISSION**

3.281 The Petitioner has submitted that during FY 2020-21 it had undertaken the following initiatives towards innovation and R&D:

1) Publication expenses for advertising tender under MNRE phase 2 program:

The Petitioner is acting as a nodal agency under MNRE's Phase - II program for implementation of rooftop solar projects for residential customers. For this, a tender was published for empanelment of vendors and requisite fee was paid amounting to Rs.0.13 Cr.

2) Report on proposed Energy Innovation Hub:

In this project, Smart Innovation Norway has prepared a roadmap for setting up of setting up of Energy Innovation Hub. The roadmap will cover scoping and covering themes such as ICT & Cyber security, Data Analytics, Smart Storage, Smart prosumers & local energy markets, Simulation& AR/VR. The Hub will allow piloting of new technologies in these domains and possible collaboration with external institutions and start-ups for joint projects for improving energy performance. The aforesaid preparation of report amounts to Rs. 0.12 Cr.

3) Digital Platform for Energy Management:

The digital energy management platform is established amounting to Rs. 0.06 Cr. which involves analytics & data integration across DISCOM's multiple data sources for accurate and timely monitoring of various energy vectors viz., solar rooftop systems, energy storage systems and EV chargers along with operational & planning decisions. It is intended to integrate Solar, EV charger and Energy storage on a single platform for testing integrated operation in view of varying grid conditions and prices.

4) Development of Mobile Application under Consumer Behaviour study:

In association with TERI, the Petitioner had developed a mobile application as part of consumer behaviour. This Application was designed to offer monitoring and peer comparison of energy consumption along with information of energy saving measures, RE plant sizing and in-build market place. The development of aforesaid mobile application amounts to Rs. 0.01 Cr.

5) Maintenance of Rooftop Solar Power Plant:

The Petitioner has 13 rooftop PV plants at office locations. The plants are being maintained for improving the capacity utilization factor and enhancing the life of plants. The annual maintenance of aforesaid solar rooftop power plant amounts to Rs. 0.01 Cr.

6) Service for Dashboard related to RE Generation Forecasting:

As number of RE generation projects are increasing in the area of the Petitioner, there was a requirement of online dashboard to manage intermittency. A pilot project was undertaken amounting to Rs. 0.01 Cr. for real time monitoring and forecasting of RE generation at two sites in association with Climate Connect. The assignment was carried out at two sites.

3.282 The Petitioner has claimed Rs. 0.34 Cr. as the expenses on account of new initiatives undertaken as the said expenses is not the part of normative O&M expenses.

3.283 The Petitioner requests the Hon'ble Commission to allow the amount of Rs.111 Crore while truing up the expenses for FY 2020-21.

### COMMISSION ANALYSIS

3.284 The petitioner has claimed additional O&M expenses to the tune of Rs. 0.34 Cr. under the head of certain new initiatives. However, these are normal activities/part of business and should be covered under O&M expenses, hence the above expenses cannot be allowed.

### INCREMENTAL GST IMPACT:

#### PETITIONER SUBMISSION

3.285 The Petitioner has submitted that as per Business Plan Regulations, 2019, the Commission has allowed the GST charges on normative basis for FY 2020-21 by considering an escalation factor of 3.83% on the average value of FY 2017-18 to FY 2018-19. However, while deriving the normative rates for O&M expenses Commission has considered the GST impact from July, 2017 to April, 2019 as the GST rate is applicable from July, 2017 which has diluted the impact for one year and three months i.e. from April, 2016 to June, 2017. Accordingly, the Commission should have considered the GST impact for all 3 years.

3.286 It is also pertinent to note that as the 7th Pay Commission was implemented from January, 2016, the Hon'ble Commission has proportionately reduced the 7<sup>th</sup> Pay Commission impact for 3 months in order to consider only 3 years impact to compute normative rates of O&M expenses.

3.287 Accordingly, Petitioner requested the Commission to allow the incremental GST charges impact of Rs.6 Crore paid to employees during FY 2020-21 as follows:

**Table 3. 64: Petitioner Submission - Incremental GST Impact during FY 2020-21 (Rs.Cr.)**

Sr. No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
1	Actual GST/Service Tax as per Audited Accounts	25	40	45		

Sr. No	Particulars	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
2	Considered for base year FY 2017-18 (equivalent to average value from FY 2017 to FY 2019)		37			
3	Escalation Rate			3.83%	3.83%	3.83%
4	Considered as Normative in FY 21					41
5	Actually paid in FY 21					47
6	<b>Incremental Impact</b>					<b>6</b>

### COMMISSION ANALYSIS

3.288 Regulation 23 of DERC (Business Plan) Regulations, 2019 stipulates the normative O&M expenses of the Petitioner. The Commission has determined the norms for O&M expenses based on the actual O&M expenses of the Petitioner during FY 2016-17 to FY 2018-19. In the actual O&M expenses, the expenditure incurred towards legal fee, legal claims, rebate paid to the consumer on monthly bills, provisions, loss on sale of retirement of assets have not been considered.

3.289 Under DERC (Business Plan) Regulations, 2019 and through its Statement of Reasons Business Plan Regulation, 2019, the Commission has clarified that revision of minimum wages/Any Statutory impact has already been included in the norms of O&M expenses. The additional claim of expenses related to manpower based contract is part of the normative O&M expenses and do not qualify for the second proviso to the Regulation 87 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017. Hence, the claim of incremental impact of Rs. 6.00 Crores cannot be allowed.

3.290 In line with above discussions, the Commission has approved the following Additional O&M for FY 2020-21:

#### Commission Approved Additional O&M Expenses for FY 2020-21

Sr. No.	Particular	Petitioner's Submission (Rs. Crore)	Commission's Approved (Rs. Crore)
1.	Arrears paid on account of 7th Pay Commission	79	78.65
2.	Legal Expenses	14	0
3.	Loss on Sale of Retired Assets	6	Dealt Separately
4.	COVID-19 Expenses	5	0
5.	GST Impact#	6	0

Sr. No.	Particular	Petitioner's Submission (Rs. Crore)	Commission's Approved (Rs. Crore)
6.	Expenses for raising loan for funding of Working Capital and Regulatory Assets#	1	0
7.	Ombudsman Expenses	0.22	0.22
8.	New Initiatives#	0.34	0
9.	<b>Total</b>	<b>111</b>	<b>78.87</b>

# Not allowed as O&M Expenses is being permitted on normative basis

## CAPITAL EXPENDITURE AND CAPITALISATION:

### PETITIONER SUBMISSION

3.291 The Petitioner has considered the Closing GFA for FY 2019-20 as opening GFA for FY 2020-21. The actual capitalisation and de-capitalisation as per the Audited Accounts for FY 2020-21 has been considered to derive the closing balance of GFA as follows:

**Table 3. 65: Petitioner Submission - Gross Fixed Assets for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Opening GFA	3950.0
B	Capitalisation during the year	300.9
C	De-capitalisation	70.4
D	Closing GFA	4180.5
E	Average GFA	4065.2

### COMMISSION ANALYSIS

3.292 The Petitioner has made the actual capitalisation in their Audited Books of Accounts for FY 2020-21 for Rs. 300.90 crores. The Commission is in process of finalisation of capitalisation and physical verification of assets for FY 2020-21. Further, the Commission observed that the Petitioner has made the provision of Rs. 5.50 crores capitalised towards 7<sup>th</sup> Pay Commission. Further, the Commission observed that the Employee Expenses capitalised by the petitioner are in excess of 10% of total Employee Expenses. The Regulation 24(3) of DERC Business Plan Regulations, 2019 stipulates as under:

*"24(3) Employee expenses and A&G expenses shall be allowed to be capitalized equivalent to lower of 10% of (total Employee Expenses and A&G Expenses) or actuals in a particular financial year."*

3.293 The excess Employee Expenses capitalised by the distribution licensee beyond the norm of

10% of total Employee Expenses has been disallowed.

3.294 Pending finalisation of physical verification capitalisation, the Commission has provisionally considered 100% of the capitalisation submitted by the petitioner based on their Audited Report provided by M/s Ravi Ranjan & Co LLP\* after deducting the provisions made on account of 7<sup>th</sup> Pay Commission and excess capitalisation on account of Employee Expenses as under:

Sr. No.	Particulars	Amount (Rs. Cr.)
1	Capitalisation as per Audited Accounts	300.90
	Disallowance	
2	Provision made and capitalised on account of 7 <sup>th</sup> Pay Commission	5.50
3	Excess Employee Expense Capitalised	7.41
4	Subtotal (1-2-3)	287.99
5	<b>100% of additions during the year</b>	<b>287.99</b>

*\*In case, subsequently the Audited Report is found at variance during physical verification, suitable adjustments shall be done in line with the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.*

3.295 De-capitalization of assets of the Petitioner as claimed and subsequently confirmed by the Consultant in their Regulatory Audit Report amounting to Rs. 70.40 Cr. has been considered by the Commission for FY 2020-21.

3.296 Further, as discussed in previous section of the Tariff Order, the Opening GFA for FY 2020-21 is changed to Rs. 3823.03 Cr. and the same has been considered as follows:

**Table 3. 66: Provisionally Approved Capitalization upto FY 2020-21 (Rs. Cr.)**

Particulars	Petitioner submission	Approved
Provisional Trued up opening balance of Gross Fixed Assets	3950.0	3,823.03
Add- Capitalization during the year	300.9	287.99
Less- Retirement/ De-capitalization for the year	(70.4)	(70.40)
Closing balance of Gross Fixed Assets	4180.5	4,040.62
Average Gross Fixed Assets	4065.2	3,931.83

## MEANS OF FINANCE

### PETITIONER SUBMISSION

3.297 During FY 2020-21, the Petitioner has capitalised Rs.300.9 Crore which includes Rs.70.4 Cr.

and Rs.33.7 Crore on account of De-capitalisation and Consumer Contribution capitalised respectively during the year. The Petitioner has sought financing of Capitalisation (net of de-capitalisation and Consumer Contribution) through debt and equity in the ratio of 30:70 as shown below:

**Table 3. 67: Petitioner Submission - Financing of Capitalisation for FY 2020-21(Rs.Cr.)**

Sr. No	Particulars	FY 2020-21
A	Total Capitalisation	300.9
B	De-capitalisation	70.4
C	Consumer Contribution	33.7
<b>D</b>	<b>Balance Capitalisation</b>	<b>196.9</b>
E	Debt	59.1
F	Equity	137.9

## CONSUMER CONTRIBUTION AND GRANTS

### PETITIONER SUBMISSION

3.298 The Petitioner has submitted the average Consumer Contribution (including grants) for FY 2020-21 as tabulated below:

**Table 3. 68: Petitioner Submission - Consumer Contribution including Grants for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Opening Balance	322.9
B	Additions during the year	33.7
C	Closing Balance	356.5
<b>D</b>	<b>Average Consumer Contribution</b>	<b>339.7</b>

3.299 The average Grants for FY 2020-21 is tabulated below:

**Table 3. 69 Petitioner Submission: Grants for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Opening Balance	16.22
B	Additions during the year	-
C	Closing Balance	16.22
<b>D</b>	<b>Average Grants</b>	<b>16.22</b>

## COMMISSION ANALYSIS

3.300 The Commission has considered the closing balance of Consumer Contribution and Grants approved for FY 2019-20 in the Tariff Order dated 30/09/2021 as opening balance of Consumer Contribution and Grants for FY 2020-21. The Commission verified the additions

towards Consumer Contribution and Grants during the year from the audited financials of the Petitioner.

3.301 Accordingly, the addition to the Consumer Contribution/Grants for the year have been considered as follows:

**Table 3. 70: Commission Approved - Consumer Contribution/Grants for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	Commission approved	Ref.
A	Opening Balance	371.84	Table 3.71 of TO dated 30/09/2021
B	Consumer Contribution during the year	33.67	
C	Closing Balance	405.51	A+B
D	Average of Cumulative Capitalized Consumer Contribution	388.68	(A+C)/2

## DEPRECIATION

### PETITIONER SUBMISSION

3.302 For the purpose of computing depreciation for True-up of FY 2020-21 the Petitioner has followed the same methodology as considered by the Commission in the past i.e. the average rate of Depreciation based on the Audited Accounts of the Petitioner has been applied on the average GFA net of Consumer Contribution and Grants.

3.303 The Petitioner has tabulated the average rate of Depreciation for FY 2020-21 based on Audited Accounts as below:

**Table 3. 71: Petitioner Submission - Depreciation Rate for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Actual
A	Opening GFA as per audited accounts	3920.6
B	Closing GFA as per audited accounts	4151.1
C	Average of GFA	4035.8
D	Depreciation as per Audited Accounts	197.8
E	<b>Average depreciation rate</b>	<b>4.90%</b>

3.304 The Petitioner has submitted that as per Companies Act, the depreciation rate in case of a regulated entity has to be adopted as prescribed by the Regulator. The depreciation has been computed in the audited accounts based on the schedule of depreciation rates given in the Tariff Regulations, 2017. In audited accounts, the depreciation has been computed

based on life of assets as specified in the Regulations. In case the Commission desires the computation in support of depreciation on assets appearing in audited accounts, the same can be provided.

3.305 The Petitioner has calculated the allowable depreciation after excluding consumer contribution and Grants from the Gross Fixed Assets as under:

**Table 3. 72: Petitioner Submission - Depreciation for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Average GFA	4065.2
B	Average Consumer Contribution and Grants	339.7
C	Average assets net of consumer contribution & Grants	3725.6
D	Average rate of depreciation	4.90%
<b>E</b>	<b>Depreciation</b>	<b>182.6</b>

3.306 The Petitioner has calculated the cumulative depreciation on fixed assets at the end of FY 2020-21 as tabulated below:

**Table 3. 73: Petitioner Submission - Cumulative Depreciation on fixed assets upto FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Opening balance of cumulative depreciation	1511.0
B	Additions during the year	182.6
C	Closing balance of cumulative depreciation	1693.6

3.307 Accordingly, the depreciation has been utilised for repayment of loan as under:

**Table 3. 74: Petitioner Submission - Utilisation of Depreciation for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	Depreciation	182.6
B	Depreciation utilised for debt repayment	182.6

## COMMISSION ANALYSIS

3.308 Regulations 78 to 83 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates the provisions of Depreciation as follows:

*“78. Annual Depreciation shall be computed based on Straight Line Method for each class of asset as specified in Appendix-1 of these Regulations.*

*79. The base value for the purpose of depreciation shall be the capital cost of the asset approved by the Commission. Depreciation shall be chargeable from the first*

*year of commercial operation and in case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.*

*80. The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:*

*Provided that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and the extended life.*

*81. Land other than the land held under lease shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.*

*82. In case of existing assets, the balance depreciable value as on 1st April of any financial year shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 31st March of the preceding financial year from the gross depreciable value of the assets.*

*83. The Depreciation for Life extension projects/scheme shall be allowed in the manner as indicated in Regulation 51 of these Regulations.”*

3.309 Based on the Regulatory Audit Report of the Consultant, the Commission has considered Depreciation rate as 4.90% for FY 2020-21 on provisional basis, therefore, Depreciation on the assets capitalised provisionally is computed as below:

**Table 3. 75: Commission Approved - Depreciation for FY 2020-21 (Rs. Cr.)**

Sr.No.	Particulars	Petitioner Submission	Commission Approved
A.	Average of Fixed Assets	4,065.20	3,931.83
B.	Average Consumer Contribution	339.70	388.68
C.	Average Fixed Assets (net of consumer contribution & grant)	3,725.60	3,543.15
D.	Average depreciation rate	4.90%	4.90%
E.	<b>Allowable Depreciation</b>	<b>182.60</b>	<b>173.61</b>

3.310 The Commission has considered the opening balance of accumulated depreciation as Rs. 1,528.73 Cr. as discussed in previous section of the Tariff Order. Accordingly, the

accumulated depreciation for FY 2020-21 is as follows:

**Table 3. 76: Commission Approved - Accumulated Depreciation for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	Petitioner Submission	Commission Approved	Ref.
A.	Opening balance of cumulative depreciation	1511.00	1528.73	As per previous section of TO
B.	Additions during the year	182.60	173.61	Table No. 3.75
C.	Less: Depreciation towards assets retired	-	55.70	
D.	Closing balance of cumulative depreciation	<b>1,693.60</b>	<b>1,646.64</b>	A+B-C

## WORKING CAPITAL

### PETITIONER SUBMISSION

3.311 The Petitioner has computed the Working Capital Requirement for FY 2020-21 based on the actual Power Purchase cost and revenue available towards ARR as submitted for Truing up of FY 2020-21. The Working Capital Calculation for FY 2020-21 for Truing up is as follows:

**Table 3. 77: Petitioner Submission - Working Capital Requirement (Rs. Cr.)**

S. No	Particulars	FY 2020-21
A	Annual Revenues from Tariff & Charges	4408.7
A1	Receivables equivalent to two months average	734.8
B	Power Purchase Expenses	3086.3
B1	Less: 1/12th of power purchase expenses	257.2
C	Working Capital	477.6
D	Opening Working Capital	478.4
E	<b>Change in Working Capital</b>	<b>-0.8</b>

3.312 The Working capital as shown above has been considered for calculation of Regulated Rate Base for FY 2020-21.

### COMMISSION ANALYSIS

3.313 Regulation 84(4) of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates the working capital determination for Distribution Licensee as follows:

*“84. The Commission shall calculate the Working Capital requirement for:*

*(4) Distribution Licensee as follows:*

(i) Working capital for wheeling business of electricity shall consist of ARR for two months of Wheeling Charges.

(ii) Working capital for Retail Supply business of electricity shall consist of:

(a) ARR for two months for retail supply business of electricity;

(b) Less: Net Power Purchase costs for one month;

(c) Less: Transmission charges for one month; and”

3.314 The Commission has computed the Working Capital considering the net Power Purchase Cost including Transmission Charges and ARR as approved in the truing up for FY 2020-21 as follows:

**Table 3. 78 : Commission Approved - Working Capital for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	As per Petitioner	As per Commission	Ref.
A	ARR	4,408.70	4,230.51	Table No. 3.99
A1	Receivables equivalent to two month ARR	734.80	705.09	A/6
B	Power Purchase Expenses	3,086.30	3,036.13	Table No. 3.58
B1	Less: 1/12th of power purchase expenses	257.20	253.01	B/12
C	Total Working Capital	477.60	452.07	A1-B1
D	Opening Working Capital	478.40	478.40	TO Sept.2021
E	<b>Change in Working Capital</b>	<b>(0.80)</b>	<b>(26.33)</b>	<b>D-E</b>

## REGULATED RATE BASE (RRB)

### PETITIONER SUBMISSION

3.315 The Petitioner has computed the Regulated Rate Base (RRB) for FY 2020-21 as below:

**Table 3. 79: Petitioner Submission - Regulated Rate Base for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
A	RRB Opening	<b>2332.6</b>
B	ΔAB (Change in Capital Investments)	69.9
C	Investments Capitalized	230.5
D	Depreciation	182.6
E	Add: Depreciation on De-capitalised Assets	55.7
F	Consumer Contribution	33.7
G	Change in WC	-0.8

Sr. No	Particulars	FY 2020-21
H	RRB Closing	2401.7
I	<b>RRB (i)</b>	<b>2366.8</b>

### COMMISSION ANALYSIS

3.316 Regulation 65 to 70 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates as under:

*“65. Return on Capital Employed shall be used to provide a return to the Utility, and shall cover all financing costs except expenses for availing the loans, without providing separate allowances for interest on loans and interest on working capital.*

*66. The Regulated Rate Base (RRB) shall be used to calculate the total capital employed which shall include the Original Cost of Fixed Assets (OCFA) and Working Capital. Capital work in progress (CWIP) shall not form part of the RRB. Accumulated Depreciation, Consumer Contribution, Capital Subsidies / Grants shall be deducted in arriving at the RRB.*

*67. The RRB shall be determined for each year of the Control Period at the beginning of the Control Period based on the approved capital investment plan with corresponding capitalisation schedule and normative working capital.*

*68. The Regulated Rate Base for the ith year of the Control Period shall be computed in the following manner:*

$$RRB_i = RRB_{i-1} + \Delta AB_i / 2 + \Delta WC_i;$$

*Where,*

*“i” is the ith year of the Control Period;*

*RRB<sub>i</sub>: Average Regulated Rate Base for the ith year of the Control Period;*

*ΔWC<sub>i</sub>: Change in working capital requirement in the ith year of the Control Period from (i-1)th year;*

*ΔAB<sub>i</sub>: Change in the Capital Investment in the ith year of the Control Period;*

*This component shall be arrived as follows:*

$$\Delta AB_i = Invi - Di - CCI - Reti;$$

*Where,*

*Invi: Investments projected to be capitalised during the ith year of the Control Period*

and approved;

*Di*: Amount set aside or written off on account of Depreciation of fixed assets for the *ith* year of the Control Period;

*CCi*: Consumer Contributions, capital subsidy / grant pertaining to the  $\Delta ABi$  and capital grants/subsidies received during *ith* year of the Control Period for construction of service lines or creation of fixed assets;

*Reti*: Amount of fixed asset on account of Retirement/ Decapitalisation during *ith* Year;

*RRB i-1*: Closing Regulated Rate Base for the Financial Year preceding the *ith* year of the Control period. For the first year of the Control Period, Closing *RRB i-1* shall be the

Opening Regulated Rate Base for the Base Year i.e. *RRBO*;

$RRBO = OCFAO - ADO - CCO + WCO$ ;

Where;

*OCFAO*: Original Cost of Fixed Assets at the end of the Base Year;

*ADO*: Amounts written off or set aside on account of depreciation of fixed assets pertaining to the regulated business at the end of the Base Year;

*CCO*: Total contributions pertaining to the *OCFAo*, made by the consumers, capital subsidy /grants towards the cost of construction of distribution/service lines by the Distribution Licensee and also includes the capital grants/subsidies received for this purpose;

*WCO*: working capital requirement in the (*i-1*)th year of the Control Period.

Return on Capital Employed (*RoCE*) for the year "*i*" shall be computed in the following manner:

$RoCE = WACC_i * RRB_i$

Where,

*WACC<sub>i</sub>* is the Weighted Average Cost of Capital for each year of the Control Period;

*RRB<sub>i</sub>* – Average Regulated Rate Base for the *ith* year of the Control Period.

70. The WACC for each year of the Control Period shall be computed at the start of the Control Period in the following manner:

$$WACC = \left[ \frac{D}{D+E} \right] * r_d + \left[ \frac{E}{D+E} \right] * r_e$$

Where,

**D** is the amount of Debt derived as per these Regulations;

**E** is the amount of Equity derived as per these Regulations;

Where equity employed is in excess of 30% of the capital employed, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as notional loan. The amount of equity in excess of 30% treated as notional loan. The interest rate on excess equity shall be the weighted average rate of interest on the actual loans of the Licensee for the respective years. Where actual equity employed is less than 30%, the actual equity and debt shall be considered;

Provided that the Working capital shall be considered 100% debt financed for the calculation of WACC;

**Rd** is the Cost of Debt;

**Re** is the Return on Equity.”

3.317 Accordingly, the Commission approves the RRB for FY 2020-21 as follows:

**Table 3. 80: Commission Approved - RRBi for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref.
A	Opening Original Cost of Fixed Assets (OCFA <sub>0</sub> )	3950	3,823.03	Table No. 3.66
B	Opening Accumulated depreciation (ADo)	1511	1,528.73	Table No. 3.76
C	Opening consumer contributions received (Cco)	339	371.84	Table No. 3.70
D	Opening Working capital (WCo)	478	478.40	Table No. 3.78
E	Opening RRB (RRBo)	2333	2,400.86	E = A-B-C+D
F	Investment capitalised during the year (INVi)	301	287.99	Table No. 3.66

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref.
G	Depreciation during the year (Di)	183	173.61	Table No. 3.75
H	Depreciation on decapitalised assets during the year	56	55.70	
I	Consumer contribution during the year (Cci)	34	33.67	Table No. 3.70
J	Fixed assets retired/decapitalised during the year		70.40	Table No. 3.66
K	Change in capital investment ( $\Delta$ ABi)	70	66.01	
L	Change in working capital during the year ( $\Delta$ Wci)	-0.8	(26.33)	Table No. 3.78
M	RRB Closing	2401.68	2,440.54	
N	<b>RRBi</b>	<b>2,366.8</b>	<b>2,407.54</b>	E+K/2+L

### DEBT AND EQUITY, INTEREST ON LOAN, WEIGHTED AVERAGE COST OF CAPITAL (WACC)

#### PETITIONER SUBMISSION

3.318 The Petitioner has considered the average debt and equity for FY 2020-21 as tabulated below:

**Table 3. 81: Petitioner Submission - Average Debt and Equity for FY 2021-21 (Rs.Cr.)**

Sr. No	Particulars	Debt	Equity
A	Opening	1433.2	1045.0
B	Additions during the year		
i	<i>Capex</i>	137.8	59.1
ii	<i>Working capital</i>	-0.8	
C	Less: Repayment	143.3	
D	Closing	1426.9	1104.1
E	<b>Average</b>	1430.0	1074.5

3.319 With regard to the rate of interest on loan, Regulation 77 of Tariff Regulations, 2017 states that:

*“77. The rate of interest on loan shall be based on weighted average rate of interest for actual loan portfolio subject to the maximum of bank rate as on 1st April of the year plus the margin as approved by the Commission in the Business Plan Regulations for a Control Period*

Provided that in no case the rate of interest on loan shall exceed approved rate of

return on equity

3.320 The Petitioner submitted that Regulation 22 of Business Plan Regulations, 2019 states that:

**“22. MARGIN FOR RATE OF INTEREST ON LOAN**

*(1) The rate of interest on loan for a financial year shall be Marginal Cost of Fund based Lending Rate (MCLR) of SBI as on 1st April of that financial year plus the Margin. The Margin, in terms of Regulation 4(2) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 towards capitalisation of Assets, Working Capital and Regulatory Assets for Distribution Licensee, is allowed as the difference between the weighted average rate of interest on actual loan portfolio and the MCLR as on 1st April of that financial year:*

*Provided that the Margin shall not exceed 5.00%, 4.25% and 3.50% for the first, second and third year of the control period, respectively:*

*Provided further that the rate of interest on loan (MCLR plus Margin) in any case shall not exceed approved base rate of return on equity i.e. 14.00%.”*

3.321 In line with the above Regulations, the Petitioner has submitted the margin for FY 2020-21 for computation of interest on loan as under:

**Table 3. 82: Rate of Interest on Loan (%)**

Sr. No.	Particulars	Rate
A	Rate of interest on Loan	12.19%
B	SBI MCLR as on 01.04.2020*	7.75%
C	Difference	4.44%
D	<b>Margin for FY 2020-21</b>	<b>4.44%</b>

\*SBI MCLR Rate enclosed as **Annexure 3A.2**

3.322 The Petitioner has referred Regulation 85 of DERC (Terms & conditions for Determination of Tariff) Regulations, 2017 states as under:

**“INTEREST ON WORKING CAPITAL**

*85. Rate of Interest On Working Capital shall be considered as the bank rate as on 1st April of the year plus margin as specified by the Commission for the Control Period and shall be trued up on the basis of prevailing bank rate as on 1st April of the respective financial year:*

3.323 Accordingly, the Petitioner has submitted the computation of interest on working capital stated as under:

**Table 3. 83: Petitioner Submission - Rate of Interest on Loan (%)**

Sr. No.	Particulars	Rate
A	Rate of Interest on Working Capital	11.67%
B	SBI MCLR as on 01.04.2020*	7.75%
C	Margin for FY 2020-21	3.92%
<b>D</b>	<b>Margin for FY 2020-21</b>	<b>3.92%</b>

\*SBI MCLR Rate

3.324 Accordingly, the rate of interest on term loan and working capital is equivalent to minimum of (i) approved base rate of RoE of 14.00%, (ii) rate of interest w.r.t actual loan and working capital portfolio during FY 2020-21 and (iii) Bank Rate of 7.75% as on April 1, 2019 plus margin for rate of interest on loan as per Business Plan Regulations, 2019. Thus, the rate of interest on loan and working capital comes out to be 12.19% and 11.67% the Petitioner has computed the blended interest rate on loan tabulated as under:

**Table 3. 84: Petitioner Submission - Weighted Average Interest Rate on Loan for FY 2020-21 (%) for FY 2020-21**

Sr. No.	Particulars	FY 2020-21
A	Closing Balance of Debt	1412
B	Closing Debt at 100% Working Capital	479
C	Closing Balance of CAPEX Loan	933
D	Rate of Interest on Loan	12.19%
E	Rate of Interest on Working Capital	11.67%
<b>F</b>	<b>Blended Rate of Interest on Loan</b>	<b>12.01%</b>

3.325 The Petitioner has considered the rate of interest of loans during 2020-21 i.e. 12.01% and RoE at 16%. And requested the Commission to approve the rate of interest on loan (rd) as 12.01% for FY 2020-21.

3.326 Further, in order to comply with the Directives issued by the Commission, the Petitioner vide its letter dated 30.11.2021 has submitted the statement of interest on all type of loans availed from various Banks/Financial Institutions for FY 2020-21.

3.327 The Petitioner has considered the rate of interest of loans during 2020-21 i.e. 12.22% and RoE at 16%. Further, as per Regulation 21 of DERC Business Plan Regulations, 2019:

#### **"4. TAX ON RETURN ON EQUITY**

The base rate of Return on Equity as allowed by the Commission under Regulation 3, shall be grossed up with the Minimum Alternate Tax or Effective Tax Rate of the respective financial year in terms of Regulation 72 and 73 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, as per the following formula:

$$\text{Rate of Return on Equity} = 14 / [(100 - \text{Tax Rate}) / 100]$$

where, Tax Rate is Minimum Alternate Tax (MAT) or Effective Tax Rate, as the case may be.”

3.328 The Petitioner has submitted that a new section 115BAA has been inserted in the Income Tax Act with effect from Financial Year (FY) 2019-20. Section 115BAA allows every domestic company to avail an option to pay Income-tax at the rate of 22% (effective tax rate is 25.17% including surcharge and cess), subject to certain specified conditions. If Company exercises the option to switch to pay tax u/s 115BAA, MAT will not be applicable to it. In view of the above, the Petitioner has decided to avail the option to switch over to the new tax regime u/s 115BAA.

3.329 In line with the above submission, the grossed-up return on equity is 21.38% as effective tax rate is 25.17%, the Petitioner has submitted the computation of WACC as under:

**Table 3. 85: Petitioner Submission - Weighted Average Cost of Capital (WACC) (Rs. Cr.)**

Sr. No.	Particulars	Rate
A	Average Equity	1074.5
B	Average Debt	1430.0
C	Return on Equity	16.00%
D	Income Tax Rate	<b>25.17%</b>
E	Grossed up Return on Equity	21.38%
F	Rate of Interest	12.02%
<b>G</b>	<b>Weighted average cost of Capital</b>	<b>16.03%</b>

3.330 The Petitioner has submitted the RoCE for FY 2020-21 as under:

**Table 3. 86: Petitioner Submission - Return on capital employed (ROCE) (Rs.Cr.)**

Particulars	FY 2020-21
Weighted Average Cost of Capital (WACC)	16.03%
RRB (i)	2367
<b>RoCE</b>	<b>379</b>

3.331 The Petitioner requested the Commission to allow RoCE based on the above computations.

### COMMISSION ANALYSIS

3.332 Regulation 22 of the *DERC (Business Plan) Regulations, 2019* stipulates the margin for rate of interest on loan as follows:

**“22. MARGIN FOR RATE OF INTEREST ON LOAN**

*(1) The rate of interest on loan for a financial year shall be Marginal Cost of Fund based Lending Rate (MCLR) of SBI as on 1<sup>st</sup> April of that financial year plus the Margin. The Margin, in terms of Regulation 4(2) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 towards capitalisation of Assets, Working Capital and Regulatory Assets for Distribution Licensee, is allowed as the difference between the weighted average rate of interest on actual loan portfolio and the MCLR as on 1<sup>st</sup> April of that financial year:*

*Provided that the Margin shall not exceed 5.00%, 4.25% and 3.50% for the first, second and third year of the control period, respectively: Provided further that the rate of interest on loan (MCLR plus Margin) in any case shall not exceed approved base rate of return on equity i.e. 14.00%.*

*(2) The Distribution Licensees shall follow transparent mechanism to avail Loans and, to the extent possible, shall endeavour to invite open tender for availing Loans.”*

3.333 Accordingly, the WACC, ROCE as approved by the Commission for the Petitioner is as follows:

**Table 3. 87: Commission Approved - WACC and ROCE for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	As per Petitioner	As per Commission	Reference
A	RRBi	2367	2,407.54	Table No. 3.80
B	Opening Equity for net Capitalisation (limited to 30%)		576.74	
C	Closing Equity limiting to 30% of net capitalization		596.54	
D	Average Equity for net Capitalisation (limited to 30%)	1074.50	586.64	
E	Opening Debt at 70% of net capitalization		1345.72	

Sr. No.	Particulars	As per Petitioner	As per Commission	Reference
F	Closing Debt at 70% of net capitalization		1391.93	
G	Average Debt at 70% of net capitalisation	1430.00	1368.82	
H	Debt at 100% of working capital		452.07	
I	Debt- balancing figure		1,820.90	I=G+H
J	Rate of return on equity (re)	16.00%	16.00%	As per Regulation
K	Rate of debt (rd) on capitalization		12.17%	
L	Rate of debt (rd) on working Capital		11.67%	
M	Rate of interest on debt(rd)	12.02%	12.04%	
N	WACC	16.03%	13.01%	
O	RoCE	379.00	313.17	O=A*N

## INCOME TAX

### COMMISSION ANALYSIS

3.334 The Commission based on the submitted data, note 44 of the Audited Annual Books of Accounts for FY 2020-21 and DERC Tariff Regulations, 2017 has computed the income tax for FY 2020-21 as follows:

**Table 3. 88: Commission Approved - Income tax for FY 2020-21 (Rs. Cr.)**

Sr. No.	Income Tax	Approved	Ref.
A	Average Equity for Capitalisation (limited to 30%) (Rs. Cr.)	586.64	Table No. 3.87
B	Rate of return (re) (%)	16%	
C	Return on equity (Rs. Cr.)	93.86	A*B
D	Effective Income Tax Rate (%)	0.00%	
F	Return on equity including income tax (Rs. Cr.)	93.86	
G	Tax (Rs. Cr.)	0.00	F-C
H	Actual Tax Paid (Rs. Cr.) – Note 44 of Audited Accounts	0.00	Audited financials
I	Tax allowed (Rs. Cr.)	0.00	Min(G,H)

## NON-TARIFF INCOME

### PETITIONER SUBMISSION

3.335 The Petitioner has submitted the Non-Tariff Income during FY 2020-21 as tabulated below:

Table 3. 89: Petitioner Submission - Non-Tariff Income for FY 2020-21

Sr. No	Particulars	Amount (Rs. Cr.)
A	Other Operating Income	72.6
B	Other Income	37.9
<b>I</b>	<b>Total Income as per Accounts</b>	<b>110.5</b>
C	Add: Interest on CSD	21.3
D	Add: Differential in SLD	4.0
<b>II</b>	<b>Total Other Income</b>	<b>135.8</b>
	Less: Income from other business	
E	Pole Rental Income	2.2
F	Street Light Maintenance Charges	0.2
<b>III</b>	<b>Net Income to be considered</b>	<b>133.3</b>
G	Less: LPSC	21.8
H	Less: Short term gain	8.0
I	Less: Transfer from Consumer contribution for capital works	18.4
J	Less: Bad debts recovered	2.1
K	Less: Write-back of misc. provisions	3.6
L	Less: Commission on collection of Electricity Duty	5.3
	<b>Net Non-Tariff Income</b>	<b>74.1</b>

### COMMISSION ANALYSIS

3.336 Regulation 94 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

*"94. The Utility shall submit forecast of Non-Tariff Income to the Commission, in such form as may be stipulated by the Commission from time to time, whose tentative list is as follows:*

- (i) Income from rent of land or buildings;*
- (ii) Net Income from sale of de-capitalised assets;*
- (iii) Net Income from sale of scrap;*
- (iv) Income from statutory investments;*
- (v) Net Interest on delayed or deferred payment on bills;*
- (vi) Interest on advances to suppliers/contractors;*
- (vii) Rental from staff quarters;*
- (viii) Rental from contractors;*
- (ix) Income from Investment of consumer security deposit;*

(x) Income from hire charges from contactors and others, etc.”

3.337 The Commission has trued up the Non-Tariff Income in accordance with the Regulation 94 of DERC Tariff Regulations, 2017 as stated above in subsequent paras:

**1) Interest on Consumer Security Deposit (CSD)**

3.338 The Petitioner has considered the rate of Carrying cost for computing the interest on Consumer Security Deposit. Hence, the difference of normative interest on CSD and that booked in the Audited Accounts has been added in NTI as under:

**Table 3. 90: Petitioner Submission - Interest on Consumer Security Deposit (Rs.Cr.)**

Sr. No	Particulars	FY 2020-21
A	Opening Balance of CSD	507
B	Closing Balance of CSD	514
C	Average Balance	510
D	Interest Rate	11.67%
E	Interest on CSD	60
F	Interest booked in Audited Accounts	38
<b>G</b>	<b>Net Interest to be considered</b>	<b>21</b>

**COMMISSION ANALYSIS**

3.339 The Commission has verified the Consumer Security Deposit with the Petitioner from the Audited financial statements for FY 2020-21. Further, it is observed from the Note 22 and Note 31 of Audited financial statements for FY 2020-21, the Consumer Security Deposit have been bifurcated by the Petitioner under two heads i.e. other financial liabilities – non-current and other financial liabilities – current. The Commission has considered the amount of Consumer Security Deposit depicting under both the heads of the liabilities as the interest is to be paid on total liability towards the Consumer Security Deposit laying under current and non-current financial liability.

3.340 The Commission has considered the working capital interest rate for FY 2020-21 as trued up is 11.37% for the purpose of determining normative Interest on Consumer Security Deposit.

3.341 The actual amount of interest paid to the consumers comes to Rs. 69.00 Cr. as per the Note 40 of Annual Audited Books of Accounts for FY 2020-21. Accordingly, the difference in the normative interest income and the actual interest booked as expense for FY 2020-21 is being

considered as part of the Non-Tariff Income of the Petitioner as follows:

**Table 3. 91: Commission Approved - Consumer Security Deposit for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	Petitioner submission	Commission approved	Ref.
A	Opening Balance of Consumer Security Deposit	507.00	506.95	Note 23 and 32 of Annual Audited Accounts for FY 2020-21
B	Closing Balance of Consumer Security Deposit	514.00	514.02	
C	Average Balance of Consumer Security Deposit	510.00	510.49	(A+B)/2
D	Working Capital Interest Rate	12%	11.67%	WACC
E	Normative amount of Interest	60.00	59.57	C*D
F	Actual Amount of Interest	38.00	38.28	Note 23 (point-iii) of Annual Audited Accounts for FY 2020-21
G	<b>Difference to be additionally offered as NTI</b>	<b>21.00</b>	<b>21.29</b>	<b>G=E-F</b>

## 2) Difference on account of Service Line Development (SLD) Charges

### PETITIONER SUBMISSION

3.342 The Petitioner has stated that the Commission in its Tariff Order dated 29/09/2015 ruled as under:

*“3.373 The Commission has considered the service line charges as income for a period of three years for true-up up to FY 2011-12. The service line charges up to FY 2012-13 have been considered as part of revenue gap up to FY 2012-13 as discussed in earlier paragraphs. For FY 2013-14, service line charges of Rs. 43.37 Crore as per audited financial statement of FY 2013-14 are being considered as part of the non-tariff income of the Petitioner.”*

3.343 The Petitioner has challenged the aforesaid issue before Hon’ble ATE in Appeal 290 of 2015 which is pending. Without prejudice to the contentions in the Appeal, the Petitioner has added the difference between the SLD Charges received during FY 2020-21 and that appearing in the Other Income in the Audited Accounts for the purpose of computation of Non-Tariff Income as under:

**Table 3. 92: Petitioner Submission - Difference on account of SLD (Rs. Cr.)**

Sr. No	Particulars	FY 2020-21
1	Received during the year	27
2	SLD Appearing in Other Income	23
	<b>Difference Considered</b>	<b>4</b>

3.344 Accordingly, the Petitioner has adjusted Rs. 3.96 Crore during FY 2020-21 for the purpose of computation of Non-Tariff Income.

### COMMISSION ANALYSIS

3.345 The Commission has been considering the SLD charges on receipt basis as part of the Non-Tariff income of the Petitioner.

3.346 The Commission verified the Audited Financial Statements and observed that the accounting treatment of the Petitioner continues to amortise the SLD over a period of three years. However, without pre-judice to the contentions in the Appeal 297 of 2015, the Petitioner has offered the SLD on receipt basis. Accordingly, the Commission has considered an amount of Rs. 3.96 Cr. as income from SLD and made part of Non-Tariff Income

### 3) Income from Other Business (Street Light Maintenance Charges)

#### PETITIONER SUBMISSION

3.347 The Petitioner has submitted that apart from distribution licensee's business, the Petitioner is also generating revenue from other business. These other businesses are being operated in parallel by the Petitioner along with the Distribution Business. The Petitioner is exercising its fundamental right to carry out these unrelated businesses.

3.348 Section 51 of the 2003 Act entitles the Distribution Licensee such as the Petitioner to engage in any other business for optimum utilization of its assets. Section 51 also requires that a certain proportion of "the revenues" derived from such business be utilized for reducing the wheeling charges. Section 51 is an enabling provision contained in the legislation with some purpose. Disallowance of the legitimate expenses relating to other business would be ex facie contrary to Section 51 of the 2003 Act and would lead to discouraging the distribution

licensee such as the Petitioner from generating income from other business, which is otherwise undertaken considering the interest of consumers at large and optimum utilization of assets of distribution business. The Petitioner has engaged in the businesses (as described in subsequent paragraphs) which are within the scope of Section 51 of the 2003 Act and has hereinafter provided reasons for this Commission to consider: (1) The Income by deducting the expenditure from the Revenue; and (2) Reworking of the proportion of the Revenues to be retained by the Petitioner in excess of the 20% which was stipulated in the 2005 Regulations as “a general principle” and entitling the Petitioner to “approach the Commission for change of the aforesaid sharing formula with proper justification, for approval of the Commission”.

3.349 The Petitioner has submitted that the responsibility of maintaining street light is not contained in the Distribution License of the Petitioner. The Electricity Act, 2003 does not mandate the Distribution Licensee to maintain Street Lights. Further, as per Section-42 of Delhi Municipal Corporation Act, 1957, it is the responsibility of MCDs to maintain Street lighting system which is reproduced below:

“42. Obligatory functions of the Corporation

....

*(o) the lighting, watering and cleansing of public streets and other public places;*

...

*(w) the maintenance and development of the value of all properties vested in or entrusted to the management of the Corporation;”*

3.350 With the unbundling and restructuring of Delhi Vidyut Board (DVB) into corporate entities and privatisation of Distribution Business, the past legacy of maintenance of public lighting was passed on to the Petitioner as matter of course, though as distribution licensee the maintenance of public lighting was not their function. In fact, the Petitioner vide letter dated 24/03/2004 intimated the Commission that maintenance of street lighting is the responsibility of MCDs under DMC Act and not the Petitioner. Also the Commission in Order dated 03/09/2003 ruled as under:

*“10. Having heard the submission of the parties, the Commission observed that it was the prerogative of the MCD, either to get the work done themselves or through the DISCOMs, in the latter alternative, scope of works, as also the commercial terms and conditions, shall need to be proposed by MCD. Thereafter, the Commission shall determine the maintenance charges, etc. after having considered the responses of the DISCOMs.”*

- 3.351 The Petitioner has stated that maintenance of street lighting is an activity assigned to the Petitioner by MCDs under DMC Act and does not fall under Regulated Business.
- 3.352 However, there was a dispute between the Delhi DISCOMs and MCDs on scope of work of the activities and charges at which the maintenance is to be undertaken by Delhi DISCOMs. During FY 2003-04, the Commission received number of complaints on the poor conditions of street light prevailing in respect of Public Lighting in Delhi. Consequently, in order to settle the matter, the Commission vide letter dated 15/10/2003, identified the scope of works as maintenance of existing streetlights, addition of new streetlights, installing of high mast lights, transformers, etc. Further, the Commission vide Order dated 5/03/2004 determined the rates for maintenance of street lights. These rates were further amended by the Order issued by the Commission on 24/09/2009.
- 3.353 It is further submitted that the determination of rates and scope of work by the Commission does not mean that maintenance of streetlights fall under Licensed Activity and is a part of regulated business. The scope of work and determination of rates by the Commission, in which this Commission acted almost as a Mediator or a Conciliator rather than an adjudicator has helped MCD and the Petitioner to reach at a consensus.
- 3.354 Therefore, the Petitioner is maintaining Street Lights not as an obligation under Licensed Business or a part thereof but on behalf of road owning agencies, viz. MCD, NHAI, PWD in the areas comprising East and Central Delhi.
- 3.355 For carrying out the maintenance services the Petitioner optimally engages its existing manpower, Technicians, Electricians, Electric Men, Line Engineers and also outsources further manpower.

- 3.356 Since the activity of maintenance of Street Lights is neither a licensed activity nor an activity related to licensed business so no part of the cost of such activity nor the revenue accrued therefrom should form part of the ARR of the licensed business.
- 3.357 In point of fact, the cost of such activity does not form part of the O&M cost in the ARR since the O&M costs is permitted by the Commission on normative base which has no reference to the actual expenses of the Petitioner. For example, the R&M expenses are given as a percentage of Gross Fixed Assets.
- 3.358 In view of the aforesaid, the Petitioner requested that entire income on account of maintenance of Street Lights may be allowed to be retained by the Petitioner as it is neither a non-tariff income nor an income within the scope of Section 51 of the 2003 Act.
- 3.359 The Petitioner has requested the Commission to consider the street light maintenance charges of Rs. 0.21 Cr. to be reduced from the Non-Tariff Income

#### COMMISSION ANALYSIS

- 3.360 The Commission in its Order dated 5/03/2004 regarding directions for street lighting in the areas of MCD stated,

*"11. ... The best way doing this would be to have an in-built system of providing incentives in case of good performance and likewise, impose penalties in case the performance is lower than expectations..."*

*The Commission would like to evolve a system whereby good performance is rewarded. Similarly, poor performance also needs to be discouraged and therefore, the Commission directs that full maintenance charges may be paid for 90% performance. Performance higher than 90 shall earn an incentive for the DISCOMS according to the following table:*

<i>Performance level achieved</i>	<i>Incentive</i>	<i>Example</i>
<i>Between 90-95%</i>	<i>1% for each percentage in over achievement from target of 90%</i>	<i>Actual Performance 93% Incentive 93-90 = 3%</i>

<i>Performance level achieved</i>	<i>Incentive</i>	<i>Example</i>
<i>Between 95-97%</i>	<i>1.5% for each percentage in over achievement from target of 95%</i>	<i>Actual Performance 97% Incentive = 5 + 3 = 8%</i>
<i>Above 97%</i>	<i>2.0% for each percentage in over achievement from target of 97%</i>	<i>Actual Performance 99% Incentive = 8 + 4 = 12%</i>

*Performance less than 90% shall attract disincentive for the DISCOMS according to the following table:*

<i>Performance level achieved</i>	<i>Incentive</i>	<i>Example</i>
<i>Between 80-90%</i>	<i>1% for each percentage in shortfall to achieve target of 90%</i>	<i>Actual Performance 83% Disincentive 90-83 = 7%</i>
<i>Between 70-80%</i>	<i>1.5% for each percentage in shortfall to achieve target of 80%</i>	<i>Actual Performance 77% Disincentive 10+4.5 = 14.5%</i>
<i>Above 70%</i>	<i>2.0% for each percentage in shortfall to achieve target of 70%</i>	<i>Actual Performance 60% Disincentive 25 + 20 = 45%</i>

*The incentive or disincentive would not be a pass through in the calculation of the Annual Revenue Requirement and the payment would be made by the 15th day of the following month.”*

3.361 The Petitioner could not substantiate its claim by way of documentary evidence of the performance levels achieved in order to claim the incentive. The Petitioner shall be allowed incentive, if any, on account of street light maintenance for FY 2020-21 on production of documentary evidence without any carrying cost. Accordingly, Commission Rs. 0.21 Cr. has not considered as a part of Non-Tariff Income.

#### 4) Pole Rental Income

#### PETITIONER SUBMISSION

3.362 The Petitioner has submitted that the Commission in its Order dated 06/10/2006 in Petition No. 4 of 2005 filed by NDPL has stated that the DISCOM's LT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable

operator and the Licensee for generating revenue. The relevant extract of the Order is reiterated as below:

*“29. The Commission is therefore, of the opinion that the poles other than the Central Verge and the HT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee. Any revenue generated thereto shall be subject to the Regulations made by the Commission on the Treatment of Income from Other Business.”*

3.363 The Petitioner had earned total income of Rs. 5.62 Crore during FY 2020-21 on account of rent from the cable operators for using Petitioner’s LT poles for laying their cables/set up. It is further clarified that Proper agreements have been executed between the Petitioner and the operator for such usage in terms of the above Order of the Commission.

**Table 3. 93: Pole Rental Income for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Total Income	Consumer's Share	Petitioner's Share
A	Pole Rental Income	5.62	3.37	2.25

### COMMISSION ANALYSIS

3.364 Regulation 5(5)(a) of DERC (Treatment of Income from other businesses of Transmission Licensee and Distribution Licensee) first Amendment Regulation, 2017 states that where the Licensee utilises the assets and facilities of the Licenses business for Other business, the Licensee shall retain 40% of the net revenue from such business and pass on remaining 60% of the net revenue to the regulated business.

3.365 Accordingly, the Commission has considered 40% share to be retained by the Petitioner and accordingly Rs. 2.25 Cr. has been allowed to be reduced from NTI.

### 5) Late Payment Surcharge

#### PETITIONER SUBMISSION

3.366 The Petitioner submitted that it levied LPSC @ 1.5% per month on flat basis till FY 2012-13. The Commission was therefore allowing only financing cost of LPSC to the Petitioner by computing the principal amount (LPSC divided by 18% (12 x 1.5%) and allowing carrying cost

on the principal amount. The difference between the amount of LPSC and the interest on principal amount was passed on the consumers by way of NTI.

- 3.367 The Petitioner submitted that based on the representation of Foundation of Rubber & Polymer Manufacturers, the Commission vide letter dated 13/12/2012 communicated that LPSC should be charged proportional to the number of days of delay in receiving payment from the consumers by the Petitioner. The Commission in Tariff Order dated 29/09/2015 again directed the Petitioner to charge LPSC proportionate to the number of days of delay in receiving the payment from the consumers of the DISCOMs.
- 3.368 The Petitioner requested the Commission to allow the entire LPSC instead of financing cost of LPSC during FY 2020-21 as the Petitioner charged LPSC proportionate to the number of days of delay and not on flat basis. The methodology of charging LPSC proportionate to the number of days of delay leads to recovery of only financing cost of LPSC for the delay in payment and not on flat basis. However, the Commission without referring to its direction for change in charging of LPSC continued with the earlier methodology which was utilised for computation of financing of LPSC till FY 2012-13. Such treatment has actually resulted in allowance of financing cost of LPSC at much lower rate.
- 3.369 The Petitioner has further submitted that the concept of financing cost of LPSC was introduced by the Commission in Tariff Order dated 26/08/2011 as LPSC was considered as a part of revenue realisation for the purpose of computation of AT&C Loss as per Clause-4.7 (c) of DERC Tariff Regulations, 2007. As per DERC Tariff Regulations, 2011, the methodology of computation of revenue realisation for the purpose of computation of AT&C Loss has been changed and LPSC is no longer being included as a part of revenue realisation for computation of AT&C Loss from FY 2012-13 onwards. Since the methodology for computation of AT&C Loss has been changed, the Petitioner ought to be allowed entire LPSC instead of financing cost of LPSC.
- 3.370 The Petitioner has also submitted that concept of financing cost of LPSC is based on the principle that the Petitioner will fund the amount delayed through loans whereas, it is practically not possible to arrange for the funding of such delayed payment as the Petitioner does not know in advance as to which consumer will pay the bill on deadline and which consumers will not pay the bill on deadline. The process of raising loans for funding any

expenditure is time taking process and therefore, in case of any default on part of consumers to pay electricity bills in time, the Petitioner has to face the following penalties:

- a) **Penalty on account of under-achievement of AT&C Loss:** In case of any under-achievement of AT&C Loss, the Commission levies penalty on the Petitioner irrespective of the fact that the default in collection efficiency is on account of consumers.
- b) **Penalty in repayment of Loans:** In present scenario, the Petitioner is not operating in business as usual situation. Apart from normal capex loan and working capital loan, the Petitioner is required to fund huge amount of regulatory assets and the revenue gap during the year on account of variation between the estimated ARR and actual ARR. In such a situation any default in payment of billed amount put financial constraints on the ability of the Petitioner to efficiently discharge its debt obligations. As a result, the Petitioner has to face penalty on account of delay in repayment of loans which is not being passed in the ARR.
- c) **Penalty by Generators:** Generators levy penalty of 1.5% per month in case of non-payment of dues within time.

3.371 The Petitioner has stated that such treatment tantamount to discrimination between Gencos, Transcos and DISCOMs which is depicted in the table below:

**Table 3. 94: Petitioner submission - Treatment of LPSC to various utilities in Delhi**

Sr. No	Particulars	Delhi Gencos and Transcos	Delhi DISCOMs
1	Before FY 2013-14	<ul style="list-style-type: none"> <li>• LPSC @ 1.5% per month;</li> <li>• LPSC collected allowed to Gencos and Transcos irrespective of actual cost of financing delay in payment;</li> <li>• Therefore, LPSC not considered as Non-Tariff Income.</li> </ul>	<ul style="list-style-type: none"> <li>• LPSC @ 1.5% per month;</li> <li>• Only financing cost of delayed payment by computing principal amount, i.e., LPSC Collected/ 18% allowed to DISCOMs;</li> <li>• Difference between LPSC collected and financing cost of delayed payment considered as NTI.</li> </ul>
2	From FY 2013-14	<ul style="list-style-type: none"> <li>• Same treatment continued.</li> </ul>	<ul style="list-style-type: none"> <li>• LPSC @ 1.5% proportional to number of days of delay;</li> <li>• Same formulae for computing principal</li> </ul>

Sr. No	Particulars	Delhi Gencos and Transcos	Delhi DISCOMs
			amount despite of change in treatment;

3.372 The Petitioner requested the Commission to allow entire LPSC of Rs.21.84 Crore during FY 2020-21 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

### COMMISSION ANALYSIS

3.373 Regulation 94 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

*“94. The Utility shall submit forecast of Non-Tariff Income to the Commission, in such form as may be stipulated by the Commission from time to time, whose tentative list is as follows:*

...

*(v) Net Interest on delayed or deferred payment on bills;*

...”

3.374 The Commission during the prudence check has verified and trued up the Working Capital Interest Rate at 11.37%. Accordingly, the Commission has considered the net interest on delayed or deferred payment on bills as Non-Tariff Income of the Petitioner as follows:

**Table 3. 95: Commission Approved - Financing Cost of LPSC (Rs. Cr.)**

Sr. No.	Particular	As approved	Ref.
A	LPSC earned	21.84	Note 36 of Annual Audited Accounts for FY 2020-21
B	DERC Covid Order dated 7/04/2020 impact	2.13	
C	Late payment surcharge rate as per Regulations (%)	18%	
D	Principal Amount	127.43	
E	Normative Interest Rate	11.67%	WACC
F	Financing Cost	14.87	D*E

**6) Short Term Gain****PETITIONER SUBMISSION**

3.375 The Petitioner referred Commission's Tariff Order dated August 31, 2017 has ruled as under:

*"3.544 The Petitioner has submitted that Short Term gain is on account of interest received on fixed deposits maintained by the Petitioner as margins kept with the funding agency for loans availed. Therefore, the Commission is of the view that interest on these fixed deposits should be allowed to be reduced from the Non-Tariff Income ..."*

3.376 Accordingly, the Petitioner requests the Hon'ble Commission to allow the Petitioner to retain the income of ₹7.99 Crore on account of interest received on fixed deposits during FY 2020-21 and reduce the same from the Non-Tariff Income.

**COMMISSION ANALYSIS**

3.377 Regulation 94 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates that income from statutory investments will form part of Non-Tariff Income, accordingly, the Commission allows the income from such investments amounting to Rs. 7.99 Cr. to be reduced from Non-Tariff Income.

**7) Transfer from Consumer Contribution and Capital Works****PETITIONER SUBMISSION**

3.378 The Petitioner has submitted that the Commission in Tariff Order dated 31/07/2019 has allowed transfer from consumer contribution for capital works to be reduced from NTI for FY 2017-18 on the ground that the consumer contribution is not considered for calculation of depreciation and RoCE and the Petitioner is making book adjustments in compliance of accounting standards and has no impact on the cash flows. Therefore, amount transferred from Consumer contribution and capital works are allowed to be reduced from Non-Tariff Income.

3.379 Accordingly, the Petitioner has requested the Commission to reduce the amount of Rs.18.44

Crore from the Non-Tariff Income during FY 2020-21.

### COMMISSION ANALYSIS

3.380 The Commission is of the view that the consumer contribution is not considered for calculation of depreciation and RoCE and the Petitioner is making book adjustments in compliance of accounting standards and has no impact on cash flows. Therefore, amount transferred from Consumer contribution and capital works are allowed to be reduced from Non-Tariff Income.

### 8) Income on Account of Bad Debts Recovered

#### PETITIONER SUBMISSION

3.381 The Petitioner referred the Commission in Tariff Order dated August 31, 2017 ruled as under:

*“3.552 The Petitioner has submitted that any amount recovered as bad debts is an energy income which is required to be included in the amount collected during the year as the same is received against the amount billed in the previous years. The amount billed and collected in previous years has already been considered for the purpose of AT&C loss calculation during respective years. It is observed that the amount recovered from the bad debts written off by the Petitioner is part of total collection for the relevant year has also been indicated under the head ‘other income’ in the audited financial statement of FY 2014-15 and FY 2015-16. Therefore, the Income on account of bad debts recovered are reduced from Non-Tariff Income.”*

3.382 Accordingly, the Petitioner has requested the Commission not to consider Rs.2.09 Crore of income recovered on account of bad debts (shown in Note 37 of Audited Accounts) as Non-Tariff Income during FY 2020-21.

### COMMISSION ANALYSIS

3.383 The amount billed and collected in previous years has already been considered for the purpose of AT&C loss calculation during respective years. It is observed that the amount recovered from the bad debts written off by the Petitioner is part of total collection for the relevant year has also been indicated under the head ‘other income’. Therefore, the income

on account of bad debts recovered amounting to Rs. 2.09 Cr. is reduced from Non-Tariff Income.

**9) Write-Back of Miscellaneous Provisions/ Income on account of Bad Debts Recovered**

**PETITIONER SUBMISSION**

3.384 The Petitioner referred the Commission's Tariff Order dated 31/07/2019 did not consider the write-back of miscellaneous provisions and relied on the previous Tariff Orders and stated as under:

*"3.457 The similar issue is sub-judice under Appeal no. 297 of 2015 before Hon'ble APTEL. The A&G expenses have been benchmarked for the base year FY 2010-11 for the purpose of 2nd MYT period FY 2012-13 to FY 2016-17 without adjusting provision for miscellaneous expenses. The miscellaneous provisions now being written back pertain to the prior periods, for which the A&G expenses have been allowed on a normative basis. Any reversal of the expenses under the normative head should remain within the Licensee revenue. Accordingly, the Commission considers the write back of miscellaneous provisions created prior to FY 2017-18 as part of Non-Tariff Income."*

3.385 The Petitioner has submitted that the Commission in Tariff Order dated March 28, 2018 did not consider the write-back of miscellaneous provisions and relied on the previous Tariff Orders and stated as under

*"3.428 The Commission has already dealt this issue in detail in previous tariff orders, therefore, the provisions written back has not been allowed to be reduced from Non-Tariff Income of the Petitioner."*

3.386 The Hon'ble Commission in Tariff Order dated August 31, 2017 stated as under:

*"3.542 The A&G expenses for the base year FY 2011-12 have been benchmarked for the purpose of MYT period FY 2012-13 to FY 2015-16 on the basis of A&G Expenses indicated in the Audited Financial Statement without considering whether the amount has been actually spent or provisioned. Therefore, the Commission is of the view that the provisions written back are to be included in the Non-Tariff Income."*

3.387 The Petitioner has submitted that the amount of Rs.3.6 Crore appearing as Excess provisions written back in Note -34 of the Audited Accounts is an accounting entry reversing the

amount of excess Provisions (shown as “Provisions” in the Audited Accounts) created in previous years and was not forming part of A&G expenses considered by the Commission during previous financial years. Hence, the Petitioner requested the Commission that the amount of Rs.3.6 Crore not to be considered as part of Non-Tariff Income for FY 2020-21.

### COMMISSION ANALYSIS

3.388 The Commission has allowed the said amount of Rs. 3.60 Cr. as a part of Non-Tariff Income for FY 2020-21.

### 10) Collection Charges on Electricity Duty

#### PETITIONER SUBMISSION

3.389 The Petitioner referred the Commission’s Tariff Order dated 31.08.2017 stated as under:

*“The Commission is of the view that collection of electricity duty is not a separate function/job and electricity duty is collected with electricity bills as normal collection of electricity dues billed by the Petitioner. Therefore, the Petitioner’s submission that there is extra cost on account of collection of electricity duty is neither indicated in the audited financial statement nor justified. Accordingly, amount on account of Commission on Electricity Duty has not been reduced from Non-Tariff Income.”*

3.390 The Petitioner has submitted that as an agent on behalf of Municipal Corporation of Delhi (MCD), collects and pays to the MCD the Electricity Duty. For undertaking this activity, there is incidence of use of assets and facilities of the licensed business towards collection of the Electricity Duty. As such this collection activity is a separate business and optimally utilizes the assets of the Petitioner. Section-51 of the 2003 Act, as well as, Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 permits the Petitioner to engage in any other business for optimal utilization of its assets.

3.391 Further, the Petitioner has submitted that MCD pays commission to the Petitioner for collecting Electricity Duty on its behalf. This commission paid by MCD is purely Other Business within Section-51 of the 2003 Act, as well as, Delhi Electricity Regulatory

Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 and accordingly the same would apply to the aforesaid amount earned by the Petitioner as the commission paid by MCD. For undertaking the activity of collection of Electricity Duty, the Petitioner has expended certain expenses towards incentivizing the existing manpower, engaging additional and external collection agencies which are included in the actual employee expenses.

- 3.392 Further, the Petitioner has to perform in-house operations also for which the Petitioner is required to incur additional O&M Expenses. Some of these in-house activities involve maintenance of records regarding Electricity Duty (Amount of Electricity Billed, Collected, Outstanding, paid to GoNCTD etc.), cash-handling activities, interaction with GoNCTD, etc. which involves cost. The Petitioner incurs security and conveyance expenses towards transfer of money. Additionally, the Petitioner has also engaged various collection agencies for which the Petitioner has to pay service charges for such engagement. All these expenses are not being allowed by Commission since O&M Expenses are allowed on a normative basis. It is further submitted that the commission of Electricity Duty is being provided as compensation in lieu of the Petitioner's efforts in collecting and accounting and other services rendered by the Petitioner to GoNCTD. It is submitted that if GoNCTD were to perform such similar activity, it would have involved costs. The Petitioner has reduced the efforts on behalf of GoNCTD, required for collection of Electricity Duty in terms of manpower and other expenses. It is submitted that the income earned as commission on collection of Electricity Duty ought to be utilized to defray the additional expenses incurred by the Petitioner while undertaking such activities.
- 3.393 The Petitioner in its Petition for Truing-up of FY 2014-15, Review of FY 2015-16 and Multi-Year ARR from FY 2016-17 to FY 2020-21 and Tariff of FY 2016-17, had submitted that it has to incur additional O&M expenses and other in-house activities involving maintenance of records, cash handling activities, etc., which involve costs. Since these expenses incurred are not being separately allowed by the Commission, the entire income earned through this activity ought not to be reduced from the ARR by treating it as non-tariff income. However, the Commission in the Tariff Order dated 31.08.2017 (refer to Para No. 3.611) has treated the entire income earned on the aforesaid activity as part of non-tariff income and reduced

the ARR of the Petitioner in contravention of its very own 2005 Regulations.

- 3.394 The Petitioner submitted that simply because the Electricity Duty is collected along with the electricity bills, that does not mean that the activity of collecting, managing and accounting for the Electricity Duty, do not attract the incidence of any expenses. For example, if in future, the Petitioner were to engage in another business i.e., to collect water supply bills or telephone bills or gas utility bills, it cannot be said that because the Petitioner collects these amounts along with its electricity bills, these other businesses are distribution functions of the Petitioner or no separate expenses are required for carrying out these other businesses.
- 3.395 The collection of Electricity Duty by the Petitioner is not a licensed activity. The responsibility for collection of Electricity Duty does not fall upon the licensee either under Section 12 of EA, 2003, nor under the license granted to the Petitioner by the Commission. It is an activity carried out by the Petitioner as a part of the legacy inherited by it from the erstwhile DVB. Even the erstwhile DVB carried out such functions, not as a part of its function of distribution of electricity, but under a statutory mandate of Section 3 of the Delhi Municipal Corporation (Assessment and Collection of Tax on the Consumption, sale or supply of electricity) Bye laws 1962 ("Bye Laws"). Hence, the activity of collection of Electricity Duty has nothing whatsoever to do with the functions of a distribution licensee under EA, 2003. Since such function is carried out using the assets of the distribution business, such function is clearly attributable to an 'other business' under Section 51 of EA, 2003.
- 3.396 The income/commission which is earned by the Petitioner has no connection whatsoever to the ARR of the Petitioner or to the licensed business. As such, this income/commission can never be categorised as non-tariff income. This is particularly so when Regulation 4.7(c) of the MYT Regulations, 2011 clearly provides that the collection of Electricity Duty will not be taken into account in computing the Collection Efficiency. If the revenue realisation from the collection of Electricity Duty does not add to the revenue collection for the purpose of 'Collection Efficiency', the income/commission on such collection earned by the Petitioner cannot form a part of the ARR as Non-Tariff income.
- 3.397 The Petitioner submitted that the Income from commission received on account of collection of Electricity Duty i.e., Rs. 5.26 Crore ought to be deducted from Non-Tariff Income.

**COMMISSION ANALYSIS**

3.398 The Commission is of the view that collection of electricity duty is not a separate function/job and electricity duty is collected along with electricity bills as normal collection of electricity dues billed by the Petitioner. Therefore, the Petitioner's submission that there is extra cost on account of collection of electricity duty is neither indicated in the audited financial statement nor justified. Accordingly, amount on account of Commission on Electricity Duty has not been considered in Non-Tariff Income.

**11) Income from Advances from Consumers****COMMISSION ANALYSIS**

3.399 It is observed that the Petitioner had claimed the advances received from consumers as revenue collected as discussed in earlier sections. As deliberated in Order dated 28/08/2020, the Commission is of the view that the advance available with the Petitioner is a liability and may have to be returned to the Consumer in case not billed in future. The Commission further sought the monthly advance balances available with the Petitioner. It was observed that the advances opening and closing balances for the financial year were higher than the average monthly balance with the petitioner on such account. Accordingly, the Commission considered the financing cost based on the working capital interest rate on the monthly average balances held with the petitioner at Rs. 8.14 Cr. to be reduced from the Non-tariff income of the Petitioner.

**Table 3. 96: Commission Approved - Interest rate for the computation of financing cost**

As on	31-Mar-20	30-Apr-20	31-May-20	30-Jun-20	31-Jul-20	31-Aug-20	30-Sep-20	31-Oct-20	30-Nov-20	31-Dec-20	31-Jan-21	28-Feb-21	31-Mar-21	Total
Actual amount collected as advance		13.64	26.67	17.58	13.73	12.64	12.45	12.86	15.00	13.37	13.46	14.10	18.58	
SD release		21.83	21.82	21.78	21.73	21.69	21.65	21.62	21.58	21.55	21.51	21.48	27.35	
Interest on SD		15.00	12.59	11.26	10.52	10.23	10.09	10.01	10.00	9.98	9.90	9.86	26.91	

As on	31-Mar-20	30-Apr-20	31-May-20	30-Jun-20	31-Jul-20	31-Aug-20	30-Sep-20	31-Oct-20	30-Nov-20	31-Dec-20	31-Jan-21	28-Feb-21	31-Mar-21	Total
Other reasons		10.15	14.17	19.19	27.79	25.28	23.30	22.19	22.88	22.49	21.03	21.46	12.65	
Total	82.37	60.62	75.24	69.82	73.77	69.85	67.49	66.69	69.46	67.39	65.90	66.90	85.49	
Monthly average		71.49	67.93	72.53	71.80	71.81	68.67	67.09	68.08	68.43	66.64	66.40	76.20	
Monthly Interest	11.67%	0.70	0.66	0.71	0.70	0.70	0.67	0.65	0.66	0.67	0.65	0.65	0.74	8.14

### COMMISSION ANALYSIS

#### NON TARIFF INCOME

3.400 Thus, The Non-tariff income approved by the Commission for FY 2020-21 is as follows:

**Table 3. 97: Commission Approved - Non Tariff Income for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Petitioner's Submission	As per Commission	Reference
A	Other Operating Revenue	72.60	72.63	As per Audited Books of Accounts
B	Other Income	37.90	37.91	
<b>C</b>	<b>Total other income</b>	<b>110.50</b>	<b>110.54</b>	
D	Add: Interest from CSD	21.30	21.29	Table No. 3.95
E	Add: Income on SLD	4.00	3.96	
F	Add: Income from Advance from Consumers	0.00	8.14	Table 3.96
<b>G</b>	<b>Total Income for computation of NTI</b>	<b>135.80</b>	<b>143.93</b>	<b>G = C+D+E+F</b>
H	Street Light Maintenance Charges	0.20	-	Para No. 3.361
I	Pole Income	2.25	2.25	Para No. 3.365
<b>J</b>	<b>Net Income for computation of NTI</b>	<b>133.25</b>	<b>141.68</b>	<b>G-I</b>
K	Less: LPSC	21.80	14.87	Table No. 3.95
L	Less: Write-back of misc. provisions	3.60	3.60	Para No. 3.388
M	Less: Short term gain	8.00	7.99	Para No. 3.377

Sr. No	Particulars	Petitioner's Submission	As per Commission	Reference
N	Less: Transfer from Consumer contribution for capital works	18.40	18.44	Para No. 3.380
O	Less: Bad debts recovered	2.10	2.09	Para No. 3.383
P	Less: Incentive towards Street Light	-	-	-
Q	Less: Collection charges on ED	5.30	-	Para No. 3.398
<b>R</b>	<b>Net NTI</b>	<b>74.05</b>	<b>94.69</b>	<b>J-sum(K:Q)</b>

### INCOME FROM OPEN ACCESS SALES

#### PETITIONER SUBMISSION

3.401 The Petitioner has submitted that in addition to the Income derived from Other Business, the income of Rs.17.04 Crore recovered as Open Access Charges during FY 2020-21 has been considered for offsetting the revenue (gap)/surplus for the year.

#### COMMISSION ANALYSIS

3.402 The Commission has accordingly considered an amount of Rs. 17.04 Cr. as Aggregate Revenue Requirement for FY 2020-21.

### AGGREGATE REVENUE REQUIREMENT FOR TRUING-UP OF FY 2020-21

#### PETITIONER SUBMISSION

3.403 The Petitioner has submitted the Annual Revenue Requirement for FY 2020-21 sought for True-up is tabulated below:

**Table 3. 98: Petitioner Submission - Aggregate Revenue Requirement for FY 2020-21 (Rs.Cr.)**

Sr. No	Particulars	Submission
A	Purchase of power including Transmission and SLDC Charges & Incentives	3,086.3
B	O&M Expenses	740.5
C	Additional O&M Expenses	111.0
D	Depreciation	182.6
E	Return on Capital Employed (RoCE)	379.5
<b>F</b>	<b>Sub-total</b>	<b>4,499.9</b>
G	Less: Non-Tariff Income	74.1
H	Less: Income from Open Access	17.0
<b>I</b>	<b>Aggregate Revenue Requirement</b>	<b>4,408.7</b>

**COMMISSION ANALYSIS**

3.404 The Aggregate Revenue Requirement as approved by the Commission for FY 2020-21 is as follows:

**Table 3. 99: Commission Approved - Aggregate Revenue Requirement for FY 2020-21 (Rs. Cr.)**

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref.
A	Power Purchase (including Trans. & SLDC Charges & Incentives)	3086.30	3,036.13	Table No. 3.58
B	O&M Expenses	740.50	740.45	Table at Para 3.249 & 3.290
C	Additional O&M Expenses	111.00	78.87	
D	Depreciation	182.60	173.61	Table No. 3.75
E	RoCE/ Finance Charges	379.50	313.17	Table No. 3.87
F	Income tax		-	Table No. 3.88
<b>G</b>	<b>Sub-total</b>	<b>4499.90</b>	<b>4,342.24</b>	<b>Sum(A:F)</b>
H	Less: NTI	74.10	94.69	Table No. 3.97
I	Less: Income from Open Access	17.00	17.04	Para No. 3.402
J	Less: Income from Other Business	-	-	
<b>K</b>	<b>Aggregate Revenue Requirement (ARR)</b>	<b>4408.70</b>	<b>4,230.51</b>	<b>G-H-I-J</b>

**REVENUE AVAILABLE TOWARDS ARR****PETITIONER SUBMISSION**

3.405 The Petitioner has submitted the revenue available towards ARR is as follows:

**Table 3. 100: Petitioner Submission - Revenue for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Submission
A	Total Revenue Collected	4,271.6
B	Less: Amount to be retained by Petitioner on account of over achievement of Distribution Loss Targets	13.2
C	Less: Amount to be retained by Petitioner on account of Over achievement of Collection Efficiency Targets	34.7
D	Less: Incentive on Sale of Surplus Power	12.6
E	Less: Carrying Cost	178.0
<b>F</b>	<b>Revenue available towards ARR</b>	<b>4,033.1</b>

**COMMISSION ANALYSIS**

3.406 The Commission has computed the Revenue available towards ARR as follows:

**Table 3. 101: Commission Approved - Revenue Available towards ARR for FY 2020-21**

(Rs. Cr.)

Sr. No	Particulars	As per Petitioner	As per Commission	Reference/ Remark
A	Actual Revenue realised excluding Electricity duty, LPSC, Regulatory Surcharge, Pension trust surcharge	4,271.60	4,271.64	
	<b>Less:-</b>			
B	Carrying Cost	178.00	-	
C	Incentive/(Penalty) on account of overachievement of Distribution Loss Targets	13.20	13.00	Table No. 3.34
D	Incentive/(Penalty) on sale of surplus power	12.60	3.95	Table No. 3.50
E	Incentive/(Penalty) on account of overachievement of Collection Efficiency Targets	34.70	(2.55)	Table No. 3.37
F	<b>Revenue available towards ARR</b>	<b>4,033.11</b>	<b>4257.23</b>	<b>A-C-D-E-F</b>

**REVENUE (GAP)/ SURPLUS****PETITIONER SUBMISSION**

3.407 The Petitioner has submitted the revenue gap during FY 2020-21 is tabulated as under:

**Table 3. 102: Petitioner Submission - Revenue (Gap) for FY 2020-21 (Rs. Cr.)**

Sr. No	Particulars	Submission
A	ARR for FY 2020-21	4,409
B	Revenue available towards ARR (including Carrying Cost)	4,033
C	<b>Revenue (Gap)/Surplus</b>	<b>(376)</b>

**COMMISSION ANALYSIS**

3.408 The Revenue (Gap)/ Surplus after true up of ARR for FY 2020-21 as approved by the Commission is as follows:

**Table 3. 103: Commission Approved – Revenue Surplus/(Gap) towards ARR for FY 2020-21**  
(Rs. Cr.)

Sr. No.	Particulars	Petitioner Submission	Commission Approved
A	ARR For FY 2020-21	4,409	4,230.51
B	Revenue Available Towards ARR without Carrying cost	4,211	4,257.23
C	<b>Revenue (Gap)/Surplus</b>	(197.59)	26.72

### CONSOLIDATED REVENUE (GAP)/SURPLUS

#### REVENUE (GAP)/SURPLUS TILL FY 2020-21

3.409 The Revenue (Gap)/Surplus upto FY 2020-21 is summarised in the table as follows:

**Table 3. 104: Revenue (Gap)/Surplus till FY 2020-21**

Sr. No.	Particulars	TO dated 30/09/2021 upto FY 2019-20	FY 2020-21	Remarks
A	Opening Balance of Revenue (Gap) / Surplus	(2,292.00)	(7,819.98)	As per Prior Period Section of TO
B	Impact of Past Period True Up	(869.09)		
C	Revenue Requirement for the year	4,684.48	4,230.51	Table No. 3.103
D	Revenue realized	4,750.01	4,257.23	
E	(Gap) / Surplus for the year	65.53	26.72	
F	8% Surcharge for the year	376.65	315.37	Table No. 3.36
G	Net (Gap)/Surplus	442.18	342.09	G = E+F
H	Rate of Carrying Cost	12.57%	12.31%	
I	Amount of Carrying Cost	(369.42)	(941.25)	
J	Pension Trust Deficit for FY 2017-18	(22.59)	-	
K	Closing Balance of (Gap)/Surplus	(3,110.92)	(8,419.14)	K = A+G+I



### DELHI ELECTRICITY REGULATORY COMMISSION

Vinayak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017.

F.11(1936)/DERC/2021-22

#### Tariff Petition No. 04/2022

In the matter of: **Petition for True up of expenses upto FY 2020-21 and Aggregate Revenue Requirement (ARR) for FY 2022-23.**

BSES Yamuna Power Limited,  
Through its: **CEO**  
Shakti Kiran Building,  
Karkardooma,  
Delhi-110092.

... Petitioner/Licensee

**Coram:**  
Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson  
Hon'ble Dr. A. K. Ambasht, Member

#### INTERIM ORDER

(Date of Order: 17.03.2022)

- The Commission in its meeting No. 2022/01 held on 10.03.2022 at 12:30 pm at its Head Office took up for consideration an agenda item with regard to the Tariff Petitions filed by DISCOMs, GENCOs and TRANSCO for true up of expenses for FY 2020-21 and Aggregate Revenue Requirement (ARR) for FY 2022-23.
- The Commission deliberated that under Section 86(1)(a) of the Electricity Act, 2003 it has the mandate to discharge the following function, namely:-  
  
" (a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State....."
- It was noted that the Tariff Petition filed by BSES Yamuna Power Ltd. (BYPL) for true up of expenses for FY 2020-21 and Aggregate Revenue Requirement (ARR) for FY 2022-23 has been scrutinised and found generally in order as per the DERC Comprehensive (Conduct of Business) Regulations, 2001. Further, the Commission observed that the said function under Section 86(1)(a) of the Electricity Act, 2003 is regulatory in nature and these functions are determined as per Section 62 and 64 of the Electricity Act, 2003.
- On due consideration, the Tariff Petition has been admitted by the Commission. Further, the Petitioner shall have to furnish clarifications/additional information, as and when required by the Commission.

  
(Dr. A.K. Ambasht)  
Member

  
(Justice Shabihul Hasnain 'Shastri')  
Chairperson

WEAR FACE MASK      WASH HANDS REGULARLY      MAINTAIN SOCIAL DISTANCING

Annexure IILIST OF RESPONSES RECEIVED FROM STAKEHOLDERS ON TRUE UP OF FY 2020-21

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
1.	1	Sh. S.R. Abrol	L-2, 91B, DDA, LIG, Kalkaji New Delhi	9971225322	Domestic	DISCOMs	06.04.2022
2.	2	Ms. Asha	L-2, 91B, DDA, LIG, Kalkaji New Delhi	9971225322	Domestic	DISCOMs	06.04.2022
3.	3	Sh. Sanjay Bansal	House No. 1066, Block – F, Kamla Nagar New Delhi	-	Domestic	DISCOMs	12.04.2022
4.	4	Sh. A.K. Wardhan	Plot No. 179, F-5, Shastri Nagar New Delhi	-	Domestic	DISCOMs	12.04.2022
5.	5	Sh. Ajay Singh	Plot 5C, 3 <sup>rd</sup> Floor, Karol Bagh Delhi	-	Domestic	DISCOMs	12.04.2022
6.	6	Sh. J.N. Prasad HON FL LT (RETD) President	Ex. Serviceman Association Najafgarh, RZ/21, Gopal Nagar Extn. New Delhi 110 043	9250696469	Domestic	DISCOMs	12.04.2022
7.	7	Sh. Manmohan Kumar	House No. 35, Block C Pocket – 4 Rohini Sector 20, Delhi	-	Domestic	DISCOMs	18.04.2022
8.	8	Sh. Abhijeet	House No. 37, Block C, Libaspur 110 042	-	Domestic	DISCOMs	18.04.2022
9.	9	Sh. Chander Prasad	House No. 54, Block –H Pitampura 110 034	-	Domestic	DISCOMs	18.04.2022
10.	10	Sh. Satish Kumar	House No. 90A, 3 <sup>rd</sup> Floor, Block A, Gandhi Vihar Delhi 110 009	-	Domestic	DISCOMs	18.04.2022
11.	11	Sh. B.S. Sachdev President	Elderly People’s Forum Varishth Nagrik Manorajan Kendra, Ist Floor, C-4, Keshav Puram, Delhi 110 035	9891059738	RWA	DISCOMs	18.04.2022
	11A	Sh. B.S. Sachdev President	Elderly People’s Forum Varishth Nagrik Manorajan Kendra, Ist Floor, C-4, Keshav Puram, Delhi 110 035	9891059738	RWA	DISCOMs	19.04.2022
	11B	Sh. B.S. Sachdev President	Elderly People’s Forum Varishth Nagrik Manorajan Kendra, Ist Floor, C-4, Keshav Puram, Delhi 110 035	9891059738	RWA	DISCOMs	28.04.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
12.	12	Sh. Karan Jolly	Green Energy Plantation Pvt. Ltd. 48/1, Commercial Centre, Malcha Marg, Chanakya Puri, New Delhi 110 021	46711000	Agriculture	DISCOMs	08.04.2022
13.	13	Sh. Hemant Kumar	28/7 Second Floor, Patel Nagar, Delhi 110 008	-	Domestic	TPDDL	13.04.2022
14.	14	Sh. Ashok Bhasin President	North Delhi Resident's Welfare Federation 1618, Main Chandrawal Road Delhi 110 007  <a href="mailto:Ashok.bhasin2015@gmail.com">Ashok.bhasin2015@gmail.com</a>	9818375106	RWA	DISCOMs	13.04.2022
	14A	Sh. Ashok Bhasin President	North Delhi Resident's Welfare Federation 1618, Main Chandrawal Road Delhi 110 007  <a href="mailto:Ashok.bhasin2015@gmail.com">Ashok.bhasin2015@gmail.com</a>	9818375106	RWA	DISCOMs	17.05.2022
15.	15	Ms. Sugata Ghosh	House 1523, Ganesh Pura Trinagar, Delhi 110 035	-	Domestic	DISCOMs	18.04.2022
16.	16	Sh. Rajender Sobti	House No. 75, Pkt. 11 Sector, 24, Rohini Delhi 110 085	-	Domestic	TPDDL	18.04.2022
17.	17	Sh. Govind Singh	House No. 35, 1 <sup>st</sup> Floor, Block G, Prashant Vihar, Rohini 110 085	-	Domestic	TPDDL	18.04.2022
18.	18	Sh. Vinod Bhatt	Shop No. 5 N-Block, DDA Market, Mangolpuri 110 083	-	Domestic	TPDDL	18.04.2022
19.	19	Sh. Arun Sharma	FD – 55 Pitampura 110 034	-	Domestic	TPDDL	18.04.2022
20.	20	Sh. Ravi Malik	House No. 335 1 <sup>st</sup> Floor, Streen No. 9 Shalimar Bagh 110 088	-	Domestic	DISCOMs	18.04.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
21.	21	Sh. Jaspal Singh	D-12 SF Narina Vihar, Moti Nagar	-	Domestic	DISCOMs	18.04.2022
22.	22	Sh. Mukesh Kumar	House No. 504, GF Pkt 3, Sector C-12, DSIDC, Narela New Delhi 110 040	-	Domestic	TPDDL	19.04.2022
23.	23	Sh. Arvind Pratap Singh	House No. 47, Block WZ Basai Darapur, New Delhi 110 015	-	Domestic	DISCOMs	19.04.2022
24.	24	Sh. Satish Kumar	Plot 46, Pkt D, Sector 4, DSIDC Bawana	-	Domestic	DISCOMs	19.04.2022
25.	25	Sh. Jagdish Khurana	Plot 136, Pocket-7, 2 <sup>nd</sup> Floor, Sector -22 Rohini-85	-	Domestic	DISCOMs	19.04.2022
26.	26	Sh. Ramesh Chand	Shop No. 37 K-Block, LSC Market Sultanpuri Delhi 110 041	-	Domestic	DISCOMs	19.04.2022
27.	27	CA Sanjay Gupta Vice President	C-4/15, Model Town-III Delhi 110 009  <a href="mailto:sanjayrsons@gmail.com">sanjayrsons@gmail.com</a>	9311025900	RWA	DISCOMs	23.04.2022
28.	28	Sh. Satish Joshi	<a href="mailto:Satish_j@hotmail.com">Satish_j@hotmail.com</a>	9818846659	Commercial	BYPL	24.04.2022
29.	29.	Sh. B.K. Gupta	<a href="mailto:Missionanti420@gmail.com">Missionanti420@gmail.com</a>	-	Domestic	DISCOMs	25.04.2022
30.	30	Sh. Rakesh Tayal	Sunder Vihar, New delhi  <a href="mailto:Rakesh79tayal@gmail.com">Rakesh79tayal@gmail.com</a>	981907502	Domestic	BRPL	17.04.2022
31.	31	Sh. Vipin Gupta	A-17, Antriksh Apartments New Town Co-op. Group Housing Society Ltd. Sector-14 Extn., Rohini, Delhi 110 085 <a href="mailto:Vipin.bfi@gmail.com">Vipin.bfi@gmail.com</a>	9010001240	RWA	DISCOMs	18.04.2022
32.	32	Sh. Sat Goel	<a href="mailto:sgoel@ismp2.HBS.edu">sgoel@ismp2.HBS.edu</a>	9650241273	Domestic	DISCOMs	11.04.2022 20.04.2022
33.	33	Er. Sarbajit Roy	B-59, Defence Colony New Delhi 110 024	9953586513	Domestic	DISCOMs	25.04.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/ Licensee	Date of Receipt
	33A	Er. Sarbajit Roy	<a href="mailto:Sroy.mb@gmail.com">Sroy.mb@gmail.com</a> B-59, Defence Colony New Delhi 110 024 <a href="mailto:Sroy.mb@gmail.com">Sroy.mb@gmail.com</a>	9953586513	Domestic	DISCOMs	10.05.2022
34.	34	Sh. Rakesh Gupta President	Delhi Watch Material Dealers Association <a href="mailto:Dwmnda123@gmail.com">Dwmnda123@gmail.com</a>	9810036939	Domestic/ Industrial	DISCOMs	24.04.2022
35.	35	Sh. Rahul Arora Social Engineer	<a href="mailto:Rahul1943@gmail.com">Rahul1943@gmail.com</a>	-	Domestic	DISCOMs	21.04.2022
	35A	Sh. Rahul Arora Social Engineer	<a href="mailto:Rahul1943@gmail.com">Rahul1943@gmail.com</a>	-	Domestic	DISCOMs	09.05.2022
36.	36	Sh. Ajay Aggarwal President	Shop No. 17, Block-A, Saraswati Vihar, DDA Market, Pitampur, Delhi 110 034	9555350061	NGO	DISCOMs	20.04.2022
37.	37	Sh. Suresh Kumar Gupta  Director	The Midland Fruit & Vegetable Products (India) Pvt. Ltd. Jumbo House, Dr. Jha Marg, Okhla Industrial Area, Phase III New Delhi 110 020	01142602167	Industrial	DISCOMs	22.04.2022
38.	38	Sh. Nagendra Prakash Bhargava	Jumbo International Manufacturer Exporters Jumbo House, Dr. Jha Marg Okhla Industrial Area, Phase-III New Delhi 110 020	01141802505	Industrial	DISCOMs	25.04.2022
39.	39	Sh. Neeraj Rastogi	Plot No. 1123, Block A DSIDC Bawana	-	Domestic	DISCOMs	02.05.2022
40.	40	Sh. Brijender Singh	House No. 37, Khasra No. 21/53/11, 1st Floor, Kewal Park Extn.	-	Domestic	TPDDL	02.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
			Delhi				
41.	41	Sh. Ranjit Malik	House No. B-89 Gandhi Vihar Market, Delhi 110 009	-	Domestic	DISCOMs	02.05.2022
42.	42	Sh. Jameel Ahmed	D-1/203, 3 <sup>rd</sup> Floor, Sector-11, Rohini, Delhi 110 085	-	Domestic	DISCOMs	02.05.2022
43.	43	Sh. Naveen Gupta	House No. B-29 Near Metro Station Sarai Rohilla	-	Domestic	DISCOMs	02.05.2022
44.	44	Sh. Balraj	49D, Block – 5 Sector -3 Bawana New Delhi 110 039	-	Domestic	TPDDL	02.05.2022
45.	45	Sh. Neeraj Thakur	House No. 34, 4 <sup>th</sup> Floor, Block D Pocket 2, Sector 20, Rohini Delhi 110 086	-	Domestic	DISCOMs	02.05.2022
46.	46	Sh. Bharat Kumar	E-32, Gali No. 3, Near Shastri Nagar Metro Station Shastri Nagar New Delhi 110 052	-	Domestic	DISCOMs	02.05.2022
47.	47	SH. Mahendra Wadhwa	Plot No. 129, 1st Floor, D-Pocket, Sector, 2 DSIDC Bawana Delhi 110 039	-	Domestic	DISCOMs	02.05.2022
48.	48	SH. Joginder Prasad	B-4/345 2 <sup>nd</sup> Floor, Sector 110 008 Rohini Delhi 110 085	-	Domestic	TPDDL	02.05.2022
49.	49	Sh. Banwari Lal Ojha	House No. 232 3 <sup>rd</sup> Floor, D-Block Nehru Vihar Delhi 110 054	-	Domestic	DISCOMs	02.05.2022
50.	50	Sh. Ashwani	House No. 124, Block-C Phase-II, Shopping Centre	-	Domestic	DISCOMs	02.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
			Ashok Vihar Delhi 110 052				
51.	51	Sh. Satya Parkash	AD-132 Shalimarbagh Delhi 110 088	-	Domestic	TPDDL	02.05.2022
52.	52	Sh. Sumit Nath	Plot No. 42/7, Block A Ramesh Nagar, Delhi 110 015	-	Domestic	DISCOMs	02.05.2022
53.	53	Dr. Anil Gupta Chairman	Friends Colony Inudustrialist Association Plot No. 26, Lane No. 3 Friends Colony Industrial Area, G.T. Road, Shahdaa, Delhi 110 095  <a href="mailto:Friendscolony1998@gmail.com">Friendscolony1998@gmail.com</a>	9312215009	Industrial	BYPL	02.05.2022
54.	54	Sh. Vineet Jain General Secretary	East Delhi Manufacturers Association (Regd.) B-17, Jhilmil Industrial Area, Behind Jhilmil Metro Station Delhi 110 095  <a href="mailto:Edmaeastdelhi@gmail.com">Edmaeastdelhi@gmail.com</a>	9871102111	Industrial	BYPL	02.05.2022
55.	55	Sh. Abhishek Kumar	H.No. 142, Pocket C Phase – 3, Ashok Vihar, Delhi 110 052	-	Domestic	DISCOMs	02.05.2022
56.	56	Sh. Rajan	H. No. 1145, Kh. NO. 265, Shanti Nagar, Trinagar Delhi 110 035	-	Domestic	DISCOMs	02.05.2022
57.	57	Dr./Er. Sarbajit Roy	B-59, Defence Colony New Delhi 110 024  <a href="mailto:Sroy.mb@gmail.com">Sroy.mb@gmail.com</a>	9953586513	Domestic	DISCOMs	25.04.2022
	57A	Dr./Er. Sarbajit Roy	B-59, Defence Colony New Delhi 110 024  <a href="mailto:Sroy.mb@gmail.com">Sroy.mb@gmail.com</a>	9953586513	Domestic	DISCOMs	17.05.2022
58.	58	Sh. B.K. Gupta	<a href="mailto:Missionanti420@gmail.com">Missionanti420@gmail.com</a>	-	Domestic	DISCOMs	25.04.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/ Licensee	Date of Receipt
59.	59	SH. Satish Joshi	<a href="mailto:Satish_j@hotmail.com">Satish_j@hotmail.com</a>	9818846659	Domestic	DISCOMs	25.04.2022
60.	60	Sh. Brajesh Monga	C-18, Bhagwan Dass Nagar, East Punjabi Bagh, New Delhi 110 026	-	Domestic	DISCOMs	27.04.2022
61.	61	Sh. Arun Kaushik	Plot No. 165, Ground Floor, Block-G, Pkt-6 Sector C-7, Industrial Area, Narela	-	Domestic	DISCOMs	02.05.2022
62.	62	Ms. Anju Kumari	B-154, Hari Enclave, Khasra-42 Delhi 110 041	-	Domestic	DISCOMs	29.04.2022
63.	63	Sh. Amit Kumar	Shop – 59 , DDA Market Shakurpur, Delhi	-	Domestic	DISCOMs	29.04.2022
64.	64	Sh. Vikrant Nayak	Plot No. 5, 2 <sup>nd</sup> Floor, C-Block, Patel Nagar, New Delhi 110 008	-	Domestic	DISCOMs	29.04.2022
65.	65	Sh. Rajinder Jindal Hony.General Secretary	All India Federation of Plastic Industries Suite No. 17, (1st Floor)40, D.L.F Industrial Area, Kirti Nagar, New Delhi 110 015	9810079904	Industrial/ Commercial	DISCOMs	26.04.2022
66.	66	Sh. Arun Kumar Datta	222, Pocket-E, Mayur Vihar Phase II Delhi 110 091	-	RWA	TPDDL	06.05.2022
	66A	Sh. Arun Kumar Datta	222, Pocket-E, Mayur Vihar Phase II Delhi 110 091	-	RWA	BYPL	08.05.2022
67.	67	Sh. Rakesh Jain Secretary	Vikrant Tower Owners Association <a href="mailto:carebio@gmail.com">carebio@gmail.com</a>	9312537622	RWA	DISCOMs	27.04.2022
68.	68	Sh. Sushant Gaur	Pitampura BSES Power Ltd. Area <a href="mailto:Sushi.gaur1948@gmail.com">Sushi.gaur1948@gmail.com</a>	-	Domestic	DISCOMs	09.05.2022
69.	69	Sh. Atul Kumar Goyal	14A/23, WEA, Karol Bagh, New Delhi 110 005	-	Domestic	BRPL	03.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
			<a href="mailto:Atulkumargoyal9@gmail.com">Atulkumargoyal9@gmail.com</a>				
70.	70	Sh. Prashant Chavan	P.S. Chavan & Co. Chartered Accountants, 17/212, Ramkrishna Nagar, Swami Vivekanand Road, Khar (West) Mumbai 400 052  <a href="mailto:Prashant.pscl07@gmail.com">Prashant.pscl07@gmail.com</a>	-	Domestic	DISCOMs	25.04.2022
71.	71	Sh. Saurabh Gandhi Gen. Secretary	United Residents of Delhi (URD) C6/7 Rana Pratap Bagh, Delhi 110 007	7503141516	RWA	DISCOMs	04.05.2022
	71A	Sh. Saurabh Gandhi Gen. Secretary	United Residents of Delhi (URD) C6/7 Rana Pratap Bagh, Delhi 110 007	7503141516	RWA	TPDDL	10.05.2022
72.	72	Sh. Hemanta Madhab Sharma	146(FF), Vinobapuri Lajpat Nagar-2 New Delhi 110 024  <a href="mailto:hemantahemanta@rediffmail.com">hemantahemanta@rediffmail.com</a>	9810566869	RWA	BRPL	17.05.2022
73.	73	Sh. Manmohan Verma Chief Petron	C-1/128, Sector – 5, Rohini, Delhi 110 085  <a href="mailto:Mmverma.rwc@gmail.com">Mmverma.rwc@gmail.com</a>	9540089600	RWA	DISCOMs	
74.	74	Sh. Nalin Tripathi Vice President	22-D Pocket C, Siddhartha Extension New Delhi 110 014  <a href="mailto:Nalin_ntlaw@yahoo.co.in">Nalin_ntlaw@yahoo.co.in</a>	9810036122	RWA	BRPL	10.05.2022
75.	75	Sh. B.B. Tiwari	<a href="mailto:sarwasharpan@gmail.com">sarwasharpan@gmail.com</a>	-	RWA	BRPL	10.05.2022
			<a href="mailto:sarwasharpan@gmail.com">sarwasharpan@gmail.com</a>	-	RWA	TPDDL	11.05.2022
	75A	Sh. B.B. Tiwari	<a href="mailto:sarwasharpan@gmail.com">sarwasharpan@gmail.com</a>	-	RWA	BYPL	11.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
	75B	Sh. B.B. Tiwari					
76.	76	Sh. Yashpal	Sector-3/G-27/152 Rohini, Delhi	9818702630	Domestic	TPDDL	
77.	77	Sh. Narender Vashisht Gen. Secretary	D-26/15, Street No. 4-C, Guru Gobind Singh Marg, Anand Parbat Indl. Area, New Delhi 110 005	9811261601	Indl. Area	DISCOMs	05.05.2022
78.	78	Sh. Pankaj Gupta Gen. Manager	Delhi Metro Rail Corporation Ltd. Metro Bhawan, 13, Fire Brigade Lane, Barakhamba Road, New Delhi 110 001	-	Industrial Area	BRPL	10.05.2022
	78A	Sh. Pankaj Gupta Gen. Manager	Delhi Metro Rail Corporation Ltd. Metro Bhawan, 13, Fire Brigade Lane, Barakhamba Road, New Delhi 110 001	-	Industrial Area	BYPL	10.05.2022
	78B	Sh. Pankaj Gupta Gen. Manager	Delhi Metro Rail Corporation Ltd. Metro Bhawan, 13, Fire Brigade Lane, Barakhamba Road, New Delhi 110 001	-	Industrial Area	TPDDL	10.05.2022
79.	79	Sh. Abhishek Srivastava	BSES Yamuna Power Ltd. Shakti Kiran Building, Karkardooma Delhi 110 032	-	DISCOM	IPGCL PPCL	09.05.2022
	79A	Sh. Abhishek Srivastava	BSES Yamuna Power Ltd. Shakti Kiran Building, Karkardooma Delhi 110 032	-	DISCOM	DTL	10.05.2022
	79B	Sh. Abhishek Srivastava	BSES Yamuna Power Ltd. Shakti Kiran Building, Karkardooma Delhi 110 032	-	DISCOM	DTL	12.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
80.	80	Sh. Kanishk Khetterpal DGM	BSES Rajdhani Power Ltd. BSES Bhawan, Nehru Place, New Delhi 110 019	-	DISCOM	IPGCL PPCL	10.05.2022
	80A	Sh. Rajul Aggarwal Head Regulatory Affairs	BSES Rajdhani Power Ltd. BSES Bhawan, Nehru Place, New Delhi 110 019	-	DISCOM	DTL	17.05.2022
81.	81	Sh. Peyush Tandon	Tata Power Delhi Distribution Ltd. NDPL House Hudson Lane Kinngsway Camp Delhi 110 009	-	DISCOM	DTL	05.05.2022
	81A	Sh. Peyush Tandon	Tata Power Delhi Distribution Ltd. NDPL House Hudson Lane Kinngsway Camp Delhi 110 009	-	DISCOM	PPCL	06.05.2022
	81B	Sh. Peyush Tandon	Tata Power Delhi Distribution Ltd. NDPL House Hudson Lane Kinngsway Camp Delhi 110 009	-	DISCOM	IPGCL	05.05.2022
82.	82	Sh. Mukesh Sood	RWA Green Flats Rajouri Garden New Delhi 110 027	-	RWA	BRPL	10.05.2022
83.	83	Sh. S.S. Bhatia	DDA Markets Joint Action Committee, 152, Pkt G-27, Sector-3 Rohini Delhi 110 085  <a href="mailto:Dmjacdelhi2006@gmail.com">Dmjacdelhi2006@gmail.com</a>	9971671919 9818534672	RWA	DISCOMs	09.05.2022
84.	84	Sh. Brijesh Mathur	<a href="mailto:Mathur.b@gmail.com">Mathur.b@gmail.com</a>	-	Domestic	DISCOMs	11.05.2022
85.	85	Sh. Jogendra Behera CRO & VP	Indian Energy Exchange C-001/A/1, 9 <sup>th</sup> Floor Max Tower,	0120-4648100	Commercial	DISCOMs	13.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/Licensee	Date of Receipt
		(Regulatory & Market Economics)	Sector 16B Noida, Gautam Buddha Nagar, Uttar Pradesh 201301 <a href="mailto:Kshitij.Dhingra@iexindia.com">Kshitij.Dhingra@iexindia.com</a>				
86.	86	Sh. Praveen Gupta Joint Secretary	Brotherhood Society (RWA) Model Town Delhi 110 009 <a href="mailto:prakaand@gmail.com">prakaand@gmail.com</a>	9899296833	RWA	BYPL	10.05.2022
87.	87	Sh. Dhani Ram	D/16-303, Sector-7 Rohini, Delhi 120085	-	RWA	BYPL	11.05.2022
	87A	Sh. Dhani Ram	<a href="mailto:Cgdhaniram@gmail.com">Cgdhaniram@gmail.com</a>	-	RWA	BRPL	11.05.2022
88.	88	Sh. Vijender Gupta	Deputy Ganj Sadar Bazar Residence Welfare Association 4617, Deputy Ganj, Sadar Bazar Delhi 110 006 <a href="mailto:Vijendergupta57@gmail.com">Vijendergupta57@gmail.com</a>	9811300379	RWA	DISCOMs	11.05.2022
89.	89	Sh. Arpan Hedge	<a href="mailto:Apran.hedge1970@gmail.com">Apran.hedge1970@gmail.com</a>	-	Domestic	BRPL	14.05.2022
90.	90	Sh. Harmeet Singh President	2462, Basti Punjabiyan, Roshanara Road, Subzi Mandi Delhi 110 007	9873364739	RWA	TPDDL	10.05.2022
91.	91	Sh. Yash Tandon	<a href="mailto:Yashtandon151996@gmail.com">Yashtandon151996@gmail.com</a>	-	Domestic	DISCOMs	27.04.2022
92.	92	Sh. Ashok Kumar General Manager (C&RA)	33KV Grid S/Station Building, IP Estate, New Delhi 110 002  33KV Grid S/Station Building, IP Estate, New Delhi 110 002	-	Transmissi on	BYPL	19.05.2022  19.05.2022
	92A	Sh. Ashok Kumar General Manager (C&RA)	33KV Grid S/Station Building, IP Estate, New Delhi 110 002	-	Transmissi on	BRPL	19.05.2022

Sr. No.	R. No.	Name	Address	Contact No.	Category	Company/ Licensee	Date of Receipt
	92B	Sh. Ashok Kumar General Manager (C&RA)	33KV Grid S/Station Building, IP Estate, New Delhi 110 002			NDMC	19.05.2022
	92C	Sh. Ashok Kumar General Manager (C&RA)				TPDDL	
93.	93	Sh. Balkishan Gupta President	House No. 1449/204, 30 Futa Road Durga Puri Loni Road, Shahdara, Delhi 110 093	9212721361	RWA	DISCOMs	20.05.2022

Annexure-III

**STAKEHOLDERS WHO HAVE ATTENDED THE VIRTUAL PUBLIC HEARING FOR THE PETITION FILED BY DISCOMs, GENCOs, AND TRANSCO ON THE APPROVAL PETITION FOR TRUING UP OF EXPENSES UPTO FY 2020-21**

Sr. No.	Name	Address
1	CA Sanjay Gupta	RWA Model Town
2	Sandeep Kapoor	Narela Relocation Industrial Welfare association
3	Dr. Mohanathi Prasad Yadav	RWA
4	Dr. Pradeep Gupta	Domestic Consumer
5	Bhanu Singh Bishnoi	Domestic Consumer
6	Saurabh Gandhi	United Residence of Delhi (URD)
7	Manmohan Verma	EWS Residence Welfare Association
8	B. B. Tiwari	United Residence of Delhi (URD)
9	Pankaj Agarwal	RWA Joint Front
10	Rajesh Kumar Dokwal	Domestic Consumer
11	Sarbajit Roy	India Against Corruption
12	Chandra Pal Singh	RWA Jyoti Sadan
13	Chetan Sharma	GK II Complex RWA
14	Mukesh Sood	RWA Mig Green Flats, Rajouri Garden
15	Manoj Kumar	RWA Sangam Vihar
16	Brijesh Mathur	Domestic Con
17	Peyush Tandon	TPDDL
18	Dr. M. K. Aggarwal	RWA Balbir Nagar Ext, Shahdara
19	Balkishan Gupta	RWA Durgapuri, Shahdara
20	Ashok Kumar	Delhi Transco Limited
21	Sumesh Liloithia	RWA Sadar Bazar
22	Arun Kumar Dutta	Domestic Consumer & RWA
23	Harsh Arya	DMRC
24	Surendra Kumar Gupta	DMRC
25	Anil Kumar Jha	RWA Mandawali
26	Alok Vasudeva	RWA Prasad Nagar
27	Sanjeev Kumar Gupta	Domestic consumer
28	Gurdip Singh	RWA MTA
29	Chandrakant Shrivastava	DMRC
30	Somya Tripathi	DMRC
31	Ritu Bhatia	Mahila pragatisheel Association
32	Pankaj Gupta	DMRC
33	Kunwar Pratap Singh	Bhajanpura jan sanhyog sabha Ragd.
34	Khalid Mubeen	RWA Ahata
35	H.P.Singh Sehrawat	Pitampura
36	Satya Prakash	RWA Basti Julahan
37	Jag Mohan	Saini Coop. House Building Society
38	Ajay Gupta	Media
39	Shailender Khatri	Rajpura Gurmandi RWA
40	Rajan Asthana	RWA - SG Dilshad Garden

Sr. No.	Name	Address
41	Kapil Verma	RWA, Dilshad Garden
42	Puneet Goel	RWA Gali Nathan Singh
43	Narender Chhabra	CHHABRA ELECTRONICS, Damodar Park Indl. Area
44	Prakash Mathur	RWA R Block Dilshad Garden
45	Rohit Arora	East Delhi RWA
46	Raj Rani Sharma	RWA, EAST END ENCLAVE
47	Pradeep Arora	Domestic
48	Rajul Agarwal	BRPL
49	Kanishk Khetterpal	BRPL
50	Mayank Ahlawat	BRPL
51	Amit Joshi	BRPL
52	Archana Singh	BRPL
53	Monika Dhyani	BRPL
54	Ravi Kalra	BRPL
55	Akash Gupta	BRPL
56	Vishnu Kumar	BRPL
57	Gaurav Thapan	BRPL
58	Rajesh Bansal	BRPL
59	Surya Shankar Banerji	BRPL
60	Raj Arora	BRPL
61	B.S.Vohra	East Delhi RWA Bhagidari
62	Rajiv Kakria	RWA GK
63	Rajeev Chowdhury	BYPL
64	Prachi Jain	BYPL
65	Abhishek Srivastava	BYPL
66	Vikas Dixit	BYPL
67	Sameer Singh	BYPL
68	Brajesh Kumar	BYPL
69	Garima Belwal	BYPL
70	Deepak Benjamin	BYPL
71	Lalit Mohan Sharma	RWA
72	Anita Juyal Sharma	Domestic
73	Shehzad Amhad	Domestic
74	Anil Bhardwaj	Domestic
75	Nice Johney	RWA
76	Rajesh Aggarwal	Shahdara RWA
77	Hemant Madhab Sharma	Domestic Consumer
78	Sat Goel	Domestic
79	Manmohan Verma	RWA
80	Rajendra Yadav	IPGCL
81	Rajendra Yadav	PPCL
82	Balram Choudhary	Domestic
83	Pawan Gour	RWA
84	RK Soni	RWA
85	DK Bhandari	RWA
86	Ashok Bhasin	Domestic
87	Chandermohan kapahi	Domestic
88	Chander Mohan Jain	Power and energy consultants pvt. Ltd.

Sr. No.	Name	Address
89	Mahesh Kumar Mittal	NDMC
90	Lalit Chopra	NDMC
91	A W Ansari	NDMC
92	Sandeep Gaur	NDMC
93	Chanda Sharma	NDMC
94	Sanjay Kumar	Domestic

Annexure-IV

1

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL No(s). 884 OF 2010

DELHI ELECT. REGULT. COMMISSION Appellant(s)

VERSUS

BSES RAJDHANI POWER LTD.& ORS. Respondent(s)

WITH  
CIVIL APPEAL No(s). 980 OF 2010

WITH  
CIVIL APPEAL No(s). 9003-9004 OF 2011

WITH  
CIVIL APPEAL No(s). 1854-1855 OF 2014

O R D E R

IN C.A. Nos. 884 and 980 of 2010

Having heard learned counsel for the parties, perused the impugned order and the materials placed on record, we are of the view that these appeals do not involve any substantial question of law. The civil appeals are accordingly dismissed.

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Anita Mishra  
Date: 2024.12.09  
19:22:58 (IST)  
Reason: [1]

We are also of the view that the appellant has to comply with the directions issued by the Appellate

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Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

Pending applications, if any, also stand disposed of.

IN C.A. Nos. 9003-9004 of 2011

Having heard learned counsel for the parties, perused the impugned order and the materials placed on record, we are of the view that these appeals do not involve any substantial question of law. The civil appeals are accordingly dismissed.

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

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Pending applications, if any, also stand disposed of.

IN C.A. Nos. 1854-1855 of 2014

Having regard to the disposal of the Civil Appeal Nos. 884 and 980 of 2010 as above, these appeals do not survive for consideration by this Court. The civil appeals are accordingly dismissed. However, the observations made by the Appellate Authority against the Commission(DERC) in the impugned order are expunged.

Pending applications, if any, also stand disposed of.

.....J.  
(S. ABDUL NAZEER)

.....J.  
(KRISHNA MURARI)

NEW DELHI  
DECEMBER 01, 2021

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ITEM NO.101

COURT NO.7

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 884/2010

DELHI ELECT. REGULT. COMMISSION

Appellant(s)

VERSUS

BSES RAJDHANI POWER LTD. &amp; Ors.

Respondent(s)

(FOR FOR EARLY HEARING APPLICATION ON IA 37216/2021)

WITH C.A. No. 980/2010

C.A. No. 9003-9004/2011  
(FOR ON IA 5/2014)CONMT.PET.(C) No. 141/2014 In W.P.(C) No. 328/1999  
(FOR ON IA 1/2014)C.A. No. 1854-1855/2014  
(IA No. 1/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT)W.P.(C) No. 104/2014  
(IA No. 121684/2021 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 109382/2021 - CLARIFICATION/DIRECTION  
IA No. 2/2014 - EXTENSION OF TIME  
IA No. 1/2014 - GRANT OF INTERIM RELIEF  
IA No. 148652/2021 - INTERVENTION/IMPLEADMENT  
IA No. 6/2014 - MODIFICATION)W.P.(C) No. 105/2014  
(IA No.55601/2017-APPROPRIATE ORDERS/DIRECTIONS  
IA No. 55601/2017 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 2/2014 - EXTENSION OF TIME  
IA No. 1/2014 - GRANT OF INTERIM RELIEF  
IA No. 7/2014 - MODIFICATION)C.A. No. 4012/2014  
(IA No. 1/2014 - EX-PARTE STAY  
IA No. 2/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)C.A. No. 4011/2014  
(IA No. 1/2014 - EX-PARTE STAY  
IA No. 2/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 4013/2014  
(IA No. 1/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 4010/2014  
(IA No. 1/2014 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 8387-8389/2014  
(IA No. 4/2014 - EX-PARTE STAY)

C.A. No. 8464-8466/2014  
(IA No. 4/2014 - STAY APPLICATION)

CONMT.PET.(C) No. 83/2015 In W.P.(C) No. 104/2014  
(IA No. 62371/2019 - APPROPRIATE ORDERS/DIRECTIONS)

CONMT.PET.(C) No. 59/2015 In W.P.(C) No. 105/2014  
(IA No. 62373/2019 - APPROPRIATE ORDERS/DIRECTIONS)

CONMT.PET.(C) No. 60/2015 In W.P.(C) No. 105/2014  
(FOR ON IA 1/2015)

CONMT.PET.(C) No. 84/2015 In W.P.(C) No. 104/2014  
(FOR ON IA 1/2015)

CONMT.PET.(C) No. 822/2016 In CONMT.PET.(C) No. 83/2015  
In W.P.(C) No. 104/2014

CONMT.PET.(C) No. 821/2016 In CONMT.PET.(C) No. 59/2015  
In W.P.(C) No. 105/2014

CONMT.PET.(C) No. 826/2016 In CONMT.PET.(C) No. 84/2015  
In W.P.(C) No. 104/2014

CONMT.PET.(C) No. 827/2016 In CONMT.PET.(C) No. 60/2015  
In W.P.(C) No. 105/2014

W.P.(C) No. 1005/2021  
(FOR ADMISSION and IA No.112102/2021-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 01-12-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Mr. Nikhil Nayyar, Sr. Adv.  
Ms. Pritha Srikumar, AOR  
Ms. Neha Mathen, Adv.  
Mr. Naveen Hegde, Adv.  
Ms. Mansi Bingrajka, Adv.  
Mr. Aditya Rajagopal, Adv.

Mr. Arvind Datar, Sr. Adv.  
Mr. Amit Kaur, Adv.  
Mr. Anupam Varma, Adv.  
Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Rahul Kinra, Adv.  
Mr. Aditya Gupta, Adv.  
Mr. Aditya Ajay, Adv.  
Mr. Karun Sharma, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Shri Venkatesh, Adv.  
Mr. Nitin Saluja, AOR  
Mr. Ashutosh K. Srivastava, Adv.  
Mr. Nihal Bharadwaj, Adv.

Mr. S. Wasim A. Qadri, Sr. Adv.  
Mr. Lakshmi Raman Singh, AOR  
Mr. Chirag M. Shroff, AOR  
Mr. Tamim A. Qadri, Adv.  
Mr. Saeed Qadri, Adv.

Mr. Siddhartha Chowdhury, AOR

Mr. Chirag M. Shroff, AOR

For Respondent(s)

Mr. Arvind Datar, Sr. Adv.  
Mr. Dhruv Mehta, Sr. Adv.  
Mr. V.P. Singh, Adv.  
Mr. Raghav Chadha, Adv.  
Ms. Urvashi Misra, Adv.  
Ms. Aishwarya Modi, Adv.  
Mr. Harpreet Singh Ajmani, AOR

Mr. Arvind Datar, Sr. Adv.  
Mr. Amit Kaur, Adv.  
Mr. Anupam Varma, Adv.  
Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Rahul Kinra, Adv.  
Mr. Aditya Gupta, Adv.  
Mr. Aditya Ajay, Adv.  
Mr. Karun Sharma, Adv.

Mr. Nikhil Nayyar, Sr. Adv.  
Ms. Pritha Srikumar, AOR  
Ms. Neha Mathen, Adv.  
Mr. Naveen Hegde, Adv.  
Ms. Mansi Bingrajka, Adv.  
Mr. Aditya Rajagopal, Adv.

Mr. S. Wasim A. Qadri, Sr. Adv.  
Mr. Lakshmi Raman Singh, AOR  
Mr. Chirag M. Shroff, AOR  
Mr. Tamim A. Qadri, Adv.  
Mr. Saeed Qadri, Adv.

Mr. K. V. Mohan, AOR  
Mr. K.V. Balakrishnan, Adv.  
Ms. Anushree Bardhan, Adv.

Mr. Siddhartha Chowdhury, AOR

Mr. Pramod Dayal, AOR

Mr. Chirag M. Shroff, AOR

Mr. B. Krishna Prasad, AOR

M/S. Cyril Amarchand Mangaldas Aor, AOR

Mr. Uttam Dutt, Adv.  
Mr. T. V. S. Raghavendra Sreyas, AOR

Mr. Manu Seshadri, Adv.  
Mr. Abhijit Lal, Adv.  
Mr. Satya Mitra, AOR

Mr. Vivek Singh, AOR  
Mr. K.K. Singh, Adv.

Mr. Sriharsha Peechara, Adv.  
Mr. Arjun Krishnan, AOR

Mr. K. V. Mohan, AOR  
Mr. K.V. Balakrishnan, Adv.

Mr. Piyush Beriwal, Adv.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Shradha Deshmukh, Adv.  
Mr. Shyam Gopal, Adv.  
Mr. Chinmayee Chandra, Adv.

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UPON hearing the counsel the Court made the following  
O R D E R

IN C.A. Nos. 884 and 980 of 2010, 9003-9004 of 2011 & 1854-1855 of 2014

The appeals are dismissed in terms of the signed order.

Pending applications, if any, also stand disposed of.

REST OF THE MATTERS

At the request of Mr. Dhruv Mehta, learned senior counsel, list all the remaining matters after six weeks.

(NEELAM GULATI)  
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)  
COURT MASTER (NSH)  
(Signed order is placed on the file)

Annexure-VIN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTIONMISCELLANEOUS APPLICATIONS No. 633-634 of 2022

IN

CIVIL APPEALS No.9003-9004 OF 2011

BSES Rajdhani Power Ltd. Etc. .... Applicants

VERSUS

Delhi Electricity Regulatory  
Commission & Another .... Respondents**IN THE MATTER OF:**

Delhi Electricity Regulatory Commission .... Appellants

VERSUS

BSES Rajdhani Power Ltd. &amp; Anr. Etc. .... Respondents

WITH

MISCELLANEOUS APPLICATION NO.1261 of 2022 in CIVIL APPEAL NO.884 of 2010MISCELLANEOUS APPLICATION NO.1262 of 2022 in CIVIL APPEAL NO.980 of 2010MISCELLANEOUS APPLICATION NO.918 of 2022 in CIVIL APPEAL NO.884 of 2010

AND

MISCELLANEOUS APPLICATION NO.919 of 2022 in CIVIL APPEAL NO.980 of 2010**ORDER**

1. The applicants – BSES Rajdhani Power Limited (BRPL) and BSES Yamuna Power Limited (BYPL) (collectively, 'the applicants') are the distribution licensees in the NCT of Delhi, undertaking distribution business (wheeling and retail supply of electricity) in their respective

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Anita Malhotra  
Date: 2022.01.03  
14:56:20 IST  
Reason:

areas of supply. The applicants filed Tariff Appeals before the Appellate Tribunal for Electricity (APTEL) challenging the disallowances in their respective Tariff Orders passed by the Delhi Electricity Regulatory Commission (DERC). APTEL disposed of the appeals by a common Judgment dated 12.07.2011, wherein it decided some of the specific issues in favour of the applicants.

2. The judgment of the APTEL was under challenge at the instance of DERC before this Court. This Court on 01.12.2021, dismissed the appeals and directed the DERC as under:

"Having heard learned counsel for the parties, perused the impugned order and the materials placed on record, we are of the view that these appeals do not involve any substantial question of law. The civil appeals are accordingly dismissed.

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three month from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter."

3. In response to the directions contained in the above order, DERC filed a compliance affidavit/report which was opposed by the applicants.

**MISCELLANEOUS APPLICATIONS NO. 633-634/2022 IN CIVIL APPEALS NO.9003-9004 OF 2011, MISCELLANEOUS APPLICATION NO. 1261 OF 2022 IN CIVIL APPEAL NO. 884 of 2010 and MISCELLANEOUS APPLICATION NO. 1262 of 2022 in CIVIL APPEAL NO.980 OF 2010**

4. Mr. Kapil Sibal and Mr. Dhruv Mehta, learned senior counsel appearing for the applicants, argued that the judgment of this Court has not been complied with by the DERC. According to them, 'carrying cost' has to be allowed on Debt-Equity ratio of 70:30. Secondly, DERC is bound to allow interest at the prevalent market rate of State Bank of India's Prime Lending Rate (SBI PLR) for each year.

5. On the other hand, Mr. Nikhil Nayyar, learned senior counsel appearing for the DERC, submitted that the judgment of this Court has been complied with.

**Issue No.1 – Carrying Cost**

6. In the judgment dated 30.07.2010 in Appeal No.153 of 2009 titled "NDPL v. DERC" – 2010 ELR (APTEL) 0891, it was held that the appellant's claim is in line with the view of the State Commission that 'carrying cost' is to be allowed in the ratio of 70:30.

7. In Civil Appeals No.9003-9004 of 2011, DERC had specifically raised the question of law as regards funding of revenue gap in the Debt-Equity ratio 70:30 as under:

"Whether the Appellate Tribunal is right in directing the revenue gap to be funded in the debt equity ratio of 70:30 when such revenue gap funding does not add to the gross block of capital assets to be serviced through debt and equity is only a transitional funding to be serviced through debt and internal accruals of the distribution licensees?"

8. This Court has not accepted the contention of the DERC. As noticed above, the appeals filed by the DERC have been dismissed by this Court.

9. It is evident from the compliance affidavit/report dated 23.03.2022 that DERC has not applied the Debt-Equity ratio of 70:30. We are of the view that DERC ought to have allowed funding of regulatory asset/revenue gap on a normative Debt-Equity ratio of 70:30. There is no question of recomputing the carrying cost rate based on purported equity on the basis of net worth from the audited books and balancing figure as debt. Therefore, we direct DERC to allow funding of regulatory asset/revenue gap on a normative Debt-Equity ratio of 70:30.

**Issue No.2 – Rate of interest on carrying cost**

(10) On this question, the direction of the APTEL in its judgment dated 12.07.2011, is as under:

“11. The sixth issue is regarding interest rate for carrying cost.

11.1. This issue also had been dealt with in this Tribunal's Judgment dated 30.7.2010 reported in 2010 ELR (APTEL) 0891 between **North Delhi Power Ltd. vs. DERC** (Appeal No.153 of 2009). The relevant extracts of the Judgment are reproduced below:

45. The carrying cost is allowed based on the financial principle that whenever the recovery of cost is to be deferred, the financing of the gap in cash flow arranged by the distribution company from lenders and/or promoters and/or accrual and/or internal accrual has to be paid for by way of carrying cost. The carrying cost is a legitimate expectation of the distribution company. The State Commission instead of applying the principle of PLR for the carrying cost has wrongly allowed the rate of 9% which is not the prevalent market lending rate. Admittedly, the prevalent market lending rate was higher than the rate fixed by the State Commission in the tariff order. Therefore, the State Commission is directed to reconsider the rate of carrying cost at the prevalent market rate keeping in view the prevailing Prime Lending Rate. ”

11. The above view has been upheld by this Court.

12. It is evident from the compliance report that instead of taking the prevalent market lending rate, DERC has taken weighted average rate of interest on term loans for period FY 2007-2011 and for FY 2012-13 onwards and has considered normative rates as approved in the Tariff Order dated 13.07.2012.

13. In our view, it is clear that DERC has substituted the words 'prevailing market rate keeping in view the prevailing Prime Lending Rate' with the words 'actual interest rate paid by BRPL and BYPL on their loans' which is not permissible in view of the aforesaid judgment of the APTEL. A comparison of the two is given below:

Particular	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
BRPL Rate of %	11.03	11.47	11.30	11.87	13.11	15.26	15.02	15.14	14.19	14.07	13.85	13.38	12.25	12.24
BYPL Rate of %	10.93	11.66	11.37	11.56	13.28	15.19	15.17	15.40	14.63	14.28	14.16	13.93	12.53	12.20
SBI PLR	12.69	12.79	11.87	12.26	14.40	14.61	14.58	14.75	14.29	14.04	13.68	13.68	13.58	12.27

14. Therefore, we direct DERC to allow SBI PLR as provided in the Table above, on 70% debt component for funding regulatory asset/revenue gap in the ratio of 70:30.

15. In case DERC has failed to comply with any other direction(s) contained in the order of the APTEL, confirmed by this Court in the above appeals (C.A. No(s).9003-9004 of 2011), liberty is reserved to the applicants – BRPL and BYPL to move the competent authority/Tribunal for appropriate relief(s) in accordance with law.

16. With these directions the matter(s) is closed and M.A. No(s).633-634 of 2022, M.A. No.1261 of 2022 and M.A. No.1262 of 2022 are disposed of accordingly.

**MISCELLANEOUS APPLICATION NO.918 of 2022 in CIVIL APPEAL NO. 884 of 2010 & MISCELLANEOUS APPLICATION NO.919 of 2022 IN CIVIL APPEAL NO. 980 OF 2010 :**

**Issue No. 1 - Distribution Losses and AT and C Losses**

17. As regards the findings related to Distribution losses and AT and C losses, challenged by the DERC in the appeals, vide impugned judgment dated 6<sup>th</sup> October, 2009 and 30.10.2009, passed by APTEL, it had directed BRPL and BYPL [hereinafter referred to as 'the non-applicants'] to submit an appropriate representation to the DERC within one month from the date of passing of the order and if the said representation was made, the DERC was directed to dispose of the same within a period of two months.

18. It is not in dispute that the non-applicants did submit a representation in compliance with the above directions and the DERC passed an order on 20.04.2015, though belatedly. The said order is subject matter of Appeals No.155 and 156 of 2015, pending before APTEL. In view of the pendency of the above appeals in relation to Distribution losses and AT and C losses, it will not be appropriate for this Court to go into the said issue. The non-applicants having assailed the subsequent order before the appropriate forum, parties ought to await the decision of the said appeals.

19. We expect APTEL to dispose of the above appeals filed by the non-applicants as expeditiously as possible, having regard to their long pendency.

**Issue No. 2 - Capital Expenditure and Capitalization Charges**

20. In respect of Capital expenditure and Capitalization charges that were questioned by the DERC in the appeal, paragraphs 56 and 57 of the impugned judgment dated 6.10.2009 are

relevant and have been relied upon by both sides. For ready reference, the said paragraphs are extracted herein below:

"56. We do feel that it was imprudent on the part of the appellant to resist the comparison to the prices paid to REL with the prices paid for similar products by NDPL. The appellant has realized the folly now. In view of the appellant resisting the comparison mentioned above, the Commission also gave up all efforts to compare. The fact, however, remains that both the appellant as well as NDPL has incurred capital expenditures of various nature and has purchased goods and commodities in furtherance of the same. The Commission has to treat all the distribution companies at par. It is not disputed that the NDPL has purchased products of the same description although they may be different in their quality and technical specifications. Of the long list of articles which are involved in the dispute in hand some may be comparable to articles purchased by the NDPL. If for those articles the Commission has allowed same price there is no reason why the appellant should not have been allowed the same price provided, however, they are lower than the price paid to REL for those products. The Commission has to treat all the distribution licensees on the same scale and no one of them can be either victimized or favoured on account of the stands or pleas taken by them during the tariff hearings. At the same time the Commission is duty bound to make the prudent check on all the claims made by the distribution licensees.

57. The NDPL submitted its records before the Commission simultaneously with the appellant during the tariff hearing of the relevant year. As such the records are expected to be with the Commission. We think it is appropriate to allow the appellant an opportunity to prove, item wise, that the price paid by it to REL was not higher than the price paid by NDPL and allowed to it by the Commission for similar products. The onus would be entirely on the appellant to prove that the products purchased by it and the one purchased by NDPL offered for comparison are of the same technical specifications and quality and also should be similarly priced on account of the other relevant factors influencing the prices namely the time of purchase, the quantity purchased, vender rating etc. In case the price paid to REL is same as or lower than the price allowed to NDPL for a comparable commodity, the Commission shall allow the price paid to REL. The Commission shall, however, allow a lesser price if the NDPL's price is lower than the price of REL's purchase plus 5% profit margin. Till such exercise is completed the appellant will have to accept the decision of the Commission as reflected in the view of the Chairperson."

21. Both sides state in unison that wherever the price in respect of a comparable commodity which has been paid by the non-applicants to REL, happens to be the same or is lower than the price that has been allowed to NDPL, the DERC has allowed the price paid to REL.

22. The divergence of stand is in respect of the understanding of the directions in the last part of paragraph 57 of the impugned judgment, namely, the situation where the DERC has been directed to allow a lesser price in the event NDPL's price happens to be lower than the price of purchases made by REL + 5% profit margin.

23. Paragraph 57 of the impugned judgment ends by recording that till completion of the exercise contemplated to be undertaken by the BRPL to prove that the price paid by it to REL was not higher than the price paid by NDPL for similar products and so allowed by the DERC, the BRPL will have to accept the decision of the DERC, as may be taken by the Chairperson of DERC and the same applies to BYPL in terms of judgment dated 30.10.2009.

24. Mr. Nikhil Nayyar, learned senior counsel appearing for the DERC seeks to urge that the appellant has duly complied with the directions issued in para 57 of the impugned judgment as can be seen from a perusal of its order passed on 12.04.2022 and enclosed with the affidavit of compliance dated 22.04.2022. He refers to the summary of comparison in a tabulated form in paragraph 43 of the order which is extracted below:

\*43. The summary of above comparison works out to be as under:

Sl. No.	Description	Line Items (Nos.)	Amount as per BRPL (Rs. Cr.)	Amount approved (Rs. Cr.)
A: Items not comparable				
A 1: Purchases made by BRPL without description of the Material in the Purchase Orders				
Sl. No.	Description	Line Items (Nos.)	Amount as per BRPL (Rs. Cr.)	Amount approved (Rs. Cr.)
1	A1.1 HVDS	423	528.82	330.51
2	A1.2 Supply of material for Grid substation	5	43.67	27.29
3	A2 Items not comparable with the purchases of NDPL due to different technical specifications	176	94.13	58.83
4	A3: Items either consumables or not Purchased by NDPL	140	56.49	35.31
B: Items comparable with NDPL				
B 1: Items for which price paid to REL is less than NDPL				
5	Items for which price paid to REL is less than NDPL as per PO	159	133.80	133.80
6	Items for which price paid to REL is less than NDPL as per GRN	32	46.25	46.25
B 2: Items for which price paid to REL is more than NDPL				
7	Items for which price paid to REL is more than NDPL as per PO	154	94.9	59.31*
8	Items for which price paid to REL is more than NDPL as per GRN	38	7.17	4.48*
	Total	1127	1005.23	695.78

\*As per Tariff Order dated. 23/02/2008, since the details of REL purchase as mandated by Hon'ble APTEL has yet not been submitted by BRPL & BYPL."

25. As is apparent from the table above, under column B are listed the items that are comparable with NDPL. Sub-column B-1 refers to items for which the price paid by the BRPL to REL is less than the price paid by NDPL, which is not disputed by either side.

26. The rub of the matter lies in respect of sub-column B-2, that refers to items for which the price paid to REL is more than NDPL. It is noteworthy that at the foot of the table, a note is appended with an asterisk stating that *"as per Tariff Order dated 23.02.2008, since the details of REL purchase as mandated by APTEL has yet not been submitted by BRPL and BYPL"*. In other words, though para 57 of the impugned judgment records that the DERC will allow a lesser price to the BRPL if NDPL's purchase price is lower than the price of REL's purchase + 5% profit margin, the DERC has passed an order dated 12.04.2022, applying the rate in terms of the Tariff Order dated 23.02.2008, on an observation that the REL purchase price has not been submitted by the non-applicants, which in our opinion, is impermissible.

27. There was no scope of imposing a price stipulated in the Tariff Order dated 23.02.2008, when APTEL has clarified the position in paragraphs 56 and 57 of the impugned judgment, extracted above. To the above extent, the order dated 12.04.2022, passed by the DERC is unsustainable and is accordingly set aside. The DERC is directed to recompute the amount payable to the non-applicants for the commodities purchased by it, strictly in terms of the directions issued in paragraphs 56 and 57 of the impugned judgment dated 6.10.2009. We may reiterate that the above direction is restricted to the items specified in sub-column B-2 of the table forming part of paragraph 43 of the order dated 12.04.2022, passed by the DERC.

28. The next submission made by Mr. Dhruv Mehta, learned senior counsel appearing for the non-applicants is that the DERC has fixed an amount in respect of the items mentioned in Column "A" of the table in paragraph 43 of the order dated 12.04.2022, which relates to items

that are not comparable and has declined to pay even a nominal amount to the non-applicants towards the said items by taking a stand that there is no comparison between a High Voltage Distribution System (HVDS) provided by the non-applicants vis-à-vis the rates for the same system as provided by NDPL. It is submitted that while NDPL had given a breakup of the materials provided since it has purchased the items individually, the non-applicants had purchased the whole dwelling unit at one go and had therefore raised a bill based on the price of the dwelling unit.

29. The aforesaid submission is however disputed by Mr. Nikhil Nayyar, learned senior counsel appearing for the DERC. It is his contention that the non-applicants failed to provide the comparable item-wise breakup of the comparable items for the DERC to conduct an evaluation and arrive at a conclusion on comparison of prices of the items.

30. Learned counsel for the non-applicants responds by stating that his clients are willing to prepare a statement reflecting the item-wise breakup of the materials supplied by NDPL and indicate the components of the dwelling unit purchased by the non-applicants, as a whole, for ease of comparison. Besides that, the non-applicants shall also furnish the details of the colony-wise dwelling units that have been purchased by it for the DERC to undertake the exercise of comparison, as has been directed by APTEL.

31. The aforesaid exercise shall be completed by the non-applicants within four weeks. The DERC shall pass an order on the above aspect within four weeks therefrom after affording an opportunity of hearing to the non-applicants.

32. In view of the above order, the summary of comparisons made in Column A of the table at paragraph 43 of the order dated 12.04.2022, shall be kept in abeyance.

33. The last issue raised by learned senior counsel for the non-applicants is that the DERC has not made proper compliance of the impugned judgment on the aspect of capitalization of fresh assets for which the non-applicants was directed to submit appropriate applications to the Electrical Inspector. It is submitted that while the impugned judgment had directed that capitalization of fresh assets of the DISCOM ought to be allowed in respect of all future assets calculated from the 16th day reckoned from the day the application for the EIC certificate is filed, to ensure that safety protocols are maintained, the DERC has proceeded to extend the directions to the existing assets as well, which is beyond the scope of the directions issued in paragraph 118 of the impugned judgment.

34. The relevant observations made in paragraph 118 of the impugned judgment with respect to capitalization are as follows:

"Capital expenditure and capitalization disallowance, lower approval of capitalization from fresh investment during the MYT period and impact of lower approval of capital expenditure and capitalization on ROCE and RRB:

The view of the Chairman of the Commission with his power of casting vote is approved. So far as purchase from REL is concerned, the Commission's view is accepted subject to our directions in paragraph 57 & 58 of the judgment. For capitalization of fresh assets the DISCOM shall make appropriate applications to the Electrical inspector and the capitalization of such assets will be allowed w.e.f. 16th day of filing of the application and payment of necessary fee."

35. Though it is the stand of learned counsel for the DERC that if the entire judgment on the above aspect is read and understood in the correct perspective, particularly paragraphs 67 and 68, the import would be otherwise, we are of the view that for the purposes of ascertaining compliance of the impugned judgment, it is the directions in the operative paragraph 118 that must be adhered to. The words used in the said paragraph are "*capitalization of the fresh assets*" during the MYT period. That being the position and since this Court is confining itself to examining compliances of the impugned judgment and no further, it is hereby clarified that the DERC was required to consider the issue of capitalization of fresh assets of the DISCOM alone. The DERC is therefore directed to undertake a fresh exercise in the light of the above observations.

36. With these directions, the matter is closed and Miscellaneous Application No. 918 of 2022 in Civil Appeal No. 884 of 2010 and Miscellaneous Application No. 919 of 2022 in Civil Appeal No. 980 of 2010 are disposed of. All the pending applications also stand disposed of.

.....J.  
[S. ABDUL NAZEER]

.....J.  
[HIMA KOHLI]

New Delhi;  
December 15, 2022.

ITEM NO.52+54

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Item No.52:

Civil Appeal No(s). 4906/2015

BSES RAJDHANI POWER LTD.

Appellant(s)

VERSUS

DELHI ELECTRICITY REGULATORY, COMMISSION

Respondent(s)

([ONLY MA 918/2022 in C.A. No. 884/2010 AND MA 919/2022 in C.A. No. 980/2010 ARE LISTED UNDER THIS ITEM.] )

WITH MA 918/2022 in C.A. No. 884/2010  
(M.A. Nos. 918 AND 919/2022 FOR PLACING COMPLIANCE AFFIDAVIT BEFORE COURT  
IA No. 104409/2022 - APPROPRIATE ORDERS/DIRECTIONS)

MA 919/2022 in C.A. No. 980/2010 (FOR ADMISSION)

With

Item No.54:

Miscellaneous Application Nos.633-634/2022  
in C.A. Nos.9003-9004/2011  
(IA No. 51413/2022 - APPROPRIATE ORDERS/DIRECTIONS)

WITH MA 1262/2022 in C.A. No. 980/2010  
(IA No. 104715/2022 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 93329/2022 - APPROPRIATE ORDERS/DIRECTIONS)

MA 1261/2022 in C.A. No. 884/2010  
(IA No. 104773/2022 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 93633/2022 - CLARIFICATION/DIRECTION)

Date : 15-12-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MS. JUSTICE HIMA KOHLI

For the parties:

Mr. Kapil Sibal, Sr. Adv.  
Mr. Arvind Datar, Sr. Adv.  
Mr. Dhruv Mehta, Sr. adv.  
Mr. Amit Kapur, Adv.  
Mr. Buddy A. Ranganadhan, Adv.  
Mr. Anupam Varma, Adv.  
Mr. Pukhrambam Ramesh Kumar, AOR

Mr. Rahul Kinra, Adv.  
Mr. Aditya Gupta, Adv.  
Mr. Aditya Ajay, Adv.  
Mr. Karun Sharma, Adv.  
Ms. Manu Tiwari, Adv.  
Mr. Wahengbam Immanuel Meitei, Adv.  
Mr. Girdhar Gopal Khattar, Adv.  
Ms. Isnain Muzaiml, Adv.

Mr. Nikhil Nayyar, Sr. Adv.  
Ms. Pritha Srikumar, AOR  
Ms. Neha Mathen, Adv.  
Mr. Naveen Hegde, Adv.  
Ms. Mansi Binjrajke, Adv.  
Mr. Aditya Rajagopal, Adv.

M/S. Cyril Amarchand Mangaldas, AOR

Ms. Radhika C., Adv.  
Mr. Hitesh Kumar Sharma, Adv.  
Mr. Akhileshwar Jha, Adv.  
Mr. Ravish Kumar Goyal, Adv.  
Ms. Niharika Dewivedi, Adv.  
Mr. Nitin Sharma, Adv.  
Mr. Narendra Pal Sharma, Adv.  
For Dr. (Mrs.) Vipin Gupta, AOR

UPON hearing the counsel the court made the following  
O R D E R

Miscellaneous Applications and all the pending  
applications stand disposed of in terms of the signed  
order.

(ANITA MALHOTRA)  
AR-CUM-PS

(KAMLESH RAWAT)  
COURT MASTER

(Signed order is placed on the file.)

Annexure-VI

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO(S). 4324 OF 2015**

**BSES RAJDHANI POWER LTD. ...APPELLANT(S)**

**VERSUS**

**DELHI ELECTRICITY  
REGULATORY COMMISSION ...RESPONDENT(S)**

**WITH**

**CIVIL APPEAL NO(S). 4323 OF 2015**

**BSES YAMUNA POWER LTD. ...APPELLANT(S)**

**VERSUS**

**DELHI ELECTRICITY  
REGULATORY COMMISSION ...RESPONDENT(S)**

**J U D G M E N T**

**S. ABDUL NAZEER, J.**

Signature Not Verified  
Digitally signed by  
S. ABDUL NAZEER,  
Date: 2020.01.18  
17:29:54  
Reason: [S]

These two appeals have been filed by BSES Rajdhani Power Ltd. (C.A. No.4324 of 2015) and BSES Yamuna Power Ltd. (C.A.

No.4323 of 2015) (hereinafter referred to as 'Appellants') challenging certain findings of the Appellate Tribunal for Electricity, New Delhi ('APTEL') in the common judgment and order dated 28.11.2014 ('Impugned Order') passed in Appeal Nos.61 and 62 of 2012 ('Tariff Appeals'). The Tariff Appeals were filed by the appellants before the APTEL challenging certain findings of the Delhi Electricity Regulatory Commission ('DERC') in the Tariff Order dated 26.08.2012 for Truing Up of financials for FY 2008-09 and FY 2009-10 and Aggregate Revenue Requirement ('ARR') for FY 2011-12. DERC has also filed appeals (C.A. Nos.8660-61 of 2015) challenging certain findings in the common impugned order and the said appeals will be heard and decided separately.

2. The Appellants are Distribution Licensees ("Discoms") in terms of Section 2(17) of the Electricity Act, 2003 ('2003 Act'). The primary function of a Discom is to give supply to any premises upon an application being made by a consumer in compliance with the applicable laws, including paying requisite charges, except where prevented by force majeure conditions like cyclones or floods.

3. The Appellants purchase 90% to 95% of the power from Central and State Generating Companies. Tariff of Central Generating Stations is determined by the Central Electricity Regulatory Commission ('CERC') and, therefore, the Appellants have no control over the tariff to be paid to the Central Generating Stations. Simultaneously, the tariff for the State Generating Companies is determined by the State Regulator i.e. DERC.

4. It is the case of the Appellants that since privatization, the ARR determined by the DERC was not even sufficient to meet the actual power purchase cost which has led to creation of a huge revenue gap. It is also contended that the DERC in repeated disregard to its statutory regulations and its own statutory advice has refused to make periodic increase in the tariff rate. The actions of the DERC have resulted in a situation where the Appellants are deeply indebted and have been forced to borrow/take loans to fund their day-to-day operations which, in turn, have also dried up leaving the Appellants without adequate monies to pay their suppliers.

5. The Appellants have challenged the finding of the APTEL in the Impugned Order on the following issues:

- A. Change in methodology in computation of Aggregate Technical and Commercial (AT&C) losses [Issue 14 in Impugned Order]
- B. Change in methodology for computation of Depreciation [Issue 15 in Impugned Order]
- C. Disallowance of salary for Fundamental Rules and Supplementary Rules (FR/SR) structure [Issue 23 in Impugned order]
- D. Disallowance of interest accrued on Consumer Security Deposit retained by Delhi Power Corporation Limited (DPCL) [Issue 29 in Impugned Order]
- E. Disallowance of Fringe Benefit Tax [Issue 34 in Impugned Order]
- F. Reduction in Million Units (MUs) in relation to Enforcement sale for the purpose of calculation of AT&C Loss [Issue 14 in Impugned Order]

6. It is to be noticed that the above-mentioned Issue 'C' has been challenged only by BSES Rajdhani Power Ltd. in C.A. No.4324 of 2015 while the remaining issues have been challenged by both

BSES Rajdhani Power Ltd. and BSES Yamuna Power Ltd. and are subject-matter of C.A. No.4324 of 2015 and C.A.No.4323 of 2015.

7. The Tariff Appeals were filed by the Appellants challenging the disallowances in their respective Tariff Orders dated 26.08.2012 passed by the DERC for:

(a) Determination of ARR and Tariff for FY 2011-12;

and

(b) Truing up of financials for FY 2008-09 and FY 2009-10.

8. According to the appellants, the present Civil Appeals give rise to substantial questions of law under Section 125 of the 2003 Act on six issues. It is contended that the said substantial questions of law have arisen primarily because the DERC has, *inter alia*, deliberately refused to follow statutory regulations while truing up. Further, it is contended that APTEL's Impugned Order has failed to note the illegal manner of truing up followed by DERC and, more importantly, APTEL has failed to follow its own rulings in previous cases.

9. However, the respondents have contended that the appellants have entirely failed to establish the existence of any substantial question of law as required under Section 125 of the 2003 Act, read with Section 100 of the Code of Civil Procedure, 1908 ('CPC') on any of the above issues.

10. Before considering the detailed submissions on each of the above issues, it is necessary to provide an overview of the current and historical legal framework of electricity laws in India, including the tariff determination process, and the role and powers of the DERC in the tariff determination process.

11. Prior to independence, the Indian Electricity Act, 1910 ('1910 Act') governed the supply and use of electrical energy in India. Part-II of the 1910 Act was related to supply of electricity and contained provisions concerning:

- (a) Grant of license for supply of electricity by the State Government in consultation with the State Electricity Boards ("SEB") and
- (b) Obligation and rights of licensees, consumers, etc. along with other modalities.

Part-III of the 1910 Act dealt with Supply, Transmission and Use of Energy by Non-licensees. Part-IV of the 1910 Act provided for constitution, duties of advisory boards at the State and Central levels along with other authorities such as electrical inspectors and Central Electricity Board (“CEB”). CEB, under Section 37 of the 1910 Act, was empowered to make rules to regulate the generation, transmission, supply, and use of energy.

12. On 10.09.1948, the Electricity (Supply) Act, 1948 (“Supply Act, 1948”) was notified to provide for: (a) the rationalization of the production and supply of electricity, (b) taking of measures conducive to electrical development; and (c) all matters incidental to the above. The Supply Act, 1948 was a more detailed and comprehensive code and provided for establishment of SEBs to control generation, distribution, and utilization of electricity within their respective states and the Central Electricity Authority (‘CEA’) for planning and development of the national power system.

13. On 02.07.1998, the Electricity Regulatory Commissions Act, 1998 (‘Commissions Act, 1998’) was notified with effect from 25.04.1998 as an Act to provide for the establishment of a Central

Electricity Regulatory Commission (“CERC”) and State Electricity Regulatory Commission (“SERC”), for rationalization of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and other matters connected therewith or incidental thereto. Chapter-VI of the Commissions Act, 1998 was related to energy tariff and provided for the determination of tariff by Central and State Commissions.

14. Insofar as the National Capital Territory (“NCT”) of Delhi is concerned, on 08.03.2001, the Delhi Electricity Reforms Act, 2000 (“Reforms Act, 2000”) was notified to:

- (a) provide re-structuring of the electricity industry (unbundling of generation, transmission, and distribution),
- (b) increasing avenues for participation of private sector in the electricity industry; and
- (c) generally, for taking measures conducive to the development and management of the electricity industry in an efficient, commercial, economic, and competitive manner in the NCT of Delhi and for matters connected therewith or incidental thereto.

15. With effect from 01.07.2002, pursuant to the unbundling, restructuring and reform of the erstwhile Delhi Vidyut Board (“DVB”) and privatization of distribution of electricity, the appellants succeeded to the respective Distribution Undertakings and Business in their area of supply. The appellants have been granted Distribution and Retail Supply License by DERC to undertake distribution (wheeling) and retail supply of electricity in their respective areas of supply in the NCT of Delhi. From 01.07.2002 till 31.03.2007, the Delhi Transco Ltd. (“DTL”) was entrusted with the responsibility of bulk procurement and bulk supply of power in the NCT of Delhi.

16. In the year 2003, the Parliament repealed the previous three laws viz., the 1910 Act, the Supply Act, 1948 and the Commissions Act, 1998, and enacted a comprehensive consolidated law called the Electricity Act, 2003. The objectives of the Act are:-

- (a) to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity,
- (b) taking measures conducive to development of electricity industry, promoting competition therein,

protecting interest of consumers and supply of electricity to all areas,

(c) rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies,

(d) constitution of the CEA, Electricity Regulatory Commissions, and establishment of an Appellate Tribunal and for matters connected therewith or incidental thereto.

17. The scheme of the 2003 Act is predicated on consolidating all laws governing electricity and repealing the existing laws. The legislative policy of distancing the Government from the tariff determination was carried forward in the 2003 Act. The intent and purpose of the 2003 Act is to liberalize the electricity sector and to ensure that the distribution and supply of electricity is conducted on commercial principles. The legislature intended to promote factors that encourage and reward efficiency, competition, economical use of resources and optimum investments and safeguard the interest of the consumers vis-à-vis recovery of cost of electricity in a reasonable manner as envisaged under Section 61 of the 2003 Act.

18. Being regulated licensees responsible for distribution and retail supply of electricity in their designated areas within the NCT of Delhi in terms of Section 12 of 2003 Act, the annual revenue requirement of the Appellants to conduct the licensed business and consequently the tariff to be recovered from the consumers, is regulated by the DERC, being the State Electricity Regulatory Commission. DERC is vested with a substantial set of divergent powers – legislative, executive, adjudicatory and advisory – each being distinctly defined and governed by law. One of the critical issues arising in these Civil Appeals relates to sanctity of each such function and their interplay. In this regard, it is noteworthy that Section 3 of the 2003 Act provides as under:

“Section 3. National Electricity Policy and Plan. -

- (1) The Central Government shall, from time to time, prepare the National Electricity Policy and tariff policy, in consultation with the State Governments and the Authority for development of the power system based on optimal utilisation of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy.
- (2) The Central Government shall publish National electricity Policy and tariff policy from time to time.
- (3) The Central Government may, from time to time in consultation with the State Governments, and the

Authority review or revise the National Electricity Policy and tariff policy referred to in sub-section (1).

(4)The Authority shall prepare a National Electricity Plan in accordance with the National Electricity Policy and notify such plan once in five years.

Provided xxx xxx xxx

(5)The Authority may review or revise the National Electricity Plan in accordance with the National Electricity Policy.”

19. Section 14 of the 2003 Act provides for grant of licences on application made under Section 15 of the Act - (a) to transmit electricity as a transmission licensee; or (b) to distribute electricity as a distribution licensee; or (c) to undertake trading in electricity as an electricity trader, in any area which may be specified in the licence.

20. Section 43 of the 2003 Act provides for the universal supply obligation of the Discoms, which is as under:

“43. Duty to supply on request –

(1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply.

Provided xxx xxx xxx

(2) & (3)            xxx            xxx            xxx”

21. Section 61 of the 2003 Act lays down the guiding principles for tariff which are as under:

“61. Tariff regulations.- The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-

- (a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;
- (b) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;
- (c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;
- (d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;
- (e) the principles rewarding efficiency in performance;
- (f) multi-year tariff principles;
- (g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;
- (h) the promotion of co-generation and generation of electricity from renewable sources of energy;
- (i) the National Electricity Policy and tariff policy;

Provided that the terms and conditions for determination of tariff under the Electricity (Supply) Act, 1948, the Electricity Regulatory Commission Act, 1998 and the enactments specified in the Schedule as they stood

immediately before the appointed date, shall continue to apply for a period of one year or until the terms and conditions for tariff are specified under this section, whichever is earlier.”

22. Sections 62 and 64 of the 2003 Act lay down the procedure for determination of tariff for, *inter alia*, wheeling and retail sale of electricity as under:

**“62. Determination of tariff.-**

(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –

(a) supply of electricity by a generating company to a distribution licensee:

Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;

- (b) transmission of electricity;
- (c) wheeling of electricity;
- (d) retail sale of electricity;

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

(2) The Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be

specified in respect of generation, transmission and distribution for determination of tariff.

(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified. The Electricity Act, 2003.

(5) The Commission may require a licensee or a generating company to comply with such procedures as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”

**“64. Procedure for tariff order.-**

(1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

(2) Every applicant shall publish the application, in such abridged form and manner, as may be specified by the Appropriate Commission.

(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under subsection (1) and after considering all suggestions and objections received from the public,-

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

(b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

(4) The Appropriate Commission shall, within seven days of making the order, send a copy of the order to the Appropriate Government, the Authority, and the concerned licensees and to the person concerned.

(5) Notwithstanding anything contained in Part X, the tariff for any inter-State supply, transmission or wheeling of electricity, as the case may be, involving the territories of two States may, upon application made to it by the parties intending to undertake such supply, transmission or wheeling, be determined under this section by the State Commission having jurisdiction in respect of the licensee who intends to distribute electricity and make payment therefor.

(6) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order.”

23. ARR of the Appellants, and consequently the tariff to be recovered from the consumers, is regulated by the DERC, and determined under Section 62 read with Section 61 of the 2003 Act.

24. Section 86 of the 2003 Act lays down the functions of the State Commissions i.e. DERC in this case, and the rule-making power of the Central Government is set out in Section 176 thereof.

25. Before considering the other questions, let us consider the preliminary objection raised by learned counsel for the respondent-DERC as to whether the appeals involve any substantial question of law as required under Section 125 of the 2003 Act read with Section 100 of the CPC?

26. Section 125 of the 2003 Act provides for an appeal to this Court against the decision or order of the APTEL which reads as under:

**“125. Appeal to Supreme Court.-**

Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Supreme Court within sixty days from the date of communication

of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

27. Thus, an appeal to this Court under Section 125 could be filed on the grounds specified in Section 100 of the CPC. Under Section 100 of the CPC, an appeal could be filed only when the case involves ‘a substantial question of law’, as may be framed by the appellate court. Thus, the existence of a ‘substantial question of law’ arising from the judgment of the APTEL is *sine qua non* for exercise of jurisdiction by this Court under Section 125 of the 2003 Act.

28. The expression ‘appeal’ has not been defined in the CPC. Black’s Law Dictionary (10<sup>th</sup> Edn.) defines an ‘appeal’ as “a proceeding undertaken to have a decision reconsidered by bringing it to a higher authority.” An appeal is judicial examination of a decision of a subordinate court by a higher court to rectify any possible error(s) in the order under appeal. The law provides the

remedy of an appeal in recognition of the fact that those manning the judicial tiers too may commit errors.

29. The test to determine whether a question is a substantial question of law or not was laid down by a Constitution Bench of this Court in **Sir Chunilal V. Mehta & Sons Ltd. v. The Century Spg. & Mfg. Co. Ltd.**<sup>1</sup> as under : (AIR p. 1318, para 6)

“6. ... The proper test for determining whether a question of law raised in the case is substantial would, in our opinion, be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council or by the Federal Court or is not free from difficulty or calls for discussion of alternative views. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or that the plea raised is palpably absurd the question would not be a substantial question of law.”

30. Thus, the word ‘substantial’ as qualifying ‘question of law’ means, of having substance, essential, real, of sound worth, important or considerable. It is to be understood as something in contradistinction with technical, of no substance or consequence,

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<sup>1</sup> 1962 Supp (3) SCR 549 : AIR 1962 SC 1314

or academic. For determining whether a case involves substantial question of law, the test is not merely the importance of the question, but its importance to the case itself necessitating the decision of the question. The appropriate test for determining whether the question of law raised in the case is substantial would be to see whether it directly and substantially affects the rights of the parties. If it is established that the decision is contrary to law or the decision has failed to determine some material issue of law or if there is substantial error or defect in the decision of the case on merits, the court can interfere with the conclusion of the lower court or tribunal. The stakes involved in the case are immaterial as long as the impact or effect of the question of law has a bearing on the *lis* between the parties.

31. Thus, in a second appeal, the appellant is entitled to point out that the order impugned is bad in law because it is *de hors* the pleadings, or it was based on no evidence or it was based on misreading of material documentary evidence or it was recorded against the provision of law or the decision is one which no Judge acting judicially could reasonably have reached. Once the appellate

court is satisfied, after hearing the appeal, that the appeal involves a substantial question of law, it has to formulate the question and direct issuance of notice to the respondent/s.

32. Now, let us consider as to whether the present appeals involve any substantial question(s) of law.

33. The APTEL has recorded findings on 35 issues raised by the appellants. According to the appellants, six issues decided by the APTEL give rise to substantial question of law which are as follows:

1. Change in methodology in computation of AT&C Losses.
2. Change in methodology for computation of Depreciation.
3. Disallowance of salary for FR/SR Structure.
4. Disallowance of interest incurred on Consumer Security Deposit retained by DPCL.
5. Disallowance of Fringe Benefit Tax.
6. Reduction in MUs in relation to Enforcement sale for the purpose of calculation of AT&C Losses (this issue deals with theft/unauthorized use of electricity).

34. Mr. Arvind P. Dattar and Mr. Dhruv Mehta, learned senior counsel appearing for the appellants, would submit that the findings of the APTEL on Issue Nos.1, 2, 3 and 5 are contrary to the binding DERC Tariff Regulations. It is argued that the Regulator cannot 'change the rules of the game after it has begun' in the 'truing up exercise'. In this regard, they have taken us through the findings of the DERC in the Tariff Order and also the findings of the DERC after the truing up stage. It is further argued that the tariff order is in the nature of a quasi-judicial determination and that in the guise of truing up, the DERC cannot amend a tariff order.

35. On the other hand, Mr. Nikhil Nayyar, learned senior counsel appearing for the respondent-DERC, submits that one of the facets of the tariff determination exercise is the process of 'truing up'. Since the initial tariff order is prepared by the DERC, based on the projections submitted by the Discoms as its ARR petition, the subsequent tariff order is issued after the financial year pursuant to the 'truing up' exercise. It is also pointed out that the findings on the aforesaid six issues are neither contrary to law nor opposed to any regulations.

36. Having considered the submissions of the learned counsels for the parties and after perusing the Impugned Order, we are of the view that these appeals involve the following substantial questions of law:

**“On Issue No.1**

- (a) Whether the impugned findings on Issue No.1 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e), 62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which:
- (i) Tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?
- (ii) Regulator cannot “change the rules of the game after it has begun” in the ‘truing up exercise’?
- (b) Whether the impugned findings violate the principles and methodology for tariff determination specified in the binding DERC’s Tariff Regulations?

**On Issue No.2**

- (a) Whether the impugned Findings on Issue No.2 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e), 62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which:
- (i) Tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?

(ii) Regulator cannot “change the rules of the game after it has begun” in the ‘truing up exercise’?

(b) Whether the impugned findings violate the principles and methodology for tariff determination specified in the binding DERC’s Tariff Regulations?

**On Issue No.3**

(a) Whether the impugned Findings on Issue No.3 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e), 62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which:

(i) Tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?

(ii) Regulator cannot “change the rules of the game after it has begun” in the ‘truing up exercise’?

(b) Whether the impugned findings violate the binding statutory Transfer Scheme and the Tri-Partite Agreements between the GONCTD, the DVB and the Employees’ Unions, which form the basis of the privatization of Discoms?

**On Issue No.4**

(a) Whether the impugned findings on Issue No.4 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e), 62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?

**On Issue No.5**

(a) Whether the impugned Findings on Issue No.5 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e),

62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which:

- (i) Tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?
  - (ii) Regulator cannot “change the rules of the game after it has begun” in the ‘truing up exercise’?
- (b) Whether the impugned findings violate the principles and methodology for tariff determination specified in the binding DERC’s Tariff Regulations?

**On Issue No.6**

- (a) Whether the impugned Findings on Issue No.6 are contrary to the mandate of Sections 3, 61(b), (c), (d) and (e), 62, 64 (read with the Tariff Policy) and 86(3) of the 2003 Act in terms of which Tariff must ensure recovery of all costs of undertaking distribution of electricity with reasonable return, rewarding efficiency in performance?
- (b) Whether the impugned findings are against settled law that when a statute creates a legal fiction i.e. energy assessed is “deemed” to be consumed, the same has to be given effect to with all its consequences i.e. same quantum of energy is to be accounted for as supplied?

37. One of the substantial questions of law raised on four issues (Issue Nos.1, 2, 3 and 5) is whether it is permissible to amend the tariff order made under Section 64 of the 2003 Act during the ‘truing up’ exercise which needs to be answered before answering each of the aforesaid issues.

38. Section 82 of the 2003 Act envisages the constitution of a State Electricity Regulatory Commission. By virtue of Section 84 of the Act, such State Commission comprises of a Chairperson and Members, being persons possessing “*ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management*”, with the Chairperson being a person who is, or has been, a Judge of a High Court.

39. DERC, constituted under Section 82 of the 2003 Act, is an expert body vested with wide powers and functions under the Act. This includes the power to frame regulations and the power to determine tariff.

40. Under Section 86 of the 2003 Act, the State Commission carries out various functions including determination of “*the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State*”. The process of determination of tariff in the present case, as part of the broader regulatory power of the Commission, is to be done in accordance with Section 62 and 64 of the 2003 Act. As per Section

62, the Appropriate Commission (the State Commission in the present case) shall determine the tariff in accordance with the provisions of the Act for *inter alia* retail supply of electricity.

41. In addition to the above functions, the State Commission is also vested with the power to make regulations, under Section 181 of the 2003 Act, - dealing with *inter alia* “the terms and conditions for determination of tariff under Section 61” and “issue of tariff order with modifications or conditions under sub-section (3) of Section 64”.

42. It is pertinent to note that while framing the Regulations, the State Commission is required to be guided by the principles specified in Section 61 of the 2003 Act.

43. In framing such regulations, the Commission, as an expert policy making body, is entrusted with the duty of striking a balance between the various competing concerns and interests. This balance is expressed in the DERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 (“2007 MYT Regulations”) which are the relevant regulations governing the issues in the present case.

44. DERC, for a given Multi-Year period (also called the Control Period), frames regulations for determination of tariff. DERC then determines the ARR for the said Control Period in a Tariff Order known as the Multi-Year Tariff Order based on the data available.

45. It is also necessary to note that sub-section (6) of Section 62 of the 2003 Act mandates that the Tariff Order shall continue to be in force for such period as may be specified in the Tariff Order unless amended or revoked. Therefore, if any of the parties are aggrieved by any of the clauses in the Tariff Order, they are at liberty to seek its amendment or revocation under this provision. Secondly, the said order is also appealable under Section 111 of the 2003 Act before the Appellate Tribunal and thereafter before this Court under Section 125. The Tariff Order made under Section 64 is quasi-judicial in nature and it is binding *as-it-is* on the parties unless it is amended or modified in a process known to law.

46. Mr. Arvind Datar and Mr. Dhruv Mehta, learned senior counsel appearing for the appellants have submitted that 'truing up' cannot be used to upset the methodology used for determination of ARR. According to them, such a conduct essentially amounts to

'changing the rules of the game after the game has started' or 'changing the goal post' with the sole intention to deny legitimate allowances to the appellants. It is also argued that 'truing up' stage is not an opportunity for the DERC to re-think *de novo* on the basic principles, premises and issues involved in the initial projections of revenue requirement of the licensee. It was also argued that DERC has no unfettered power to control the tariff determination process as well as 'truing up' exercise.

47. On the other hand, Mr. Nikhil Nayyar, learned senior counsel appearing for the respondent-DERC, has submitted that one of the facets of tariff determination exercise is the process of 'truing up'. Since the initial tariff order is prepared by the DERC based on projections submitted by the Discoms with its ARR petition, the subsequent tariff order is issued after the financial year pursuant to the 'truing up' exercise. The process of 'truing up' requires the DERC to carry out a prudence check. A prudence check is not a mere accounting or mathematical exercise. A prudence check requires a scrutiny of reasonableness of the expenditure incurred or proposed to be incurred by the Discoms and also such other factors that the

DERC considers appropriate for determination of tariff. DERC being an expert body, due deference ought to be given to their understanding as recorded in various regulations. It is argued that the controlling factor throughout the entire 'truing up' exercise is the MYT Regulations itself. It is further argued that the tariff determination exercise carried out by the DERC is a continuous process. The tariff determination exercise includes the initial tariff order - in the instant case it is 23.02.2008 - a 'truing up' *inter alia* the ARR and Multi-Year Tariff Order for the years, F.Y. 2007-08 to F.Y.2010-11, as well as the subsequent Tariff Order dated 26.08.2011, *inter alia*, 'true up' for F.Y. 2008-09 and F.Y. 2009-10. Mr. Nayyar has placed reliance on the judgment of this Court in **Gujarat Urja Vikas Nigam Limited v. Tarini Infrastructure Limited & Others**<sup>2</sup> in support of his submissions.

48. We have carefully considered the submissions of the learned senior counsel for the parties. We have already noticed that the State Electricity Regulatory Commissions constituted under Section 82 of the 2003 Act are a multi-member body comprising a Chairper-

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<sup>2</sup> (2016) 8 SCC 743

son and members being persons having adequate knowledge, of ability, integrity and standing who have adequate knowledge, and have shown capacity, in dealing with problems relating to engineering, finance, commerce, economics, law or management, with the Chairperson being a person who is or has been Judge of a High Court. Under Section 86 of the 2003 Act, the State Commission carries out various functions including determination of tariff for generation, supply, transmission and wheeling of electricity in wholesale, bulk or retail as the case may be within the State. The process of determination of tariff has to be done in accordance with Sections 62 and 64 of the 2003 Act. It is well settled that the Commission (in this case, the DERC) performs a quasi-judicial function while determining tariff. This has been expressly recognized by the Constitution Bench of this Court in **PTC India Limited v. Central Electricity Regulatory Commission, Through Secretary**<sup>3</sup> as under:

“50. Applying the above test, price fixation exercise is really legislative in character, unless by the terms of a particular statute it is made quasi-judicial as in the case of

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<sup>3</sup> (2010) 4 SCC 603

tariff fixation under Section 62 made appealable under Section 111 of the 2003 Act, though Section 61 is an enabling provision for the framing of regulations by CERC. If one takes “tariff” as a subject-matter, one finds that under Part VII of the 2003 Act actual determination/fixation of tariff is done by the appropriate Commission under Section 62 whereas Section 61 is the enabling provision for framing of regulations containing generic propositions in accordance with which the appropriate Commission has to fix the tariff. This basic scheme equally applies to the subject-matter “trading margin” in a different statutory context as will be demonstrated by discussion hereinbelow.”

49. The DERC determines the tariff of the licensee under Section 62 in such a manner as determined by the 2007 MYT Regulations. This function is governed, *inter alia*, by safeguarding all consumers’ interest and at the same time recovering the cost of electricity in a reasonable manner, such that ‘distribution and supply of electricity are conducted on commercial principles’ which encourage and reward competition, efficiency, economic use of resources, good performance and optimum investments.

50. DERC determines ARR of the licensee i.e. costs of undertaking the licensed business which are permitted in accordance with the requirement specified by DERC which is to be recovered from the tariff in the year end. ARR determined by DERC is based on projec-

tions. Since the tariff and the ARR are regulated, the Discoms cannot recover anything more than from its consumers than what is allowed by the DERC.

51. As noticed above, a tariff order is quasi-judicial in nature which becomes final and binding on the parties unless it is amended or revoked under Section 64(6) or set aside by the Appellate Authority. Apart from this, we are also of the view that at the stage of 'truing up', the DERC cannot change the rules/methodology used in the initial tariff determination by changing the basic principles, premises and issues involved in the initial projection of ARR.

52. 'Truing up' has been held by APTEL in **SLDC v. GERC**<sup>4</sup> to mean the adjustment of actual amounts incurred by the Licensee against the estimated/projected amounts determined under the ARR. Concept of 'truing up' has been dealt with in much detail by the APTEL in its judgment in **NDPL v. DERC**<sup>5</sup> wherein it was held as under:-

<sup>4</sup> 2015 SCC Online APTEL 50 [Para. 17]

<sup>5</sup> 2007 ELR (APTEL) 193

“60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the Tariff Petition of the utility the Commission has to reasonably anticipate the Revenue required by a particular utility and such assessment should be based on practical considerations. ... The truing up exercise is meant (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons thereof or where the Commission is able to suggest some method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence.”

53. This view has been consistently followed by the APTEL in its subsequent judgments and we are in complete agreement with the above view of the APTEL. In our opinion, ‘truing up’ stage is not an opportunity for the DERC to rethink *de novo* on the basic principles, premises and issues involved in the initial projections of the revenue requirement of the licensee. ‘Truing up’ exercise cannot be done to retrospectively change the methodology/principles of tariff

determination and re-opening the original tariff determination order thereby setting the tariff determination process to a naught at 'true-up' stage.

54. In **Gujarat Urja Vikas Nigam Ltd. (supra)**, this Court was considering a case where tariff was incorporated in the power purchase agreement between a generating company and a distribution licensee. This Court held that it is not possible to hold that the tariff agreed by and between the parties, though finding a mention in a contractual context, is the result of an act of volition of the parties which can, in no case, be altered except by mutual consent. We are of the view that this judgment is not applicable to the facts of the present case.

55. Revision or re-determination of the tariff already determined by DERC on the pretext of prudence check and truing up would amount to amendment of the tariff order, which can be done only as per the provisions of sub-Section (6) of Section 64 of the 2003 Act within the period for which the Tariff Order was applicable. In our view, DERC cannot amend the tariff order for the period 01.04.2008 to 31.03.2010 in the guise of 'true-up' after the relevant financial

year is over and the same is replaced by a subsequent tariff Order. This would amount to a retrospective revision of tariff when the relevant period for such tariff order is already over. Therefore, we hold that it is not permissible to amend the tariff order made under Section 64 of the 2003 Act during the 'truing up' exercise.

56. **Issue Nos. 1, 2, 3, and 5:** We have already noticed that one of the substantial questions of law involved in Issue Nos. 1, 2, 3 and 5 is whether the Regulator can 'change the rules of the game after it has begun' in the 'truing up exercise'.

57. **Issue No. 1:** In the original MYT determination (Tariff Order dated 28.05.2009), the DERC took into account the full late payment surcharge ('LPSC') revenue as also the DVB arrears while computing the targets of Collection Efficiency as under:-

"3.10. An analysis of the components of AT&C loss level indicates that the revenue collection on account of sale of energy was Rs.2810.3 Crs. However, this amount could not be verified from the audited accounts of the petitioner. The petitioner has, instead, submitted a daily collection sheet to substantiate its collection of Rs.2810.3 Crs.

3.11 The Commission is not receptive to the methodology of verifying the collection from the Daily Collection Sheet as proposed by the petitioner. Accordingly, the petitioner was directed during the validation session to reconcile the amount of cash collected bases on the opening levels of debtors, sales made during the year, DVB arrears collected and the closing level of debtors, with the total collections shown for FY 07-08. However, the petitioner expressed inability to reconcile the figures using this methodology.

3.12. The petitioner was, thereafter, directed to provide a copy of the daily collection sheet duly audited by its Statutory Auditors. The petitioner was also directed that the Statutory Auditors should establish that the amount mentioned in the Daily Collection Sheet does not include any collections on account of other sources of revenue like sale of power through bilateral, intra-state, UI, etc. and revenue from operations (non-energy).

3.13. In response to the above, the petitioner submitted a copy of its Statutory Auditor's certificate certifying the Day-wise Collection Statement for FY 07-08 vide its letter no.RCM/08-09/245 dated 16<sup>th</sup> February, 2009. The Certificate clarified the exclusion of collections made on account of trading of energy, non-energy charges, subsidy

received from GoNCTD, etc. and inclusion of LPSC, electricity duty, amount collected by BYPL on behalf of BRPL, etc.

3.14. Accordingly, based on the clarifications provided in the statutory auditor's certificate and the audited financial statements, the amount mentioned in the Daily Collection Sheet submitted by the petitioner has been taken into account.

...

3.24. In the light of the above background, the revised AT&C loss levels of the petitioner for the first year of the Control Period i.e. FY 07-08 is as summarized in the Table 6 below:

Table 6: Trued-up AT&C loss for FY 07-08 (Rs.crs.)

<b>Particulars</b>	<b>Amount</b>
Add:	
Theft Collection	60.4
Subsidy	48.4
Rebate	47.8
DVB Arrears collected from Government Bodies by DPCL	64.5
Total Other Collections during FY 07-08	221.0
(A) Total Collections in FY 07-08	3031.27
(B) Billed Revenue considered for AT&C	2889.99

(C) Collection Efficiency (A/B)	104.89%
Distribution Loss Level FY 07-08	30.89%
AT&C Loss for FY 07-08	27.51%”

58. However, while truing up for the year in question, the DERC has retrospectively sought to take away part of the LPSC revenue by deducting the Financing Cost on LPSC in comparing the actual Collection Efficiency with the projected Collection Efficiency. Hence, allowing the Financing Costs on LPSC revenue and then deducting it from the LPSC revenue would tantamount to giving by one hand and taking it away by the other. This order of the DERC is contrary to the original MYT determination.

59. **Issue No.2:** In the Original Determination Order dated 28.05.2009 (F.Y. 2008-09), DERC has allowed depreciation on the assets funded by consumer contributions. However, DERC changed the methodology of computation of ARR at the stage of true up. According to the learned counsel for the respondent, DERC had inadvertently made an error and adopted an approach contrary to the mandate of 2007 MYT Regulations while computing the depreciation when originally issuing the tariff order, which was rectified in

the true up exercise. However, learned counsel for the appellants submit that no error has been committed by the DERC in the tariff order dated 28.05.2009 and it is only after considering the relevant MYT Regulations that depreciation to the appellants on the assets that were funded by consumer contributions was allowed.

60. Perusal of the Tariff Order dated 28.05.2009 would clearly indicate that after considering the contentions of the parties the aforesaid depreciation has been allowed. We have already held that it is not permissible to amend the tariff order during true up exercise. On the pretext of prudence check and truing up, DERC could not have amended the tariff order.

61. **Issue No.3** : During projection of expenses for the entire control period, the Tariff Order dated 23.02.2008 had projected employee expenses considering *inter alia* the impact of the anticipated Sixth Central Pay Commission Report. The relevant portion of the said Tariff Order is as under:

*“4.99 The Petitioner has submitted the employee expenses for FY07 as Rs 137.60 Cr and has considered the same as the base for the Control Period. The Petitioner has considered the following factors while projecting the*

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*escalation factor for the employee expenses for the Control Period:*

- (a) Anticipated 6th Pay Commission report*
- (c) Research of lead HR consultants on salary trends in the country*
- (c) Initiatives undertaken to retain quality manpower and demand for employees in the power industry.*
- (d) Inflation during last 12 months € increase in employees to cater to growth of consumers.*

*4.100 The Petitioner has projected its total employee expenses for the Control Period considering different escalation rates for different components of the employee expenses. The annual growth rates for various components of employee expenses as proposed by the Petitioner are given below:*

*(a) Basic Salary: The year on year increase in basic salary for all the employees during the Control Period has been estimated at 23.2%, 11.1%, 11.3%, and 11.5% for FY08, FY09, FY10 and FY11 respectively.*

*(b) Dearness Allowance (DA): Annual estimated increase in DA is considered as 9%, 6%, 6%, and 6% for FY08, FY09, FY10 and FY11 respectively.*

*(c) Terminal Benefits: Contribution to terminal benefits/liability fund is considered at 26% of basic salary and dearness allowance for each year of the Control Period.*

*(d) Other Allowances and expenses including HRA: Considered in proportion to the basic salary.”*

62. The DERC, while projecting employee expenses for the entire control period in its MYT Tariff Order dated 23.02.2008, had categorically acknowledged the uncontrollable nature of the Sixth Central Pay Commission Report as well as the impact of the same on the salaries of FR&SR employees and held that since the salary of FR&SR employees was an uncontrollable item and that it would be trued up on actuals as under:

*“4.108 During the privatization process, part of the employees of the erstwhile DVB were transferred to BRPL. As per the Transfer Scheme, the terms and conditions of service applicable to the erstwhile Board employees in the Transferee Company shall in no way be less favourable than or inferior to that applicable to them immediately before the Transfer. Further, their services shall continue to be governed by various rules and laws applicable to them prior to privatization. Thus the salary/compensation and promotion of the erstwhile DVB employees in BRPL are still governed by the rules and pay scales as specified by the GoNCTD.*

*4.109 In consideration of the above, the Commission has recognized the uncontrollable nature of the 6<sup>th</sup> Pay Commission recommendations in determination of employee expenses during the Control Period. The Commission has assumed that the revision in pay, if any, shall be applicable from January 1, 2006. The*

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Commission has considered an increase of 10% in total employee expenses for the values in FY06 (3 months) and FY07 due to the same.

...

4.112 Similarly, the increase in salaries has been considered for each year, but the impact of such increase has only been taken from FY09 onwards. The Commission shall true-up the impact on account of 6<sup>th</sup> Pay Commission recommendations based on the actual impact of the same.

4.113 The summary of the revised employees expenses considering the effect of 6<sup>th</sup> Pay Commission recommendations is given below:

Table 72: Revised Employee Expenses for FY06 and FY07 (Rs Cr)

Particulars	FY06	FY07
Employee Cost Approved in True up	167.54	184.05
Less: SVRS Amortization approved	(46.41)	(46.45)
Net Employee Expenses	121.13	137.60
Employee expenses pertaining to DVB employees	75.64	85.92
Employee expenses pertaining to Non-DVB employees	45.50	51.68
10% escalation due to Pay Commission recommendations	1.89	8.60
Revised Employee Expenses	123.02	146.19

4.114 For the calculation of the employee expenses for the Control Period, the Commission has considered the following:

(a) Revised employee expenses for the base year have been escalated as per the escalation factors mentioned in Table 67 to arrive at the employee expenses for the Control Period.

(b) All arrears due to the impact of the 6<sup>th</sup> Pay Commission recommendations would be payable in FY09. For the purpose of projecting the arrears arising due to recommendation of the 6<sup>th</sup> Pay Commission for FY08, the Commission has considered the difference between the employee expenses for FY08 arrived by escalating the revised employees expenses for FY07 (i.e. Rs 146.19 Cr) and the employees expenses for FY08 arrived by escalating the trued up employee expenses (net of SVRS amortization) for FY07 (i.e. Rs 137.60 Cr).”

63. However, contrary to its own undertaking, the DERC in Tariff Order dated 26.08.2011 has erroneously changed its own methodology at the stage of truing up, by not allowing employee expenses of FR/SR employees as per actuals. The DERC, at the stage of truing up, has changed the methodology and disallowed the actual salary of FR&SR employees, which is impermissible. The DERC in the Tariff Order dated 26.08.2011 has acted contrary to its own undertaking of truing up the impact of employee expenses on account of the Sixth Central Pay Commission Report.

64. **Issue No.5** : This issue is in relation to disallowance of fringe benefit tax. The DERC has allowed fringe benefit tax in the MYT Order dated 23.02.2008. Relevant extract of the MYT Order dated 23.02.2008 is as under:

*“Commission’s Analysis*

*4.242 The Commission is of the opinion that projecting the actual tax liability for the Control Period is difficult and complex. Thus for simplicity, the Commission provisionally approves Rs 5.00 Cr each year towards income tax and fringe benefit expenses. The Commission would, however, true-up the tax expenses based on the actual tax liability at the end of each year of the Control Period. The Commission has allocated the tax expenses into Wheeling and Retail Supply in the ratio of 20:80, respectively.”*

65. The DERC, at the stage of truing up for the F.Y. 2008-09, has changed the methodology and disallowed the fringe benefit tax incurred by the appellants.

66. We have already taken a view that DERC cannot re-open the basis of determination of tariff at the stage of ‘truing up’. Revision or redetermination of the tariff already determined by the DERC on the pretext of prudence check and truing up would amount to amendment of tariff order, which is not permissible in law. Truing

up stage is not an opportunity for DERC to re-think *de novo* the basic principles, premises and issues involved in the initial projection of the revenue requirements of the licensee.

67. Therefore, the findings of the DERC, as confirmed by the APTEL in the impugned order, on issue nos. 1, 2, 3 and 5 are contrary to the order of the original MYT determination (Tariff Order(s) dated 23.02.2008 and 28.05.2009) which are accordingly set aside. In view of the above, it is unnecessary for us to consider the other substantial questions of law on the aforesaid four issues.

68. **Issue No.4:** This issue relates to disallowance of interest incurred on Consumers Security Deposit retained by Delhi Power Company Limited ('DPCL'). The DERC in the tariff order dated 26.08.2011 has disallowed the interest on Consumers Security Deposit paid for pre-privatization period received by DVB, which is yet to be transferred to the appellants. The APTEL has confirmed this order of the DERC. It is to be stated here that, at the time of unbundling of the erstwhile DVB (w.e.f. 01.07.2022), the quantum of Consumers Security Deposit reflected in the opening balance-

sheet notified in terms of statutory transfer scheme, was not transferred by the DPCL (the Holding Company wholly owned by the Government of NCT of Delhi) to the appellants and other successor private Discoms. The appellants being distribution licensees under the 2003 Act are required to and are continuing to pay interest on the said Consumers Security Deposit in terms of Section 47(4) of the 2003 Act even though the principal sum was never transferred to them in its entirety by DPCL.

69. The DERC by its order dated 23.04.2007 has held that it does not have power to issue any directions to DPCL.

70. Learned counsel for the respondent-DERC submits that the appellants have sought transfer of deposits along with interest from DPCL and the issue of DPCL to make this payment is pending before the Delhi High Court in W.P. (Civil) No.2396/2008. It is further submitted that, should the appellants succeed in their claim against DPCL and receive the deposit amount along with interest, the amount would be made over to the appellants along with interest. As such, if the expenses were to be presently allowed in the

ARR, and interest burden was passed on to the consumers presently, the Discoms would, in effect, receive double benefit at the time of disposal of the writ petition since the consumers would have already borne the costs of interest which would also be then made over by DPCL to the appellants. It is argued that, as a Regulator, it is incumbent upon the DERC to protect the consumers' interest.

71. We are of the view that disallowing interest paid by the appellants towards Consumers Security Deposit held by DPCL in the ARR of the appellants is wholly misconstrued. Interest on consumers' deposit which is being paid by the appellants is a legitimate expense. It is not in dispute that the security deposit was not transferred by the DPCL to the appellants. However, the appellants were required to bear the costs of the same. In case, the principal sum on Consumers Security Deposit held by DPCL is transferred to the appellants with interest, the appellants would, subject to their legitimate expenditures, retain such interest and benefit of any balance of excess interest received by the appellants would be passed on to the consumers in tariff. Therefore, there is no merit in the contention of the learned counsel for the respondent

that if the interest burden is passed on to the consumers presently, the appellants would, in effect, receive a double benefit in case they succeed in the writ petition pending before the High Court.

72. Therefore, we hold that the appellants are entitled to recover interest on Consumers Security Deposit as held by the DPCL. We direct the DERC to allow the interest on Consumers Security Deposit held by the DPCL and impact thereof to the appellants. The findings of the DERC and the APTEL in this regard are set aside.

73. **Issue No.6:** This issue pertains to enforcement sales i.e. sales which are deemed to have been occurred in cases of electricity theft. The question for consideration is whether the impugned findings in the order of the APTEL are against the legal principle that when the statute creates a legal fiction i.e. energy assessed is 'deemed' to be consumed, the same has to be given effect to with all its consequences i.e. same quantum of energy is to be accounted for as supplied?

74. Electricity transmitted may be stolen or used unauthorizedly. While theft/unauthorized use was approximately 60% before

privatization, it has now been brought down to 7 to 8%. Unauthorized use and theft are dealt with in Section 126 of the 2003 Act, relevant clauses whereof are as under:

“Section 126: (Assessment): --- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, **he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.**

[...]

[(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve

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months immediately preceding the date of inspection.]

**(6) The assessment under this section shall be made at a rate equal to twice the tariff rates applicable for the relevant category of services specified in sub-section (5)."**

(Emphasis supplied)

75. The Vigilance/Enforcement Department detects theft/unauthorized use of electricity. After giving due opportunity, the bills are generated for electricity stolen/unauthorized use. These are called enforcement sales/assessed sales. The statutory charge for such theft/unauthorized use is twice the normal rate.

76. While settling enforcement cases of small consumers, Lok Adalats often provide discounts to errant consumers on the assessed equivalent of the rupee amount and not on the assessed units of energy. The assessment of units of energy as deemed to be sales to the consumers is in accordance with Section 126 of the 2003 Act read with provisions for such assessment specified by the DERC itself.

77. In a particular case of unauthorized use of electricity under Section 126, suppose using the 'LDHF formula' (specified by DERC itself), the appellants assess the consumer as having consumed 100 units of electricity.

- (a) By virtue of the Supply Code Regulations framed by the DERC itself, these 100 units are to be treated as "sales".
- (b) Upon the assessment of 100 Units, the Appellant raises a bill on the said consumer. Under Section 126 of the Electricity Act, the bill has to be raised at twice the normal billing rate. If the normal ABR were Rs. 5 per Unit, the Section 126 Bill will be raised for Rs 1,000 (i.e.  $100 \times [Rs\ 5 \times 2]$ );
- (c) By virtue of a Settlement which is entered into between the Appellant and the consumer before the Lok Adalat etc., suppose the Appellant agrees to give up Rs 200, the Appellant then recovers Rs 800/- rather than Rs 1,000/-.
- (d) Now, though the settlement is only for the Rupee equivalent of the Assessed Bill and not the 'Units sold', the DERC now takes Rs 800, divides it by Rs 10 (i.e. twice the ABR) and arrives at an imaginary 'sales' figure of electrical energy of 80 Units.
- (e) This is in complete contrast to the Assessment of Energy sold of 100 Units in terms of the LDHF Formula specified by the DERC itself according to which the sales are "deemed to be" 100 units.
- (f) Therefore, by entering into a settlement before the Lok Adalat (which is in harmony with the entire Lok Adalat philosophy), the Appellant first loses Rs 200 in monetary terms and then loses 20 Units of electricity which the Appellant is

deemed to have sold such consumer in the first place.

78. Learned counsel for the appellants submit that when the statute creates a legal fiction, i.e. energy assessed is deemed to be consumed, the same has to be given effect to with all its consequences i.e. same quantum of energy is to be accounted for as supplied. However, learned counsel appearing for the respondent DERC submitted that that concurrent findings of the DERC and the APTEL cannot be reversed and the methodology adopted by the Commission has to be maintained.

79. Having considered this question in detail, we are not in agreement with the stand taken by the respondent. We are of the view that the methodology adopted by the DERC is contrary to the settled principle of law that when the law deems a certain imaginary state of affairs as real, DERC would not let its imagination boggle at treating the 100 units as sales. We are of the view that such imaginary state of affairs must be taken to its logical end and commend the treatment of 100 units as 'sales'.

80. We are of the view that the assessed energy has to be considered as supply by the appellants in enforcement cases. Therefore, we direct the DERC to consider assessed energy for calculation of enforcement sales and allow the impact of the same along with carrying costs. In view of our conclusion as above, we do not deem it necessary to answer the other contentions on this issue.

81. The substantial questions of law are answered accordingly. Resultantly, the appeals are allowed and the order(s) of the DERC and the judgment of the APTEL impugned herein, to the extent mentioned above, are hereby set aside. Parties to bear their respective costs.

.....J.  
(S. ABDUL NAZEER)

.....J.  
(KRISHNA MURARI)

New Delhi;  
October 18, 2022.