

**BEFORE THE DELHI ELECTRICITY REGULATORY COMMISSION
C BLOCK, SHIVALIK, MALVIYA NAGAR, NEW DELHI**

PETITION NO. _____ OF 2018

IN THE MATTER OF:-

BSES Rajdhani Power Limited

BSES Bhawan, Nehru Place

New Delhi-110 019

..... **PETITIONER**

AND

IN THE MATTER OF:- Truing up of expenses upto the Financial Year (hereinafter referred to as “FY”) FY 2017-18, in terms of Regulation 13 read together with Regulation 139 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as “**DERC Tariff Regulations, 2017**”) and the provisions of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (hereinafter referred to as “**DERC MYT Regulations, 2011**”) and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 (hereinafter referred to as “**DERC MYT Regulations, 2007**”) read with Section 62 of the Electricity Act, 2003 and read with Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulation 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon’ble Delhi Electricity Regulatory Commission (hereinafter referred to as “**the Hon’ble Commission/ DERC**”).

AND

IN THE MATTER OF:- Annual Tariff Petition and Tariff for FY 2019-20 under Section 62 of the Electricity Act, 2003 read with Regulation 11 & 12 and other relevant provisions under DERC Tariff Regulations, 2017 and the Delhi Electricity Regulatory Commission Business Plan Regulations, 2017 (hereinafter referred to as “**Business Plan Regulations, 2017**”) and also under Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulations, 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon’ble Commission.





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BEFORE THE DELHI ELECTRICITY REGULATORY COMMISSION
C BLOCK, SHIVALIK, MALVIYA NAGAR, NEW DELHI

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IN THE MATTER OF:-

BSES Rajdhani Power Limited ("BRPL")
BSES Bhawan, Nehru Place
New Delhi-110 019

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Truing up of expenses upto the Financial Year (hereinafter referred to as "FY") FY 2017-18, in terms of Regulation 13 read together with Regulation 139 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as "DERC Tariff Regulations, 2017"), provisions under the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (hereinafter referred to as "DERC MYT Regulations, 2011") and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 (hereinafter referred to as "DERC MYT Regulations, 2007") read with Section 62 of the Electricity Act, 2003 and read with Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulation 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon'ble Delhi Electricity Regulatory Commission (hereinafter referred to as "the Hon'ble Commission/ DERC").

AND

IN THE MATTER OF:-

Annual Tariff Petition and Tariff for FY 2019-20 under Section 62 of the Electricity Act, 2003 read with Regulation 11 & 12 and other relevant provisions under DERC Tariff Regulations, 2017 and the Delhi Electricity Regulatory Commission Business Plan Regulations, 2017 (hereinafter referred to as "Business Plan Regulations, 2017") and also under Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulation 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon'ble Commission.

AFFIDAVIT VERIFYING THE PETITION:

I, Ravi Shandilya, S/o Shri S.P. Singh, aged about 33 years, having my office at BSES Bhawan, Nehru Place, New Delhi – 110019, do hereby solemnly affirm and state as follows:



[Signature]



1. I am working with BSES Rajdhani Power Limited, the Petitioner herein, as Senior Manager (Regulatory Affairs) and am duly authorized by the said Petitioner to make the present affidavit.
2. I say that on behalf of BSES Rajdhani Power Limited, I am filing the present ARR Petition for Truing up of expenses upto FY 2017-18 and Annual Tariff for FY 2019-20.
3. I further say that the statements made and data presented in the present ARR Petition are to the best of my knowledge derived from records of the Company and based on estimations arising from data and or records of the Company. Further, to my knowledge and belief, no material information has been concealed in the aforesaid Petition.


DEPONENT
Ravi Shandilya
Senior Manager- Regulatory (BRPL)
Authorized Signatory
BSES Rajdhani Power Limited

VERIFICATION:

I, Ravi Shandilya, the Petitioner hereby solemnly affirms that the contents of above affidavit are true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified by me on this 26th day of November, 2018 at New Delhi.




DEPONENT
Ravi Shandilya
Senior Manager- Regulatory (BRPL)
Authorized Signatory
BSES Rajdhani Power Limited

ATTESTED

NOTARY PUBLIC, DELHI
26 NOV 2018



NOTED AND REGISTERED
AT SERIAL NUMBER.....5704/18







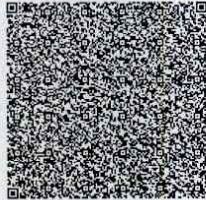
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Government of National Capital Territory of Delhi

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Certificate No.	: IN-DL013521551762570
Certificate Issued Date	: 27-Sep-2016 04:41 PM
Account Reference	: IMPACC (IV)/ dl732103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL732103025516558734960
Purchased by	: BRPL
Description of Document	: Article 48(c) Power of attorney - GPA
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: BRPL
Second Party	: Not Applicable
Stamp Duty Paid By	: BRPL
Stamp Duty Amount(Rs.)	: 50 (Fifty only)



Please write or type below this line

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS THAT this power of Attorney is executed on this 4th day of October 2016 at New Delhi by:

BSES Rajdhani Power Ltd., a company duly incorporated under the provisions of Companies Act 1956 having its Registered Office at BSES Bhawan Nehru Place, New Delhi (hereinafter referred to as the "Company") acting through its Chief Executive Officer (CEO) namely Sh. Amal Sinha.

Or



Statutory Alert:

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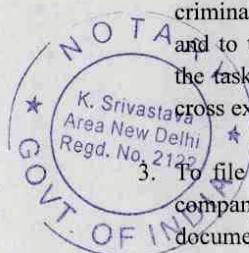


WHEREAS the company being the Licensee, is in the business of distribution and retail supply of Electricity in the respective area of supply within Delhi.

WHEREAS the company in furtherance of its business operation, in strict adherence of the law and for the enforcement of the provisions of law in this regard, time and again initiate legal proceedings and/or has to prosecute/represent/defend the legal proceedings initiated against the company before various courts, judicial and quasi-judicial authorities.

NOW THIS DEED WITNESSETH THAT the company through its CEO, do hereby appoint, constitute and declare **Mr. Ravi Shandilya** S/o Sh. Surendra Prasad Singh currently working as Manager (Regulatory) with the company as duly constituted lawful attorney and to do, perform all or any of the acts, deeds on behalf of the company as specified hereinbelow:-

1. To represent, act, appear and plead on behalf of the Company before various Courts in India including Hon'ble High Courts of various states and Hon'ble Supreme Court, Consumer Forums, Commissions and/or before all other authorities/bodies whether judicial, quasi judicial or administrative authorities, Government including State Governments (hereinafter referred to as the "Authorities") and to perform such other acts as required to be performed in furtherance of the performance of the task under this instant clause.
2. To make, declare, swear, affirm, execute, seal, deliver, refer to arbitration, file complaints and record statement before police authorities, verify pleadings, applications, affidavits, claims, counter claims, caveats, deeds, assurances, instruments, documentations including but not limited to presenting/filing/drafting/signing pleadings, appeals, cross objections, petitions, arbitration claims, writs, special leave petition, bail application, supardari application and other misc. applications for initiation of legal proceedings and/or representation in ongoing litigation including Suit, execution proceedings, review, revisions, writs, appeals, SLPs, Arbitration Proceedings and to withdraw, compromise, recording of settlement, execution and filing of settlement agreement, to receive the settlement amount and to file and/or authorize to file applications for compounding/settlement the case be that it be of civil and/or criminal nature and pending before any authority/court/Quasi-Judicial Authority and to take all essential/ ancillary actions in furtherance of the performance of the task under this instant clause including but not limited to leading evidence, cross examination of the witnesses, etc.
3. To file and procure/ obtain documents/orders/notices for and on behalf of the company and to apply and/or to obtain copies including certified copies of the documents and papers for and on behalf of the company.
4. To take all actions necessary for conducting execution proceedings including initiation/ filling the execution proceedings amongst other legal proceedings.



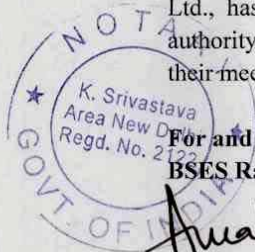
2

Ravi



5. To retain, employ, and remunerate advocates, solicitors and other legal practitioners and advisors and to sign " Warrants", 'Vakalatnama' and other necessary authorities including to take/procure opinions from advocates/solicitors and/or to brief them for appearance before various courts/authorities.
6. To do all other lawful acts and deeds which are necessary to be performed for the progress and in the course of proceedings and the other prosecutions of various nature including suits, writs, arbitrations, SLP, complaints and other cases & proceedings, including ongoing litigation and the Company do hereby agree that all the acts and the things lawfully done by and performed by the above said Attorney of the company shall be construed as the acts and the things done by the company. The company do hereby undertake to ratify and confirm all the tasks lawfully performed by the said Attorney in furtherance of this instant GPA and the same cause to be done for and on behalf of the company by virtue of the powers vested herein.
7. The powers as vested vide this instant GPA in duly constituted lawful attorney are solely at the discretion of the company and the same may be varied/withdrawn at the sole discretion of the company.
8. That this power of attorney shall be deemed to be automatically revoked immediately upon cessation of employment and/or otherwise upon termination of employment of duly constituted lawful attorney, with the company.

IN WITNESS WHEREOF the Chief Executive Officer of BSES Rajdhani Power Ltd., has put his hands on this General Power of Attorney, pursuant to the authority delegated to him by a resolution passed by the Board of Directors in their meeting held on 9th day of September, 2016.



For and on behalf of/
BSES Rajdhani Power Ltd.

Amal Sinha
(Sh. Amal Sinha)

Chief Executive Officer

Attested as Identified

Notary Public Delhi (India)



WITNESSES:-

- 4 OCT 2016

1. *P.K. Gupta* 2F, 7746, S.F, Ram Nagar
Pahar Ganj New Delhi - 110055

(Signature, Name & Address)

2. *Amul Mathur*, *Amul Mathur*
D-1, Tower-7, New Motilal, New Delhi-110021

(Signature, Name & Address)

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List of Abbreviations

Abbreviation	Full Form
AAD	Advance Against Depreciation
ABR	Average Billing Rate
Act	Electricity Act' 2003
ADB	M/s. Asian Development Bank
AFC	Annual Fixed Charges
A & G	Administrative & General
AMR	Automated Meter Reading
APCPL	Aravali Power Company Private Limited
APTEL	Appellate Tribunal for Electricity
APDRP	Accelerated Power Development and Reform Programs
App	Application
ARR	Aggregate Revenue Requirement
AT & C	Aggregate Technical and Commercial
ATE	Appellate Tribunal for Electricity
BBMB	Bhakra Beas Management Board
BEST	M/s Brihanmumbai Electric Supply & Transportation
BRPL	M/s BSES - Rajdhani Power Limited
BST	Bulk Supply Tariff
BTPS	Badarpur Thermal Power Station
BYPL	M/s BSES - Yamuna Power Limited
CAGR	Compounded Annual Growth Rate
CC	Carrying Cost
CCO	Customer Care Officer
CEA	Central Electricity Authority
CEO	Chief Executive Officer
CERC	Central Electricity Regulatory Commission
CESC	M/s Calcutta Electricity Supply Company
CESU	M/s. Central Electricity Supply Utility
CFL	Compact Florescent Lamp
CGRF	Consumer Grievance Redressal Forum
CGS	Central Generating Stations
CIO	International Data Group
CISF	Central Industrial Security Force
CPI	Consumer Price Index
CPRI	Central Power Research Institute
CTC	Cost to the Company
CSERC	Chhattisgarh State Electricity Regulatory Commission

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Abbreviation	Full Form
CSPDCL	Chhattisgarh State Power Distribution Co. Ltd
CSR	Corporate Social Responsibility
CGS	Central Generating Stations
DA	Dearness allowance
DDA	M/s Delhi Development Authority
DERA	Delhi Electricity Reform Act 2000
DERC	Delhi Electricity Regulatory Commission
DESU	M/s Delhi Electricity Supply Undertaking
DIAL	M/s. Delhi International Airport Limited
DISCOM	Distribution Company
DJB	M/s. Delhi Jal Board
DMRC	M/s Delhi Metro Rail Corporation
DPCL	M/s Delhi Power Corporation Limited
DPPG	Delhi Power Procurement Group
DPR	Detailed Project Report
DT	Distribution Transformer
DTL	M/s Delhi Transco Limited
DSK	Digi Seva Kendra
DVB	M/s Delhi Vidyut Board
DVC	M/s Damodar Valley Corporation
EA'03	Electricity Act' 2003
EHV	Extra High Voltage
EIC	Electrical Inspector Clearance
ELR	Energy Law Reports
ERLDC	Eastern Regional Load Despatch Centre
FPA	Fuel Purchase Adjustment
FRSR	Fundamental Rules & Supplementary Rules
FY	Financial Year
GENCO	Generation Company
GERC	Gujrat Electricity Regulatory Commission
GFA	Gross Fixed Assets
GIS	Geographical Information System
Gol	Government of India
GoNCTD	Government of National Capital Territory of Delhi
GPA	Gross Per Annum
GT	Gas Turbine
HEP	Hydro Electric Project
HERC	Haryana Electricity Regulatory Commission
HR	Human Resource
HRA	House Rent Allowance

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Abbreviation	Full Form
HT	High Tension
HVDS	High Voltage Distribution System
ICC	Indian Chamber of Commerce
ICWAI	Institute of Cost & Works of Accounts of India
IDBI	M/s. Industrial Development Bank of India
IDG	International Data Group
IEGC	Indian Electricity Grid Code
IEX	Indian Energy Exchange
IP	M/s Indraprastha Power Generation Co. Ltd
IPPAI	Independent Power Producers Association of India
IPGCL	M/s Indraprastha Power Generation Co. Ltd
ISGS	Inter-State Generating Stations
IT	Information Technology
IVR	Interactive Voice Response
JVVNL	M/s Jaipur Vidyut Vitaran Nigam Limited, Rajasthan
JJ	Jhuggi Jhopri
KESCO	M/s Kanpur Electric Supply Company Limited, Uttar Pradesh
Kms	Kilo Meters
kV	Kilo Volt
kVAh	Kilo Volt Ampere hour
kVArh	Kilo Volt Ampere Resistance hour
kW	Kilo Watt
kWh	Kilo Watt Hour
LC	Letter of Credit
LDC	Load Dispatch Centre
LPSC	Late Payment Surcharge
LT	Low Tension
LTAB	Low Tension Aerial Bunched
LVDS	Low Voltage Distribution System
MCD	M/s Municipal Corporation of Delhi
MDI	Maximum Demand Indicator
MERC	Maharashtra Electricity Regulatory Commission
MLHT	Medium Load High Tension
MOD	Merit Order Despatch
MoP	Ministry of Power
MRBD	Meter Reading and Bill Distribution
MSEDCL	Maharashtra State Electricity Distribution Co. Ltd
MU	Million Units
MVA	Million Volt Ampere

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Abbreviation	Full Form
MW	Mega Watt
MYT	Multi Year Tariff
NABL	National Accreditation Board for Testing and Calibration
NCT	National Capital Territory
NDPL	M/s North Delhi Power Limited
NGO	Non Government Organisation
NHPC	M/s National Hydroelectric Power Corporation Ltd.
NJPC	Nathpa Jhakri Power Corporation Ltd.
No.	Number
NOIDA	New Okhla Industrial Development Authority
NPCIL	M/s Nuclear Power Corporation India Limited
NRLDC	Northern Region Load Dispatch Centre
NTI	Non-Tariff Income
NTPC	M/s National Thermal Power Company Ltd.
O&M	Operation and Maintenance
OP	Original Petition
PFC	M/s. Power Finance Corporation
PGCIL	M/s Power Grid Corporation of India Limited
Ph	Phone
PLF	Plant Load Factor
PPA	Power Purchase Agreement
PPAC	Power Purchase Cost Adjustment
PPCL	M/s Pragati Power Corporation Ltd.
PSPCL	Punjab State Power Corporation Limited
PTC	Power Trading Corporation
PXIL	Power Exchange of India Limited
RA	Regulatory Asset
R & M	Repair and Maintenance
RE	Renewable Energy
REC	Rural Electrification Corporation
REL	M/s Reliance Energy Limited
REL - D	Reliance Energy - Distribution Division
RERC	Rajasthan Electricity Regulatory Commission
RoCE	Return on Capital Employed
RPO	Renewable Purchase Obligation
RPS	Renewable Purchase Specifications
RRB	Regulated Rate Base
Rs.	Rupees
RST	Retail Supply Tariff
RWA	Resident Welfare Association

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Abbreviation	Full Form
SBI - PLR	State Bank of India-Prime Lending Rate
SCADA	Supervisory Control And Data Acquisition
SERC	State Electricity Regulatory Commission
SHR	Station Heat Rate
SGS	State Generating Stations
SJVNL	M/s Satluj Jal Vidyut Nigam Limited
SLDC	State Load Despatch Centre
SMS	Short Message Service
Sq. Kms	Square Kilometers
SoP	Standard of Performance
STQC	Standardization Testing Quality Certification
SVRS	Special Voluntary Retirement Scheme
T&D	Transmission and Distribution
THDC	Tehri Hydro Development Corporation Ltd.
TNERC	Tamil Nadu Electricity Regulatory Commission
TOD	Time of Day
TPDDL	Tata Power Delhi Distribution Limited
TRANSCO	Transmission Company
TOWMCL	Timarpur-Okhla Waste Management Company Ltd.
UI	Unscheduled Interchange
VRS	Special Voluntary Retirement Scheme
WACC	Weighted Average Cost of Capital
W.P.	Writ Petition
WPI	Whole Sale Price Index
Y-o-Y	Year on Year

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Chapter – 1A



LIST OF DATES AND EVENTS

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Background

1A.1 BSES Rajdhani Power Limited (hereinafter referred to as **“the Petitioner/BRPL”**), a company incorporated under the Companies Act, 1956, and having its registered office at BSES Bhawan, Nehru Place, New Delhi – 110019, is a license holder for carrying on the business of Distribution and Retail Supply of electrical energy within the Area of Supply as specified in the “License for Distribution and Retail Supply of Electricity” issued by the Hon’ble Commission. The Petitioner came in existence in 1 July, 2002 post the unbundling of the erstwhile Delhi Vidyut Board (DVB). It is a joint venture between Reliance Infrastructure Limited and Government of National Capital Territory of Delhi (hereinafter referred to as **“GoNCTD”**).

1A.2 The present Petition is being filed for:

- a) Truing up of Expenses upto FY 2017-18; and
- b) Annual Tariff for FY 2019-20

The present Petition contains the following chapters:

- a) Chapter IA – List of dates and Events
- b) Chapter IB – Executive Summary
- c) Chapter IC – Preamble & Tariff Philosophy
- d) Chapter IIA - Performance during FY 2017-18
- e) Chapter IIB - Compliance with Directives
- f) Chapter IIIA - True Up for FY 2017-18
- g) Chapter IIIB – True Up of Past period upto FY 2016-17
- h) Chapter IV - Aggregate Revenue Requirement for FY 2019-20
- i) Chapter V - Tariff Proposal for FY 2019-20

1A.3 The above chapters are essentially a part and parcel of this Petition (hereinafter the **“ARR Petition”**). In accordance with the Electricity Act, 2003 (hereinafter referred to as **“the 2003 Act”**), the License Conditions, DERC Business Plan Regulations, 2017, and DERC Tariff Regulations, 2017, the Petitioner is required to file Petition for ARR & Tariff for FY 2019-20 and Truing up of Expenses up to FY 2017-18.



List of Dates:

Dates	Particulars
On or about 20.11.2001	<p>GoNCTD, in exercise of the powers conferred by Section 60 read with Sections 15 and 16 of the DERA notified the Delhi Electricity Reforms (Transfer Scheme), Rules 2001 (hereinafter "Transfer Scheme").</p> <p>GoNCTD issued notification No. F.II (118)12001-Power containing Policy Directions under Section 12 of the DERA to enable restructuring of the Delhi Vidyut Board and sale of 51%equity shares in the 3 distribution companies to private sector through competitive bidding process.</p> <p>GoNCTD issued an Information Memorandum to the six prequalified entities which were shortlisted on the basis of the criteria specified in the RFQ.</p> <p>GoNCTD issued the Request for Proposal ("RFP") document to the six qualified bidders representing the following key factors (for privatization process. It was held out that with a view to ensure certainty and enable the bidders to bid based on clean balance sheets.</p> <p>TRANSCO and three DISCOMs filed a joint Petition No. 4 of 2001 before this Hon'ble Commission, pursuant to the Transfer Scheme and the Policy Directions.</p>
09.03.2001	The Hon'ble Commission notified DERC Comprehensive (Conduct of Business) Regulations, 2001.
22.02.2002	Prior to privatization, the Hon'ble Commission passed Bulk Supply Tariff Order.
10.04.2002	Bids were opened and successful bidders were declared.
31.05.2002	GoNCTD amended the Policy direction to increase loan amount from Rs. 2,600 Cr. to over Rs. 3,450 Cr., in order to bridge the gap between revenue requirement of Transco and revenue realised from DISCOMs.
26.06.2002	GoNCTD notified Delhi Electricity Reform Transfer Scheme (Amendment) Rules, 2002.

Dates	Particulars
27.06.2002	Share Acquisition Agreements and Shareholders Agreements executed between selected bidders and three DISCOMs.
01.07.2002	This is the effective date of privatization of Discoms. The Petitioner thus became Distribution Licensees in Delhi with effect from this date. Unbundling of Delhi Vidyut Board and sale of 51% shareholdings of DISCOMS came into effect.
10.06.2003	Electricity Act, 2003 notified by Ministry of Power (hereinafter referred to as " MOP ").
12.02.2005	MOP notified the National Electricity Policy under Section 3 of Electricity Act, 2003.
06.01.2006	MOP issued National Tariff Policy, 2006, under section 3 of the 2003 Act. In terms of Section 3 and Section 61 (i), the State Commission is required to be guided by the provisions of the Tariff Policy in discharge of its functions under the 2003 Act.
21.07.2006	The Petitioner has challenged the Tariff Order dated 09.06.2004 wherein the Hon'ble Commission, as recorded by the Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as " Hon'ble Tribunal "), had directed the Petitioner to create a Regulatory Asset in its books. The Hon'ble Tribunal by its judgment dated 21.07.2006 in Appeal No. 155, 156 & 157 of 2005 set aside the findings of the Hon'ble Commission whereby Hon'ble Commission deferred the payments of Petitioner's legitimate dues by creating Regulatory Asset. The Hon'ble Tribunal held that the direction to create a Regulatory Asset was bad in law.
31.03.2007	The Policy Direction Period came to an end. Henceforth, the distribution licensees in Delhi were mandated arrange power for themselves which, prior to this date was being undertaken by DTL. On this date, the Hon'ble Commission also passed as detailed order assigning the existing PPAs (enter in to by the DVB / DTL) amongst the distribution licensees of Delhi.

Dates	Particulars
30.05.2007	The Hon'ble Commission notified DERC (Terms and Conditions of Tariff) Regulations, 2007. These Regulations were for the MYT Period which was to commence from the date the MYT Order would be passed and till 31.03.2011. This was subsequently extended up to 31.03.2012.
23.02.2008	The Hon'ble Commission issued Multi-year Tariff Order determining the Aggregate Revenue Requirement and retail supply tariff for the control Period i.e. FY 2002-03 to 2006-07. This order was carried in Appeal before Hon'ble Tribunal in Appeal 36 of 2008.
28.05.2009	Tariff Order issued by Hon'ble Commission for FY 2009-10 and also true up of FY 2007-08. This order was carried in Appeal before Hon'ble Tribunal in Appeal 142 / 147 of 2009. TPDDL carried this judgment before the Hon'ble Tribunal in Appeal 153 of 2009.
06.10.2009 30.10.2009	The Hon'ble Tribunal passed judgment in Appeal No. 36 & 37 of 2008 against Tariff Order dated 23.02.2008 for FY 2007-08 & FY 2008-09 holding in favour of the Petitioner on issues pertaining to-Sales projections and power purchase of, Distribution loss and AT&C losses, Capital expenditure and capitalisation, Employees expenses, Non-inclusion of Reactive Energy Charges, Disallowance of R&M, A&G expenses, Lower approval of interest rates for loans. This judgment was carried by this Hon'ble Commission to the Supreme Court in Civil Appeal No. 884 / 980 of 2010. Through there is no stay by the Supreme Court, many parts of this judgment are yet to be implemented by this Hon'ble Commission.
30.07.2010	The Hon'ble Tribunal pronounced judgment in Appeal 153 of 2009 (TPDDL Vs DERC) inter-alia holding 4 out of 5 issues in favor of TPDDL. The Commission carried this judgment in Appeal before the Supreme Court in CA no. 19428 of 2012. However, the said civil appeal was dismissed by the Supreme Court on the ground of delay.

Dates	Particulars
15.10.2010	Statutory advice was issued by Hon'ble Commission under Section 86(2) (iv), stating, <i>inter-alia</i> : (a) The tariff during previous years has not been cost reflective causing DISCOMs to resort to extensive borrowing. (b) Hon'ble Commission's past practice was to assume higher surplus for tariff fixation which did not consider rise in power procurement cost. (c) Revenue from sale of electricity has not been able to meet even the power purchase. Accumulation of revenue gaps are beyond sustainable levels. (d) There is a need for a fuel cost adjustment Mechanism.
2010-11	Due to stay imposed on determination of tariff by Hon'ble Delhi High Court in PIL entitled ' <i>N.K. Garg Vs. Union of India</i> ', no tariff Order was passed for the FY 2010-11.
12.07.2011	The Hon'ble Tribunal passed judgment in Appeal No. 142 and 147 of 2009 against Tariff Order dated 28.05.2009 for FY 2009-10 holding in favor of the petitioner on issues pertaining to Late payment Surcharge-funding, Carrying cost rate, True up of first 11 months as per Policy direction period. This judgment was carried by this Commission to the Supreme Court in Civil Appeal 9003 / 9004 of 2011. Through there is no stay by the Supreme Court, many parts of this judgment are yet to be implemented by this Commission.
26.08.2011	Tariff Order issued by Hon'ble Commission for FY 2011-12. This was carried by the Petitioner in Appeal before the Hon'ble Tribunal in Appeal No. 61 / 62 of 2012.
02.12.2011	The Hon'ble Delhi Commission notified DERC (Terms and conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011. This was to be effective for the period 01.04.2012 to 31.03.2015. This was subsequently extended for a period of one year, i.e. 31.03.2016.
02.12.2011	Letter Ref.No.3/Tariff/DERC/2011-12/OPANO.3214/5215/5224 issued by Hon'ble Commission assuring a roadmap for liquidation of revenue gap.



Dates	Particulars
01.02.2012	BSES Companies filed Original Petition No. 1 and 2 of 2012 under Section 121 of the 2003 Act before the Hon'ble Tribunal.
05.07.2012	The Hon'ble Commission filed IA No. 1 and 2 of 2012 before Hon'ble Supreme Court, seeking stay of Judgment dated 12.07.2011 passed by the Hon'ble Tribunal in Appeal Nos. 142-147 of 2009 and also stay of the proceedings of O.P. Nos. 1-2 of 2012.
13.07.2012	The Hon'ble Commission passed Tariff Order determining ARR for FYs 2012-13 to 2014-15 and true up for FY 2010-11. This was subsequently challenged before Hon'ble Tribunal by the Petitioner in Appeal 177 / 178 of 2012.
01.10.2012	The Hon'ble Commission notified DERC (Renewable Purchase Obligation and Renewable energy Certificate Framework Implementation) in the official gazette.
28.02.2013	The Hon'ble Supreme Court passed an order in IA No. 3 and 4 of 2013 in CA No. 9003/9004 of 2011 along with IA No.5 of 2013 in CA No. 980 of 2010 directing that the Hon'ble Tribunal may pass judgment in OP 1 and 2 of 2012 however the same shall not be implemented without the leave of the Court.
31.07.2013	The Hon'ble Commission issued Tariff Order for ARR for FY 2013-14 and True up FY 2011-12. This was subsequently challenged before the Hon'ble Tribunal by the Petitioner in Appeal 265 / 266 of 2013.
14.11.2013	The Hon'ble Tribunal pronounced judgment in O.P. No. 1 and 2 of 2012.
23.07.2014	The Hon'ble Commission issued Tariff Order for ARR for FY 2014-15 and True up FY 2012-13. This was subsequently challenged before the Hon'ble Tribunal by the Petitioner in Appeal 235 / 236 of 2014.

Dates	Particulars
28.11.2014	The Hon'ble Tribunal passed judgment in Appeal No. 61 and 62 of 2012 against Tariff Order dated 26.08.2011 for FY 2011-12 holding in favor of the Petitioner on 26 issues and on 10 issues, refusing to interfere with the findings of the Hon'ble Commission. The Petitioner has filed an Appeal before the Supreme Court in C.A. No. 4323 and 4324 of 2015. The Hon'ble Commission has filed an Appeal against the judgment in CA no. 8660 and 8661 of 2015.
02.03.2015	The Hon'ble Tribunal passed judgment in Appeal No. 177 and 178 of 2012 for Tariff Order dated 13.07.2012 for FY 2012-13 holding in favor of the Petitioner on 27 and on 9 in favor of the Hon'ble Commission. The Petitioner has filed an Appeal before the Supreme Court in CA No. 4906 and 4933 of 2015. The Hon'ble Commission has filed an Appeal against the judgment in CA no. 6959 and 6960 of 2015.
29.09.2015	The Hon'ble Commission issued Tariff Order for ARR for FY 2015-16 and True up FY 2013-14. This was carried by the Petitioner before the Hon'ble Tribunal in Appeal No. 290 and 297 of 2015. In respect of one issue of Procurement of Power from Anta, Auraiya and Dadri, the Petitioner also filed a review being Review Petition no. 44 / 45 of 2017 before the Hon'ble Commission which came to be allowed by the order dated 22.03.2018.
28.01.2016	MOP issued revised Tariff policy, 2016.
01.02.2017	The Hon'ble Commission notified DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 in the official gazette. These Regulations were to apply prospectively with effect from 01.02.2017. However, Clause 139 of the Regulations retrospectively applied the DERC Tariff Regulations, 2011 to FY 2016-17.



Dates	Particulars
31.08.2017	The Hon'ble Commission passed ARR and Tariff for FY 2017-18. The Petitioners carried the matter in Appeal before the Hon'ble Tribunal in Appeal No. 69 & 72 of 2018 and 70 & 71 of 2018. The Petitioner also preferred a review Petition being Petition No. 65 / 66 of 2017 before this Hon'ble Commission, which came to be allowed vide order dated 22.03.2018 (BRPL order date 19.02.2018).
31.08.2017	The Hon'ble Commission notified DERC Business Plan Regulations, 2017 in the official gazette. These Regulations were issued in Terms of the DERC MYT Regulations, 2017.
27.03.2018	The Hon'ble Commission passed order for reallocation of power for FY 2018-19.
28.03.2018	The Hon'ble Commission passed ARR and Tariff for FY 2018-19. The Petitioner carried the matter in Appeal No. 193 of 2018 before Hon'ble Tribunal. The Petitioner has also filed a review Petition being Petition No. 30 of 2018 before the Hon'ble Commission.
18.09.2018	The Hon'ble Commission passed an Order in Petition No. 46 of 2018 allowing the power purchase cost from Anta, Auriaya, Dadri Gas stations for FY 2012-13 to 2015-16.

Chapter – 1B



EXECUTIVE SUMMARY

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Executive Summary

Introduction

- 1B.1 The Petitioner has filed the Petition for approval of true up upto FY 2017-18, Aggregate Revenue Requirement (ARR) and Tariff determination for FY 2019-20.
- 1B.2 This Executive Summary contains the summary of the Petition filed by BRPL for true up upto FY 2017-18 (based on audited accounts), and ARR and tariff of FY 2019-20 (based on projections).
- 1B.3 As per the DERC Tariff Regulations 2017 and DERC Business Plan Regulations 2017, the Tariff for FY 2019-20 shall be based on the ARR approved by the Hon'ble Commission, which broadly has the following components:
- a) Power Purchase cost
 - b) Operation and Maintenance (O&M) expenses
 - Employee expenses
 - Administrative & General (A&G) expenses
 - Repair & Maintenance (R&M) expenses
 - c) Return on Capital Employed (ROCE)
 - d) Depreciation
 - e) Income tax
 - f) Non-tariff income
- 1B.4 The Hon'ble Commission shall undertake the true up for FY 2017-18 as per Tariff Regulations 2017 after prudence check.

Truing Up for FY 2017-18

Energy Sales and Revenue

- 1B.5 In its Petition, the Petitioner has submitted that its actual energy sales in FY 2017-18 were 11688 MU. Since energy sales are treated as an uncontrollable factor, the Petitioner has requested the Hon'ble Commission to approve true up for FY 2017-18 based on its audited accounts, as shown below:

Table 1B - 1: Sales and Revenue for FY 2017-18

S. No.	Consumer	Sales	Revenue Billed (Rs.Cr.)	Revenue Collected (Rs.Cr.)
	Category	(Million Units)		
1	Domestic	6924	4560	3775
2	Non-Domestic	3141	3656	3746
3	Industrial	500	532	524
4	Public Lighting	153	127	128
5	Agriculture & Irrigation	19	7	7
6	Railway Traction	22	19	19
7	DMRC	331	233	232
8	DIAL	199	189	189
9	DJB	226	227	229
10	Others	174	186	59
11	Total	11688	9736	8908
12	Add: Deemed Collection		-	893
13	Less: 8% Surcharge			687
	Less: PT Surcharge			133
14	Less: Electricity Tax			405
15	Less: LPSC Collected			25
17	Net Amount Considered for calculation of Revenue Gap			8551

- 1B.6 The Petitioner has requested the Hon'ble Commission to approve the actual sales at 11688 MU and collected at Rs. 8551 Cr.

- 1B.7 The total amount billed (actuals) for FY 2017-18 given in the above Table -1 includes the revenue billed on account of regulatory surcharge at 8% of the approved Tariff, Pension Trust surcharge and Electricity Tax amounting to Rs. 686.49 Cr, Rs.142.83 Cr. and Rs.404.65 Cr. respectively.

AT&C Loss for FY 2017-18

- 1B.8 The Petitioner has submitted the actual AT&C loss of 9.42% and Distribution loss of 9.94% for FY 2017-18. The Petitioner is claiming the following incentive with respect to actual T&D Loss achieved and Collection Efficiency achieved during FY 2017-18 in terms of the DERC Tariff Regulations 2017:

Table 1B - 2: Incentive Claimed as per Regulations on T&D Loss Reduction

S. No.	Particulars	UOM	FY 2017-18
1	Energy Purchased at BRPL periphery	MU	12,979.1
2	T&D Loss target for FY 2017-18	%	10.93%
3	Actual T&D Loss for FY 2017-18	%	9.94%
4	Average Power Purchase cost for FY 2017-18	Rs/KWh	5.28
5	Financial Impact on account of overachievement of T&D Loss Target	Rs. Crore	67.6
6	Impact of Financial benefit to be retained by Petitioner (2/3)	Rs. Crore	45.1

Table 1B - 3: Incentive Claimed as per Regulations on Collection Efficiency

S. No	Particulars	UoM	FY 2017-18
1	Revenue Billed	Rs. Crore	8,501.7
2	Collection Efficiency Achieved	%	100.58%
3	Collection Efficiency Approved in Tariff Order	%	99.50%
4	Revenue Realised Achieved	Rs. Crore	8,550.7
5	Revenue Realised as per approved Collection Efficiency	Rs. Crore	8,459.2
6	Over-achievement	Rs. Crore	91.5
7	Amount to be retained by petitioner and consumer shared 50:50 for achievement of collection efficiency Target from 99.50% to 100%	Rs. Crore	21.4
8	Entire 100% to be retained for achievement over 100%	Rs. Crore	49.3
9	Total Incentive to be retained by BRPL	Rs. Crore	70.6

Power Purchase Requirement

- 1B.9 The quantum of Power Purchase is decided by the expected sales of energy by the Licensee, as well as the loss levels projected/approved. Higher expected sales require a greater quantum of power to be purchased. Similarly, higher loss levels also require a proportionately greater amount of power purchase by the Licensee because it needs to meet the expected sales (in MU) after accounting for various losses in the process of supplying electricity.

- 1B.10 The energy sales for the year is grossed up by the loss levels of that year,

to arrive at the required quantum of power purchase for that year in the following manner:

$$\text{Quantum of Power Purchase (MU)} = \frac{\text{Energy Sales (MU)}}{1 - (\text{Distribution loss}(\%)/100)}$$

- 1B.11 The Table below shows the actual sales, loss level, and power purchase for FY 2016-17, as submitted by the Petitioner:-

Table 1B - 4: Power Purchase Requirement for FY 2017-18

S. No.	Particulars	Actuals as per Petition
1	Sales (MU)	11688
2	Distribution Loss (%)	9.94%
3	Energy Required at Discom periphery (MU)	12979

Power Purchase Cost

- 1B.12 As per the DERC Tariff Regulations 2017, the licensee shall be allowed to recover the net cost of power it procures from sources approved by the Hon'ble Commission, viz. Intra-state and Inter-state Trading Licensees, Bilateral Purchases, Bulk Suppliers, State generators, Independent Power Producers, Central generating stations, non-conventional energy generators, generation business of the Distribution Licensee and others, assuming maximum normative rebate available from each source for payment of bills through letter of credit on presentation of bills for supply to consumers of Retail Supply Business.

Provided that the Distribution Licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues through bilateral exchanges and Unscheduled Interchange (UI) transactions.

Provided further that where the Licensee utilises a part of the power purchase approved or bulk supply allocated or contracted for the Retail Supply Business for its Trading Business, the Distribution Licensee shall provide an Allocation Statement clearly specifying the cost of power purchase that is attributable to such trading activity.

- 1B.13 The Petitioner, in this Petition has submitted that the Petitioner purchases more than 90% of the total quantum from Government Owned utilities. The quantum purchased from these is accounted/metered by statutory bodies

like NRLDC/SLDC. The price at which the power is to be purchased are governed by independent Regulatory Commissions like CERC and/or this Hon'ble Commission. The following table shows the source-wise power purchase quantum for the Petitioner for FY 2017-18:

Table 1B - 5: Source-wise Power Purchase Quantum in FY 2017-18

S. No	Particulars	Power Purchase (MU)	Quantum (%)
1	NTPC [#]	7,464	45%
2	NHPC	1,384	8%
3	NPCIL	328	2%
4	DVC	1,163	7%
5	State Gencos [@]	1,731	10%
6	Short Term Purchase	1,520	9%
7	Other Hydro	545	3%
8	Sasan	996	6%
9	SECI	44	0%
10	Short term	1,520	9%
11	Total	16,696	100%

Includes BTPS

@ Excludes BTPS

1B.14

The following Table shows the actual Power Purchase Cost submitted by the Petitioner for FY 2017-18:

Table 1B - 6: Power Purchase Cost

Sl. No.	Plant	FY 17-18 (Actual)		
		MU	Total Cost	Rs. / Unit
1	NTPC [#]	6,981	3,054	4.37
2	NHPC	1,384	510	3.69
3	NPCIL	328	121	3.68
4	DVC	1,163	476	4.10
5	State Genco [@]	2,214	1,141	5.15
6	Other Hydro	544	161	2.96
7	Sasan	996	144	1.44
8	SECI	44	24	5.50
9	New Stations			
17	Add: Other Costs		6	
10	Long term power purchase cost	13,653	5,636	4.13
11	ST Purchase	1,520	594	3.91
12	Gross Power Purchase Cost	15,174	6,231	4.11
13	DTL loss/charges	659	1174	
14	PGCIL loss/charges			

Sl. No.	Plant	FY 17-18 (Actual)		
		MU	Total Cost	Rs. / Unit
15	Other losses			
16	Less: short term Sale	1,537	529	3.44
17	Add: Cost of REC			
18	Net Power Purchase Cost	12,979	6,876	5.30
19	Less: Rebate		39	
20	Less: Additional UI		1	
21	Net Power Purchase Cost after rebate	12,979	6,836	5.27

Excludes BTPS

@ Includes BTPS

Operation and Maintenance (O&M) Expenses

1B.15 The O&M Expenses as considered by the Petitioner during FY 2017-18 are tabulated below

Table 1B - 7: O&M Expenses for FY 2017-18

(in Rs. Crores.)

S. No	Particulars	FY 2017-18	
		Tariff Order	Actuals as per petition
1	11KV LINE	65.66	68.69
2	33KV LINE	37.06	39.31
3	66KV LINE		
4	LT LINE SYSTEM	567.13	579.76
5	11/0.415KV DT	104.48	119.77
6	33/11KV GRID SUBSTATION	57.23	54.11
7	66/11KV GRID SUBSTATION		
8	Total	831.56	861.64

Depreciation

1B.16 The Petitioner has submitted that the Depreciation has been calculated in accordance with DERC Tariff Regulations, 2017. The Petitioner has submitted the total depreciation from FY 2002-03 to FY 2017-18 after implementation of ATE Judgments as under.

Table 1B - 8: Computation of depreciation from FY 2002-03 to FY 2006-07

(in Rs. Crores.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Opening GFA	1533	1552	1658	1923	2689
2	Additions	19	106	266	779	316
A	REL Additions	0	0	3	61	69

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
B	El Additions	0	0	169	586	100
C	Already allowed by DERC	19	106	93	132	147
3	Retirement	0	0	0	13	4
4	Closing GFA	1552	1658	1923	2689	3001
5	Rate of depreciation	6.69%	6.69%	6.69%	6.69%	6.69%
6	Depreciation	77	104	111	129	180
7	Depreciation allowed by DERC	77	104	111	117	125
8	Difference	0	0	0	12	55
9	Acc. Depreciation	460	564	675	803	983

Table 1B - 9: Depreciation from FY 2007-08 to FY 2017-18

(in Rs. Crores.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Average GFA	3127	3478	3848	4169	4374	4555	4852	5153	5480	5839	6294
2	Average Consumer Contribution and Grants	68	126	201	256	291	332	389	447	521	594	664
3	Average assets net of consumer contribution	3059	3352	3647	3913	4083	4223	4463	4707	4960	5245	5630
4	Average depreciation as above	3.61%	3.65%	3.66%	3.66%	3.67%	3.67%	3.68%	3.69%	3.70%	3.71%	4.76%
5	Depreciation	110	122	133	143	150	155	164	174	184	195	268

Return on Capital Employed

1B.17 The Petitioner has furnished the Return on Capital Employed during FY 2017-18 as tabulated below:

Table 1B - 10: Return on Capital Employed (RoCE)

(in Rs. Crores.)

S.no.	Particulars	FY 2017-18
1	Average Debt	2088
2	Average Equity	1816
3	Total	3904
4	Cost of Debt	14%
5	Return on Equity	20%
6	WACC (Weighted avg. Cost of capital)	16.95%
7	RRB(i)	4008
8	RoCE (Return on Capital Employed)	679

Non-Tariff Income

1B.18 The Petitioner has excluded the following items from Non - Tariff Income

- Interest on Consumer Security Deposit
- Difference on account of Service Line Development (SLD) Charges
- Interest on inter-company loans
- Interest on contingency reserve
- Late Payment Surcharge
- Write-back of Miscellaneous Provisions
- Short term gain
- Transfer from consumer contribution and capital works
- Income on account of bad debts recovered
- Penalties from contractors
- Commission on Electricity Duty

Table 1B - 11: Non-Tariff Income submitted for FY 2017-18

(in Rs. Crores.)

S. No	Particulars	Amount
1	Other Operating Revenue	128
2	Other Income	81
3	Total other income	209
4	Add: Income from CSD	45
5	Add: Interest on SLD	10
6	Total Income for computation of NTI	264
7	Less: Income from other business	
A	Street Light	1
8	Net Income for computation of NTI	264
9	Less: LPSC	25
10	Less: write-back of misc. provisions	4
11	Less: Short term gain	1
12	Less: Transfer from CC for capital works	35
13	Less: Bad debts recovered	2
14	Less: Interest on inter-company loans	57
15	Less: Commission on ED	12
16	Net NTI	128

Annual Revenue Requirement and Revenue Gap/Surplus

1B.19 The Annual Revenue Requirement during FY 2017-18 is tabulated below:

Table 1B - 12: Aggregate Revenue Requirement during FY 2017-18

S. No	Particulars	As per Tariff Order dated 31/08/2017 In Rs. Crs.	Revised figures for the purposes of Truing up In Rs. Crs.
	Expenses		
1	Purchase of power including Transmission and SLDC Charges	6620	6836
2	O&M Expenses	832	862
3	Other Expenses/ Statutory levies		200
4	Depreciation	176	268
5	Return on Capital Employed (RoCE)	547	679
6	Sub-total	8175	8845
7	Less: Non-Tariff Income	188	128
8	Aggregate Revenue Requirement	7986	8717
9	Add: Impact of DERC/ APTEL/ High/ Supreme Court Judgments		Impact pertaining to previous years directly carried in the balance of RA
10	Net Aggregate Revenue Requirement	7986	8717
11	Add: Carrying cost	428	Carrying cost dealt separately
A	Total Expenses (ARR)	8414	8717
	Income		
12	Income from Sale of energy to retail consumers	8457	8956
13	Income from Open Access		52
14	Less: Electricity Duty		405
15	Less: Carrying Cost		428
16	Incentive		
I	Less: T&D overachievement		45
II	Less: Collection efficiency		71
III	Less: Sale of surplus power		2
IV	Less: Gain on Regulated Power		20
B	Total income	8457	8037
C	Revenue (Gap)/ Surplus	43	-680

Truing-up of past period up to FY 2016-17

1B.20 The Petitioner's claims pertaining to true-up of expenses with respect to earlier periods have been divided into three parts as under:

Table 1B - 13: Summary of Past claims

(Amount in Rs. Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Implementation of ATE Judgments	5142	5845	10987
2	Impact of Review Petition	380	327	707
3	Impact of Past Claims	1605	1483	3088
4	Total	7127	7654	14782

Table 1B - 14: Total impact on account of Hon'ble ATE Judgment

(in Rs. Crores.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Capex related issues	2593	4131	6724
2	Impact of 11 months truing-up on account of			
a	<i>Rate of depreciation</i>	90	279	369
b	<i>O&M expenses for FY 2008-09 to FY 2011-12</i>	65	129	194
3	Revision in Distribution loss trajectory for FY 2007-08 to FY 2010-11	161	433	594
4	Computation of AT&C Loss for FY 2009-10	3	7	11
5	AT&C Loss for FY 2011-12	49	71	120
6	Revision of AT&C Loss targets from FY 2012-13 to FY 2013-14	89	92	181
7	Increase in employee expenses corresponding to increase in consumer base for FY 2007-08 to FY 2011-12	122	273	394
8	Efficiency factor for FY 2010-11	16	28	44
9	Revision of R&M Expenses by revising "K" factor for FY 2012-13 to FY 2015-16	21	13	34
10	Lower rates of carrying cost	1791	251	2041
11	Financing cost of LPSC based on SBI PLR-FY 08 to FY 13	26	51	77
12	Own Consumption-Reversals	114	83	197
13	Additional UI Charges above 49.5 Hz frequency	3	5	8
14	Total	5142	5845	10987

Table 1B - 15: Total impact on account of review petition

(in Rs. Crores.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Error in consideration of Rebate from DTL as NTI during FY 2013-14	15	13	28
2	Omission to deduct the amount of LPSC from Revenue for FY 2008-09	13	34	47
3	Error in consideration of impact on account of Merit Order Dispatch for FY 2013-14	104	89	194
4	Omission to withdraw / recall the Efficiency Factor for FY2015-16	23	5	28
5	Error in rate of carrying cost while computing impact of APTEL Judgments and Review in Table 98		17	17
6	Cost of power purchase on account of Anta, Auraiya& Dadri Gas for FY 13 to FY 17	224	168	392
7	Normative rebate considered from SECI during FY 2016-17	0	0	1
8	Total	380	327	707

Table 1B - 16: Total impact claimed on issues which merit reconsideration

(in Rs. Crores.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Fixed charges against regulated power	255	225	481
2	Over lapping banking transactions	13	8	21
3	Cost disallowed on account of excessive trading at UI above contingency limit	7	2	9
4	Normative rebate from FY 13 to FY 17	489	290	779
5	Loss due to retirement of assets	48	103	151
6	Bank charges/ syndication fees	137	157	294
7	Income from other business-SLMC	209	265	475
8	Financing cost of LPSC-FY 14 to FY 17	43	22	65
9	Wrong computation of carrying cost-8% Surcharge	45	33	78
10	Wrong computation of carrying cost-CC amount allowed in tariff	101	14	115
11	Monthly Rebate	83	43	126
12	Omission to allow actual expenses incurred on account of Statutory levies while truing up for FY 16-17	22	5	27

S. No	Particulars	Principal	Carrying Cost	Total
13	Partial implementation of allowance of actual claims of R&M and A&G expenses from FY 05 to FY 07			
a	Non-consideration of actual R&M and A&G Expenses of FY 05	33	143	176
b	Impact of revision in R&M Expenses due to change in K factor approved from FY 08 to FY 12	37	72	109
14	Error in consideration of write-back miscellaneous provisions as part of NTI for FY 2008 to FY 2016-17	76	98	174
15	Error in allowing SVRS Pension amount as part of O&M costs for FY 2016-17	7	2	9
16	Total	1605	1483	3088

ARR of FY 2019-20

Energy Sales and Revenue

1B.21 The Petitioner has projected the energy sales at 12111 MU for FY 2019-20 and has requested the Hon'ble Commission to approve the same.

Table 1B - 17: Energy Sales and Revenue for FY 2019-20

S. No	CATEGORY	Estimated Energy MU	Estimated FC Rs. Cr.	Estimated EC Rs. Cr.	Peak Sur Rs. Cr.	Off Peak Rebate Rs. Cr.
1	DOMESTIC	7929	1088	3368	0	0
2	NON-DOMESTIC	3370	816	2856	78	-33
3	INDUSTRIAL	497	109	385	10	-4
4	AGRICULTURE	25	4	4	0	0
5	MUSHROOM CULTIVATION	0	0	0	0	0
6	PUBLIC LIGHTING	154	0	89	0	0
7	DELHI JAL BOARD (DJB)	243	38	153	4	-3
8	DIAL	203	16	152	8	-5
9	RAILWAY TRACTION	0	0	0	0	0
10	DMRC	118	5	71	4	-1
11	ADVERTISEMENTS AND HOARDINGS	2	0	2	0	0
12	E-Rickshaw	10	0	5	0	0
13	Other	114	21	111	0	0
	Grand Total	12666	2096	7194	104	-47

Distribution Loss& Collection Efficiency

1B.22 Regulation-25 (1) of DERC (Business Plan) Regulations, 2017 specifies the Distribution Loss Target from FY 2017-18 to FY 2019-20 as under:

Table 1B - 18: Distribution Loss during FY 2019-20

S. No	Distribution Licensee	FY 17-18	FY 18-19	FY 19-20
1	BSES Rajdhani Power Limited	10.93%	10.19%	9.50%

1B.23 The Petitioner has considered Collection Efficiency of 99.50% during FY 2019-20 in accordance with DERC Tariff Regulations, 2017.

Power Purchase Requirement

1B.24 The energy sales for the year is grossed up by the loss levels of the that year, to arrive at the required quantum of power purchase for that year in the following manner:

$$\text{Quantum of Power Purchase (MU)} = \frac{\text{Energy Sales (MU)}}{1 - (\text{Distribution loss}(\%)/100)}$$

1B.25 Based on the sales projected for FY 2019-20 and Distribution loss as specified for FY 2019-20 in DERC Business Plan Regulations, 2017, the estimated energy requirement based on the sales and distribution loss as per the aforesaid discussion is tabulated below:

Table 1B - 19: Energy Requirement & Energy Balance (MU)

Particulars	UoM	FY 2019-20
Total energy available (excluding BTPS, SGS & RE)	MU	11,712
Inter-State Transmission Losses	%	3.00%
	MU	353
Energy available from BTPS, SGS, ST & RE	MU	3,213
Energy available at State Transmission Periphery	MU	14,571
Energy Requirement		
Energy sales	MU	12666
Distribution loss	%	9.50%
Energy requirement at distribution periphery	MU	13995
Intra-State Transmission Loss	%	0.98%
	MU	137
Energy Requirement at State Transmission Periphery	MU	14133
Energy Surplus	MU	439

Power Purchase Cost

1B.26 The Petitioner has submitted in its Petition that it sources its power requirement through a mix of long term and short term sources to meet the demand of Delhi. Long term sources include Central Generating Stations which are owned and/or fully controlled by Central Government and State Generating Stations which are owned and/or fully controlled by State Government. The Petitioner has been assigned the share based on the PPAs which have been inherited from Delhi Transco Limited. The allocation of power within Delhi is being done by the Hon'ble Commission.

Table 1B - 20: Power Purchase cost proposed for FY 2019-20

S. No	Plant	FY 19-20				
		MU	FC	VC	Rs. Cr.	Rs. / Unit
1	NTPC	8,102	1,259	2,190	3,449	4.26
2	NHPC	918	119	134	254	2.76
3	NPCIL	413	0	117	117	2.84
4	DVC	1,144	178	229	407	3.56
5	State Genco	1,933	585 [@]	743	1,327	6.87
6	Other Hydro	581	72	103	175	3.01
7	Sasan	451	0	58	58	1.29
8	SECI	158	0	78	78	4.94
9	New Stations	553	9	188	197	3.56
17	Add: Other Costs				78	
10	Long term power purchase cost	14,253	2,222	3,840	6,140	4.31
11	ST Purchase	672		279	279	4.16
12	Gross Power Purchase Cost	14,925	2,222	4,119	6420	4.30
13	DTL loss/charges	137			468	
14	PGCIL loss/charges	353			557	
15	Other losses					
16	Less: short term Sale	439		108	108	2.46
17	Add: Cost of REC				135	
18	Net Power Purchase Cost	13,995	2,222	4,011	7472	5.34
19	Less: Rebate				143	
20	Less: Additional UI					
21	Net Power Purchase Cost after rebate	13,995	2,222	4,011	7,329	5.24

@ Includes cost of BTPS

Renewable Purchase Obligation

- 1B.27 Regulation-27 of DERC Business Plan Regulations, 2017 specifies the target for Renewable Purchase Obligation from FY 2017-18 to FY 2019-20 as under:
- "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 2017-18 to FY 2019-20 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 Renewable Purchase Obligation shall be as follows:

Sr. No.	Distribution Licensee	2017-18	2018-19	2019-20
1	Solar Target (Minimum)	2.75%	4.75%	6.75%
2	Total	11.50%	14.25%	17.00%

1B.28 The cost of REC purchase for meeting Solar and Total RPO for FY 2019-20 is tabulated below:

Table 1B - 21 Cost on account of RPO

Particulars	Solar	Non-Solar	Total
Sales (MU)		12666	
Hydro (MU)		1,602	
Base for RPO (MU)		11,064	
Target (%)	6.75%	10.25%	17.00%
Target (MU)	747	1134	1881
Arrangement (MU)	46	562	608
Shortfall (MU)	701	572	1273
REC @Forbearance /kwh	1	1.13	1.06
REC Cost (Rs. Cr.)	70	65	135

Transmission Charges

1B.29 The Petitioner has projected the Intra State & Inter State Transmission charges for FY 2019-20 as below:

Table 1B - 22: TX Loss and TX Charges projected for FY 2019-20

S. No	Particulars	FY 2019-20
A	Transmission losses (MU)	
i	Inter-State Transmission	137
ii	Intra-State Transmission	353
iii	Total Transmission losses (MU)	490
B	Transmission Charges (Rs. Crore)	1025

Total Power Purchase Cost

1B.30 The anticipated power purchase cost during FY 2019-20 is tabulated below:

Table 1B - 23: Total Power Purchase Cost during FY 2019-20

S. No	Station	Quantum (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Total Cost (Rs. Cr.)	Average Rate (Rs./ kWh)
1	Total Long Term Availability (A)	14,253	2,222	3,918	6,140	4.31
2	Short Term Purchase (B)	672			279	4.16
3	Short Term Sale (C)	439			108	2.46
4	Transmission Charges (D)				1025	
5	REC Cost (E)				135	
6	Rebate (F)				143	
7	Net PP Cost (A+B-C+D+E-F)				7329	
8	Net PP Cost @ Discom periphery	13,995			7329	5.24

Other Components of ARR

1B.31 The Other Components of ARR are;

- O&M Expenses
- Depreciation
- RoCE
- Income Tax

O&M Expenses

1B.32 Regulation-23 of DERC Business Plan Regulations, 2017 states as under:

"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 8: O&M Expenses for BRPL for the Control Period

Particulars	Unit	2017-18	2018-19	2019-20
66 kV Line	Rs. Lakh/ Ckt. Km	3.454	3.648	3.853
33 kV Line	Rs. Lakh/ Ckt. Km	3.454	3.648	3.853
11 kV Line	Rs. Lakh/ Ckt. Km	1.001	1.058	1.117
LT lines system	Rs. Lakh/ Ckt. Km	5.170	5.46	5.766
66/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	0.933	0.986	1.041
33/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	0.933	0.986	1.041
11/0.415 kV DT	Rs. Lakh/ Ckt. Km	2.209	2.333	2.464

...

- (2) The Distribution Licenses 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.
- (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 collected for the same year.
- (4) Impact of any Statutory Pay revision on employee's cost as may be applicable on case to case basis shall be considered separately, based on actual payment made by the Distribution Licensees and shall be allowed by the Commission after prudence check at the time of true up of ARR for the relevant financial year."

1B.33 Accordingly, O&M Expenses estimated for FY 2019-20 are tabulated below:

Table 1B - 24: O&M Expenses estimated during FY 2019-20

(in Rs. Crores.)

S. No	Assets/ lines	Quantity	Units	Norms	Amount
1	66 kV lines	1212	Rs. Lakh/ Ckt. Km	3.85	47
2	33 kV lines				
3	11 kV lines	6851	Rs. Lakh/ Ckt. Km	1.12	77
4	LT lines system	11394	Rs. Lakh/ Ckt. Km	5.77	657
5	66/11 kV grid sub-station	6867	Rs. Lakh/ Ckt. Km	1.04	71
6	33/11 kV grid sub-station				
7	11/0.4 kV DT	5143	Rs. Lakh/ Ckt. Km	2.46	127
8	Total				978

Additional O& M Expenses

1B.34 As per the various provisions in regards to O&M Expenses of DERC Tariff Regulations, 2017 and DERC Business Plan Regulations, 2017, the additional O&M Expenses likely to be incurred during FY 2019-20 is tabulated below:

Table 1B - 25: Additional O&M Expenses estimated for FY 2019-20

(in Rs. Crores.)

S. No	Particulars	FY 2017-18	Esc. Factor	FY 2018-19	Esc. Factor	FY 2019-20
1	Impact on a/c of Minimum Wages	40	5.61%	42	5.61%	45
2	Impact on a/c of GST	15		16		17

S. No	Particulars	FY 2017-18	Esc. Factor	FY 2018-19	Esc. Factor	FY 2019-20
3	Impact on a/c of 7 th Pay	105		59		62
4	SMS Charges	0.63		0.67		0.71
5	Property Tax	2.65		2.80		2.96
6	Water Charges	2.13		2.25		2.37
7	Legal Fees	12.23		13		14
8	Legal Expenses	1.01		1.07		1.13
9	Loss on Retirement of Assets	17.89		19		20
10	HRMS Bonus Impact	1.23		1.30		1.37
11	Ombudsman Expenses	0.06		0.06		0.06
12	Incremental License Fee paid on Assets	2.51		2.65		2.80
13	Geo-spatial Fees	0.30		0.31		0.33
14	DSM Charges	0.13		2.19		3.59
15	Total	200		162		172

Depreciation

1B.35 The Hon'ble Commission in DERC Tariff Regulations, 2017 has specified different rates of depreciation depending upon the class and life of assets. Unlike the previous Regulations, DERC Tariff Regulations, 2017 does not contain the concept of Advance Against Depreciation. As per DERC Tariff Regulations, 2017, the assets shall attract a higher rate of depreciation till completion of 12 years of useful and after 12 years, the remaining depreciation shall be uniformly distributed over the remaining useful life.

1B.36 Since FY 2017-18 is the first Financial Year for which these Regulations are applicable, the Petitioner has worked out the depreciation by applying these class-wise rates based on the useful life of the existing assets. Accordingly, the average rate of depreciation comes to be 4.76%. The Petitioner has applied rate of 4.76% on the average GFA estimated for FY 2019-20. However, the depreciation rate of 4.76% so computed, may undergo change at the end of FY 2018-19 based on actual capitalization. The depreciation for FY 2019-20 is tabulated below:

Table 1B - 26: Depreciation for FY 2019-20

(in Rs. Crores.)

S. No	Particulars	FY 2019-20
A	Gross Fixed Assets (GFA)	
i	Opening Balance	7088
ii	Additions during the year	536
iii	Closing Balance	7624
B	Consumer Contribution	
iv	Opening Balance	741
v	Additions during the year	42
vi	Closing Balance	783
C	GFA net of consumer contribution	
vii	Opening Balance	6347
viii	Additions during the year	494
ix	Closing Balance	6841
D	Average rate of depreciation	4.76%
E	Depreciation	314

Return on Capital Employed (RoCE)

1B.37 The Petitioner has computed RoCE during FY 2019-20 as under:

Table 1B - 27: RoCE for FY 2019-20

(in Rs. Crores.)

S. No	Particulars	FY 2019-20
1	Avg. Equity	2105
2	Avg. Debt	2443
3	Total	4548
4	Rate of Return on Equity	20%
5	Rate of Return on Debt	14%
6	RRB (i)	4481
7	WACC	16.93%
8	RoCE	759

Non-Tariff Income

1B.38 The Non-Tariff Income and income from other business during FY 2019-20 has been considered equivalent to actual NTI during FY 2017-18 as Rs. 128 Crore.

Aggregate Revenue Requirement

1B.39 The Aggregate Revenue Requirement during FY 2019-20 is tabulated as under:

Table 1B - 28: Aggregate Revenue Requirement for FY 2019-20

(in Rs. Crores.)		
S. No	Particulars	FY 2019-20
A	Net Power Purchase Cost including Transmission and SLDC Charges	7329
B	O&M Expenses	978
C	Additional O&M Expenses	172
D	Depreciation	314
E	Return on Capital Employed (RoCE)	759
F	Sub-total	9552
G	Less: NTI	128
H	Aggregate Revenue Requirement	9424

Recovery of Regulatory Assets

1B.40 The Regulatory Assets till FY 2017-18 after adjusting recoveries during FY 2017-18 is tabulated below:

Table 1B - 29: Regulatory Assets till FY 2017-18

S. No.	Particulars	Amount (Rs. Cr.)
A	RA Creation	
1	Opening RA for FY 2017-18	4,258
2	Revenue Gap during FY 2017-18	680
3	Rate of carrying cost	14%
4	Carrying cost accrued during the year	644
5	Amortization through 8% surcharge	687
6	Amortization of carrying cost	428
7	Closing RA for FY 2017-18 on stand-alone basis	4,467
8	Add:	
a	Impact of ATE Directions (including CC upto FY 2017-18)	10,987
b	Impact of Review Petition (including CC upto FY 2017-18)	707
c	Impact of past claims (including CC upto FY 2017-18)	3,088
8	Total closing RA for FY 2017-18	19,249

Revenue (Gap)/ Surplus for FY 2019-20 at Existing Tariffs

1B.41 The Revenue (Gap)/ Surplus for FY 2019-20 at Existing Tariffs is tabulated below:

Table 1B - 30: Revenue (Gap)/ Surplus at Existing Tariff for FY 2019-20

S. No	Particulars	Amount (Rs. Cr.)
A	Revenue Requirement for the year (excludes carrying cost)	9424
B	Revenue at existing tariff	9301
C	Revenue (Gap)/ Surplus for the year	-123

Tariff Hike Proposed

1B.42 The Hon'ble Commission is requested to allow suitable tariff hike to make cost reflective during FY 2019-20, apart from a suitable surcharge towards recovery of both principal and interest component, on the past accumulated deficit on account of RA.

1B.43 The revenue deficit at existing tariff proposed for FY 2019-20 is Rs. 123 Crore. The reasons for such deficit are listed as under:

- Adverse consumer mix which has resulted in a lower distribution margin at the hands of the licensee as compared to its peers;
- High power purchase cost;
- Expected impact of statutory levies and obligations in terms of O&M Expenses;
- Tariffs being not reflective of their cost of supply, which make big consumer susceptible to open access, adversely impacting remaining low end LT Consumers.

Chapter – 1C



PREAMBLE & TARIFF PHILOSOPHY

**BEFORE THE DELHI ELECTRICITY REGULATORY COMMISSION
C BLOCK, SHIVALIK, MALVIYA NAGAR, NEW DELHI**

PETITION NO. _____ OF 2018

IN THE MATTER OF:-

BSES Rajdhani Power Limited

BSES Bhawan, Nehru Place

New Delhi-110 019

..... **PETITIONER**

AND

IN THE MATTER OF:- Truing up of expenses upto the Financial Year (hereinafter referred to as “FY”) FY 2017-18, in terms of Regulation 13 read together with Regulation 139 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as “**DERC Tariff Regulations, 2017**”) and the provisions of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (hereinafter referred to as “**DERC MYT Regulations, 2011**”) and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 (hereinafter referred to as “**DERC MYT Regulations, 2007**”) read with Section 62 of the Electricity Act, 2003 and read with Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulation 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon’ble Delhi Electricity Regulatory Commission (hereinafter referred to as “**the Hon’ble Commission/ DERC**”).

AND

IN THE MATTER OF:- Annual Tariff Petition and Tariff for FY 2019-20 under Section 62 of the Electricity Act, 2003 read with Regulation 11 & 12 and other relevant provisions under DERC Tariff Regulations, 2017 and the Delhi Electricity Regulatory Commission Business Plan Regulations, 2017 (hereinafter referred to as “**Business Plan Regulations, 2017**”) and also under Sections 11 and 28 of Delhi Electricity Reforms Act 2000 to the extent applicable, the Delhi Electricity Regulatory Commission (Conduct of Business) Regulations, 2001 and Condition 24 of the License for Distribution and Retail Supply of Electricity issued by the Hon’ble Commission.



**PETITION FOR TRUING UP OF EXPENSES UPTO FY 2017-18 AND ANNUAL
TARIFF PETITION FOR FY 2019-20**

RESPECTFULLY SHEWETH:

1. BSES Rajdhani Power Limited (hereinafter referred to as **“the Petitioner/ BRPL”**), a company incorporated under the Companies Act, 1956, and having its registered office at BSES Bhawan, Nehru Place, New Delhi – 110019, is a license holder for carrying on the business of Distribution and Retail Supply of electrical energy within the Area of Supply as specified in the *“License for Distribution and Retail Supply of Electricity”* issued by the Hon’ble Commission.
2. The present petition is being filed for:
 - a) Truing up of Expenses upto FY 2017-18; and
 - b) Annual Tariff for FY 2019-20.(hereinafter collectively referred to as the **“ARR/ ARR Petition”**)
3. In accordance with the Electricity Act, 2003 (hereinafter referred to as **“the 2003 Act”**), the License conditions, DERC Business Plan Regulations, 2017, DERC Tariff Regulations, 2017, and DERC MYT Regulations 2011 and 2007, the Petitioner is required to file ARR Petition for Tariff for FY 2019-20 and Truing up of Expenses up to FY 2017-18. The Petitioner further submits that vide the present Petition it prays the Hon’ble Commission to allow the present petition and *inter alia* to permit the true up as sought for. Allowing truing-up on urgent basis is pivotal for the Petitioner to meet its power purchase costs and other uncontrollable costs, meet the performance standards during FY 2018-19 as well as comply with various directives specified by the Hon’ble Commission, which particularly entail expenditure.
4. The ARR Petition of a Distribution Company/ Licensee/ Utility (hereinafter referred to as **“the Discom/ Discoms”**) comprises of various components like Power Purchase Cost, Operation and Maintenance Expenses, Capital expenditure related expenses, Income Tax, Revenue from tariff, Non-Tariff Income etc.
5. The Power Purchase Cost including Transmission Charges is one of the major components of ARR which contributes to almost 80% of the total ARR of a



Discom. Most of the power is being purchased from Central Generating Stations like NTPC Limited, NHPC Limited, DVC, State Gencos etc. Most of these Central/ State Generating Stations are Government bodies/ PSU for which audit is already being carried by the CAG. Petitioner purchases power from Central Generating Stations at the rate specified by the Central Electricity Regulatory Commission (hereinafter referred to as "**Hon'ble CERC**") in its various Tariff Orders. All the Power Purchase Agreements (hereinafter referred to as the "**PPAs**") are approved by the Hon'ble Commission.

6. In accordance with Section 62 of the 2003 Act and Revised Tariff Policy 2016, the Hon'ble Commission has notified the DERC Tariff Regulations, 2017 which are required to be followed by the Licensees for filing the Petition for determination of ARR and Tariff determination for any particular year.
7. In Delhi, the Distribution Licensees are required to follow the DERC Tariff Regulations, 2017 and DERC Business Plan Regulations, 2017 while filing the ARR and Tariff Petitions.
8. Under the provisions of the DERC Tariff Regulations, 2017, the Petition for determination of ARR for any financial year is required to be filed 150 days before the commencement of that particular financial year. The various legal provisions for filing of ARR as are below:
 - a. Section 62 of the 2003 Act provides for determination of supply of electricity by a generating company to distribution licensee; retail supply and wheeling tariff etc.
 - b. Regulation 11 of the DERC Tariff Regulations, 2017 lays down the provisions of tariff filing by the distribution licensees inter-alia as follows –

"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:

 - (1) Sales Forecast for the ensuing year and audited Sales for previous Year on monthly basis as prescribed in the Appendix-2;*
 - (2) Expected Revenue to be billed for the ensuing year and audited Revenue Billed and Realised for previous Year as prescribed in the Appendix-2;*
 - (3) Power Procurement Quantum & Cost for ensuing Year and audited Power Purchase Quantum & Cost for previous Year on monthly basis indicating Long Term and Short Term, Renewable Energy Purchase and other applicable Charges as prescribed in the Appendix -2:*

Provided that the Distribution Licensee shall propose an indicative



cost of power procurement taking into account revenues from Short term sale of Surplus Power and maximum normative rebate available from each entity;

Provided that the Renewable Purchase Obligation of the Distribution Licensee as per the Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time shall be part of the Distribution Licensee's Power Procurement Cost;

(4) Actual and Expected intra- State & inter-State Transmission Loss & Charges including Load Dispatch Charges, Open Access Charge indicating maximum normative rebate available from each entity for the previous and ensuing Year respectively;

Provided that the Distribution Licensee shall propose Wheeling Charges in case the distribution network of other Distribution Licensee is used for procurement of power for the Retail Supply Business;

(5) Actual and Expected amount on account of Cross-Subsidy Surcharge and Additional Surcharge to be received by the Licensee, as approved by the Commission from time to time in accordance with the Delhi Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations 2005 as amended from time to time, shall be indicated separately against the consumer category by the Distribution Licensee;

(6) Actual Voltage wise Distribution Loss and Collection Efficiency for the previous Year;

(7) Energy Audit Report of distribution network of the Distribution Licensee for previous Year by certified energy auditor from Bureau of Energy Efficiency;

(8) Monthly Energy Balance for the ensuing & previous Year;

(9) Actual and Expected additional Expenses on account of O&M beyond the Control of Distribution Licensee for the ensuing & previous Year respectively;

(10) Actual and Expected Capitalisation and Depreciation Schedule for the previous and ensuing Year respectively;

(11) Actual and Expected Non-Tariff Income including Other Business Income for the previous and ensuing Year respectively;

(12) Actual weighted average rate of interest on loan."

9. Further, the ARR filing includes Truing-up of Previous Year based upon the Audited Accounts available for that year and Tariff determination for the ensuing year.

10. Truing-up requirement for any year is filed on the basis of Audited Accounts for previous year and norms specified by the Hon'ble Commission for controllable expenses. Regulation 152 reads as follows:

"152. True up of ARR for Distribution (Wheeling & Retail Supply) Licensee shall be conducted on the following principles:

(a) Variation in revenue and sales of the distribution licensee based on projected revenue and sales vis-à-vis actual revenue and sales;

(b) Variation in long term power purchase quantum and cost of the distribution licensee based on merit order dispatch principle of projected long term power purchase quantum and cost vis-à-vis actual long term power purchase quantum and cost:

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 the cost of credit to the net metering consumer on account of net surplus unit of power injected into the grid as specified in Delhi Electricity Regulatory Commission (Net Metering for Renewable Energy) Regulations, 2014 shall be allowed to the distribution licensee in the power purchase cost of the relevant year;

(c) Variation in short term power purchase quantum and cost of the distribution licensee based on projected short term power purchase quantum and cost vis-a-vis actual short term power purchase quantum and cost:

Provided that Trading Margin, Transmission Charges and Transmission Losses incurred on Forward And Reverse transaction in the same time slot executed within three months for Forward / Reverse power procurement/sale through Banking And Bilateral shall not be allowed in the Power Purchase Cost of the Distribution Licensee;

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;

Provided that Short-term arrangement or agreement, other than traded through Power Exchange, for procurement/sale of power has to



be executed through a transparent process of open tendering and competitive bidding guidelines issued by Ministry of Power (MoP) as amended from time to time specific direction issued by the Commission;

Provided further that in case the Distribution Licensee does not follow Short Term Power guidelines for procurement of power/sale the rate of such power procurement shall be restricted to the average rate of power purchase/sale through exchange during same month for Delhi region.

(d) Any surplus or deficit on account of controllable parameters i.e., Operation and Maintenance (O&M) expenses shall be to the account of the Licensee and shall not be trued up in ARR; and

(e) Depreciation, Return on equity and interest on loan shall be trued up every year based on the actual capitalisation vis-à-vis capital investment plan (capitalisation) approved by the Commission:

Provided further that the Commission shall true up the interest rate on the basis of increase/decrease in State Bank of India Base Rate as on April 1 of the relevant financial year vis-à-vis State Bank of India Base Rate as on April 1 of the immediately preceding financial year in accordance with Regulation 77 of these Regulations;

(f) Interest on working capital loan shall be trued up every year based on the working capital requirement as specified in Regulation 85 of these Regulations."

11. Projections for ensuing year are done on the basis of certain assumptions which are outlined below:

- (a) Sales to various consumer categories is projected on the basis of Past Year Compounded Annual Growth Rate.
- (b) Distribution Loss and Collection Efficiency are projected in accordance with the DERC Tariff Regulations, 2017 and the target specified by the Hon'ble Commission in DERC Business Plan Regulations, 2017.
- (c) Power Purchase Quantum to be purchased is projected on the basis of sales and AT&C Loss projected for the ensuing year. Various Power Purchase Agreements/ Contracts are taken into consideration while projecting power purchase quantum.
- (d) Power Purchase Cost is projected on the basis of various bills of Generating companies based on orders issued by Hon'ble CERC and/or this Hon'ble Commission based upon the applicability.
- (e) Operation and Maintenance Expenses are projected on the basis of trajectory specified by the Hon'ble DERC for the various years of the

Control Period.

- (f) Capital expenditure related expenses are projected on the basis of capital expenditure approved by the Hon'ble Commission for ensuing year in the DERC Business Plan Regulations, 2017. The various expenses linked to Capital expenditure are also projected accordingly.
 - (g) Income Tax is projected on the basis of the provisional amount determined by the Hon'ble Commission for the various years of the Control Period.
12. Section 11 read together with Section 28 of the Delhi Electricity Reforms Act, 2000 (hereinafter "**DERA**") provides for the Discom to observe methodologies and procedures specified by the Hon'ble Commission from time to time in calculating the expected revenue.
13. Clause 24 of the License Conditions of Petitioner issued by the Hon'ble Commission also provides for the provision of revenue calculation and tariffs.
14. Accordingly, the Petitioner is filing the present ARR Petition to ensure prompt determination of truing-up of expenses up to FY 2017-18 and ARR and Tariff for FY 2019-20 and requests the Hon'ble Commission to permit recovery of expenses as prayed for as well as to:
- (a) Enable the Petitioner to comply with various directions of the Hon'ble Commission;
 - (b) Enable the Petitioner to meet performance standards and mitigate the impact of the large increase in power purchase costs and other uncontrollable costs.
 - (c) Set a realistic, achievable and practical trajectory for various heads based on the actual performance of the Petitioner during last control period.

The Petitioner *inter alia* seeks that this Hon'ble Commission may also:-

- (d) Set a trajectory for various heads based on the criteria mentioned for each of the individual tariff items in the Petition.

This becomes imperative as:

- (e) There is a significant variation in Power Purchase Rate during FY 2017-18

like previous years primarily on account of various factors, which are beyond the control of the Petitioner. Thus, it would be incumbent on this Hon'ble Commission to address this problem since only a part of power purchase cost has been permitted through tariff that too without passing on the variation of short term purchase and sales in the power purchase price adjustment formula.

- (f) The Petitioner is faced with an imminent cash-flow crunch due to unrecovered expenses primarily on account of uncontrollable increase in the power purchase cost.
- (g) The Petitioner is aggrieved by the fact that a cost-reflective tariff has not been provided to the Petitioner ever since 2007. The Hon'ble Commission in its Statutory Advice to the Government of National Capital Territory of Delhi (hereinafter referred to as "**GoNCTD**") dated February 1, 2013 has admitted that the Petitioner is facing an adverse financial position. Even independent experts appointed by GoNCTD, such as M/s. PricewaterhouseCoopers (hereinafter referred to as "**PwC**") have corroborated the said findings of the Hon'ble Commission on various occasions.
- (h) The Petitioner has been and is in a situation where its financial health and ability to pay for power procurement (which constitutes about 85% of the Petitioner's expenses) besides statutory dues has been constrained and that too not for any reasons attributable to the Petitioner but for the legitimate costs and expenses being withheld in the form of Regulatory Assets and for not granting the allowance which are even directed by the Hon'ble Appellate Tribunal for Electricity (hereafter "**the Hon'ble Tribunal**").
- (i) The above position was admitted by the Hon'ble Commission itself in its White Paper released on along with the Hon'ble Commission's Tariff Order for FY 2011-12 wherein the Hon'ble Commission admitted that in the FY 2009-10 onwards, the power purchase cost was actually 103%-112% respectively of the ARR.

It is submitted that ARR and Tariff has been allowed by the Hon'ble Commission without a proper true-up of accounts for the previous years and even though there may have been surpluses as determined by the Hon'ble Commission in the true-up of previous years the same has not been accounted for in deciding and approving the ARR in the subsequent years.



15. It is trite law that that the principle of judicial discipline and propriety requires that the orders of the appellate authorities should be followed scrupulously and unreservedly by its subordinate authorities. The direction of the Hon'ble Tribunal are certainly binding on the Hon'ble Commission. Therefore, the judgments delivered by the Hon'ble Tribunal needs to be implemented in their true letter and spirit by the Hon'ble Commission and the financial impact and regulatory effect of the principles laid down in these judgments and/ or entitlements under these judgments be granted to the Petitioner while deciding the present Petition. This Hon'ble Commission, therefore, is kindly requested to decide and determine the ARR Petition in accordance with the principles contained in the various judgments passed by the Hon'ble Tribunal in:
- a) Judgment dated November 11, 2011 passed in O.P. No. 1 of 2011;
 - b) Judgment dated July 12, 2011, October 6, 2009, November 28, 2014, March 2, 2015 and May 15, 2015 in Appeal No. 142 of 2009, Appeal No. 36 of 2008, Appeal No. 61 of 2012 and Appeal No. 177 of 2012 and RP No. 7 of 2015 respectively in the matter of BSES Rajdhani Power Limited vs. Delhi Electricity Regulatory Commission & Others.;
 - c) Judgment dated October 31, 2017 in I.A. No. 320 of 2015 in Appeal No. 177 of 2012, in the matter of a Clarification Application filed by this Hon'ble Commission.
 - d) Judgment dated May 15, 2017 read together with February 23, 2015 in Appeal 103 of 2017 and Appeal No. 110 of 2014 respectively in the matter of BSES Rajdhani Power Limited vs. Delhi Electricity Regulatory Commission pertaining to the issue of consumer contribution.
 - e) Judgment dated July 30, 2010, May 31, 2011 and November 28, 2013 in Appeal No. 153 of 2009, Appeal No. 52 of 2008 and Appeal No. 14 of 2012 respectively in the matter of North Delhi Power Limited vs. Delhi Electricity Regulatory Commission & Others., in accordance with the principle of maintaining equity and parity amongst all the Discoms;
16. In addition to the above, various issues are pending in the following Appeals and in the event the Hon'ble Commission renders relief to the Petitioner on the said issues, then to that extent the same will have twin benefits in as much as further litigation can be contained as well as the exposure of carrying costs on the consumers could also be contained.
- a) The pending proceedings before Hon'ble Supreme Court namely Civil Appeal Nos. 8660 & 8661 of 2015, Civil Appeal Nos. 4323 & 4324 of 2015, Civil Appeal No. 4933 & 4906 of 2015, Civil Appeal No. 6959 & 6960 of 2015, Civil Appeal Nos. 1854 & 1855 of 2014, Civil Appeal Nos. 4010 & 4013 of 2014, Civil Appeal Nos. 9003 & 9004 of 2011, Civil Appeal Nos.



884 & 980 of 2010, W.P(C)No.104 & 105 of 2014 and other connected matters therein.

- b) Appeal Nos. 193 of 2018, 69/72 of 2018, 297 of 2015, 155 of 2015, 235 of 2014, 230 of 2014 and 266 of 2013 and R.P. No. 16 of 2015 in Appeal No. 177 of 2012 pending adjudication before the Hon'ble Tribunal.

17. It is respectfully submitted that the Hon'ble Tribunal has in a catena of judgments underscored the necessity for carrying truing-up of expenses for the financial viability of the licensees and utilities. The Hon'ble Tribunal has also emphasized on the requirement to carry out the exercise for true-up in a time bound manner and ensure speedy recovery of costs. Hence, allowing truing-up on urgent basis is pivotal for the Petitioner to meet its power purchase costs and other uncontrollable costs, meet the performance standards as well as comply with various directives specified by the Hon'ble Commission, which particularly entails expenditure. Timely completion of the true-up exercise allowing recovery of costs in a reasonable manner will have a positive impact on the Petitioner's ability to service the consumers/public. Hence, by way of the present petition the Petitioner seeks to set out the financial data on the basis of the actual audited numbers for consideration by the Hon'ble Commission in the present ARR Petition.

EFFECT OF STATUTORY DOCUMENTS:

- a) This ARR Petition is filed in accordance with the principles contained in the;
- i. Electricity Act, 2003;
 - ii. DERC Tariff Regulations, 2017;
 - iii. DERC Business Plan Regulations, 2017;
 - iv. Tariff Policy and National Electricity Policy;
 - v. Principles of law laid down by the Hon'ble Tribunal pertaining to true-up of uncontrollable factors such as power purchase costs, energy sales, new initiatives and other uncontrollable costs; and
 - vi. Principles of law laid down by the Hon'ble Tribunal pertaining to recovery of accumulated Revenue Gaps and allow suitable Tariff revision to recover estimated revenue shortfall;
 - vii. Principles of law laid down by the Hon'ble Tribunal pertaining to the fixing of financial and performance targets before the Tariff Year;
 - viii. Principles of law laid down by the Hon'ble Tribunal that Regulations framed under the 2003 Act could not operate retrospectively;
 - ix. Principles of law laid down by the Hon'ble Tribunal pertaining to approval of all expenses in the truing up while determining Aggregate Revenue



Requirement without deferring any or part of the expense in the form of Regulatory Asset.

- x. Consider the energy requirement appropriately based on the exercise initiated by the Hon'ble Commission regarding reallocation of capacity.
- xi. Tariff Orders issued by Hon'ble CERC for various generating stations and Tariff Orders issued by this Hon'ble DERC for the Generating and Transmission companies from which the Petitioner draws power, while determining the power purchase and transmission costs of the Petitioner.
- xii. Business Plan/Business Plan information filed by the Petitioner.

18. It is, therefore, respectfully submitted that while deciding the present ARR Petition, the Hon'ble Commission will need to be guided by *inter alia* the following mandates of the 2003 Act and Revised Tariff Policy:

a) Electricity Act, 2003:

"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:-

(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) multiyear tariff principles;

(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces and eliminates cross-subsidies within the period to be 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:"

{Emphasis supplied}

b) Revised Tariff Policy, 2016 notified by the Central Government under Section 3 of the Electricity Act, 2003:

"Uncontrollable costs should be recovered speedily to ensure that future

consumers are not burdened with past costs. Uncontrollable costs would include (but not limited to) fuel costs, costs on account of inflation, taxes and cess, variations in power purchase unit costs including on account of hydro-thermal mix in case of adverse natural events."

{Emphasis supplied}

Furthermore, the Revised Tariff Policy also mandates approval of the capital expenditure necessary to meet the minimum service standards. There is a need to accelerate performance improvement and reduction in losses which will be in the long term interest of consumers by way of lower tariffs.

"a) Return on Investment

Balance needs to be maintained between the interests of consumers and the need for investments while laying down rate of return. Return should attract investments at par with, if not in preference to, other sectors so that the electricity sector is able to create adequate capacity. The rate of return should be such that it allows generation of reasonable surplus for growth of the sector.

..

Making the distribution segment of the industry efficient and solvent is the key to success of power sector reforms and provision of services of specified standards. Therefore, the Regulatory Commissions need to strike the right balance between the requirements of the commercial viability of distribution licensees and consumer interests. Loss making utilities need to be transformed into profitable ventures which can raise necessary resources from the capital markets to provide services of international standards to enable India to achieve its full growth potential. Efficiency in operations should be encouraged. Gains of efficient operations with reference to normative parameters should be appropriately shared between consumers and licensees.

....

At the beginning of the control period when the "actual" costs form the basis for future projections, there may be a large uncovered gap between required tariffs and the tariffs that are presently applicable. The gap should be fully met through tariff charges and through alternative means that could inter-alia include financial restructuring and transition financing.

....

Working capital should be allowed duly recognizing the transition issues faced by the utilities such as progressive improvement in recovery of bills. Bad debts should be recognized as per policies developed and subject to the approval of the State Commission.

Pass through of past losses or profits should be allowed to the extent caused by uncontrollable factors.

....

The facility of a regulatory asset has been adopted by some Regulatory Commissions in the past to limit tariff impact in a particular year. This should be done only as a very rare exception in case of natural calamity or force majeure conditions and subject to the following:

- a. Under business as usual conditions, no creation of Regulatory Assets shall be allowed;*
- b. Recovery of outstanding Regulatory Asset along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding seven years. The State Commission may specify the trajectory for the same."*

{Emphasis supplied}

FACTORS IMPACTING THE PETITIONER AND THE CONSUMERS:

19. A commercially sustainable tariff is a *sine qua non* for the health of the electricity sector. The financial health of the Discom is in the larger interests of the consumers themselves. The entire scheme and intent of the 2003 Act is consumer interest. However, consumer interest does not lie in lower tariff alone. It lies equally, if not more, in the financial health of the utilities which are dedicated to serve their consumers. It is further submitted that the Petitioner is severely affected owing to the following factors amongst others, and therefore the Petitioner requests the Hon'ble Commission to take the same into consideration while disposing of the present petition :-
 - a) The creation and continuance of Non-cost-reflective tariff over the years for the Petitioner Licensee;
 - b) Absence of justifiable True up of uncontrollable expenditure including but not limited to power purchase costs;
 - c) Long Regulatory Time taken in True up of uncontrollable expenditure;
 - d) Variation in the power purchase costs nationwide which is uncontrollable;
 - e) The realistic rate of sale of surplus electricity is lower than the rate factored in by the Hon'ble Commission and the differential amount from the total power purchase cost creates an adverse effect on the Petitioner ;
 - f) Progressive buildup of revenue gap and regulatory assets since FY 2006-07;
 - g) Absence of any time bound mechanism for recovery of accumulated shortfall;
 - h) Lower rates of carrying costs granted by the Hon'ble Commission as against the market lending rate;



- i) Very low rate of recovery of carrying cost of Regulatory Assets (hereinafter referred to as the “RA”), which ought to be in consonance with various judgments of the Hon’ble Tribunal thereby ensuring that the Petitioner not only recovers the carrying cost on the RA during the year but also 1/3rd of the outstanding RA principal. In terms of the same, the surcharge ought to be revised appropriately so that the RA is recovered speedily without burdening the future consumers with the past costs. It is submitted that the prior decisions of the Hon’ble Commission to continue to retain a meagre surcharge of 8% over the revised tariff strikes at the very root of the ability of the Petitioner to be in a position to clear its outstanding dues to the generating companies and the transmission licensee who have/had issued disconnection notices.
 - j) The Petitioner finds it extremely difficult to raise funds for undertaking schemes for loss reduction from financial institutions due to the continued absence of time bound amortization schedule of the Regulatory Assets by the Hon’ble Commission which is required in line with the revised Tariff Policy, 2016 and findings of the Hon’ble Tribunal in its various judgments.
 - k) The ability of the Petitioner to liquidate the dues of the generating companies and the transmission licensee is adversely affected owing to the increase of the regulatory assets from Rs. 158.50 crore upto FY 2006-07 to Rs. 4258 Crore upto FY 2016-17 as against the mandatory requirement of being amortized within the first MYT control period ending FY 2011-12 as per the DERC Tariff Regulations, 2007 read with the Tariff Policy;
 - l) Seriously deepening the financial crisis owing to the non-cost reflective tariffs as determined under the various tariff orders as well as creation of revenue gap year after year and creation of regulatory assets as an ordinary course rather than the statutory mandate of it being required to be created only as a matter of exception;
 - m) Results in a situation where financial institutions are not willing to extend financial assistance to the Petitioner to carry on its licensed business.
20. The Hon’ble Commission is required under law to decide the present ARR Petition in a manner ensuring timely recovery of all costs so that ultimately the consumers do not have to bear the burden of avoidable carrying cost on those amounts and costs that are not passed through in the retail tariffs on a regular basis.
21. The filing of the Petition should not be treated as curtailing any right or claim of

the Petitioner, which it is permitted to recover in terms of its License and Orders of the Hon'ble Commission, Hon'ble Tribunal (including the principle of parity / equality in treatment of Discoms) and or any other proceedings relevant to the entitlement of the Petitioner.

22. The Petitioner in the present ARR Petition has made certain assumptions in relevant sections, and has endeavored to comply with the various applicable legal and regulatory directions of the Hon'ble Commission.
23. The Petitioner is filing the present Petition to ensure prompt determination of tariff as to seek the truing up of expenses up to FY 2017-18 and ARR and Tariff for FY 2019-20. Though the Petitioner has made all efforts and has tried diligently to ensure the filing of a comprehensive Petition, it may be possible that some aspects/components/claims have not been dealt in detail and/or may have been inadvertently omitted. It is submitted that such inadvertent omission/deficiency, if any, would not amount to any waiver of any entitlement/claim by the Petitioner. The Petitioner craves leave of this Hon'ble Commission and reserves its rights to supplement the present Petition with additional facts, additional affidavits, additional submissions and claims, if any.
24. The filing of the Petition should not be treated as curtailing any right or claim of the Petitioner, which it is permitted to recover in terms of its License and Orders of the Hon'ble Commission, Hon'ble Tribunal (including the principle of parity / equality in treatment of Discoms) and or any other proceedings relevant to the entitlement of the Petitioner.



PRAYERS:

25. In view of the above, the Petitioner most respectfully prays that the Hon'ble Commission may be pleased to:
- A. Take the present true-up, Aggregate Revenue Requirement and Annual Tariff Petition on record and admit the same; and
 - B. Approve the true up of expenses and revenues for FY 2017-18 and financial impact for past claims upto FY 2016-17 as also implement the Judgments of the Hon'ble Tribunal as detailed in Chapter -3; and
 - C. Approve amortization of the accumulated Revenue Gaps (Regulatory Asset) up to FY 2017-18 and carrying cost thereof through a surcharge as submitted in Chapter - 3; and
 - D. Approve the ARR as submitted in Chapter- 4 and Tariff as submitted in Chapter- 5 for FY 2019-20 ; and
 - E. Adjust the gap in power purchase cost by reassigning the allocation of power in terms of Regulation 121 of DERC Tariff Regulations, 2017; and
 - F. Adjust the Pension trust surcharge as submitted in Para No. 5.13 to 5.16;
 - G. Defer and/or carry forward the compliance of RPO for FY 2017-18 as submitted in Para No. 3A. 62 of Chapter -3; and
 - H. Determine carrying costs in compliance with the directions of the Hon'ble Tribunal in O.P. No. 1 of 2011 and the National Tariff Policy, i.e., in a manner so that the same covers all the levies/ amounts/interests including LPSC, being levied by Gencos; and
 - I. Give effect to any order/direction/ judgment as issued by the Hon'ble Tribunal in Appeal Nos. 193 of 2018, 69/72 of 2018, 297 of 2015, 155 of 2015, 235 of 2014, 230 of 2014 and 266 of 2013 and R.P. No. 16 of 2015 in Appeal No. 177 of 2012 pending adjudication before the Hon'ble Tribunal subsequent to the filing of and/ or during the pendency of the present Petition; and
 - J. Allow additions / alterations / changes/ modifications to the petition and permit the petitioner to place on record any developments/ facts/ documents that come to the knowledge of the Petitioner at a future date; and



- K. Condone any inadvertent omissions/ errors/ rounding off difference/ shortcomings; and
- L. Pass any order or further order/s and grant any other relief which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Prayed accordingly

Petitioner
Through:
Ravi Shandilya
Senior Manager - Regulatory
Authorized Signatory
BSES Rajdhani Power Limited



Chapter – 2A



PERFORMANCE DURING FY 2017-18

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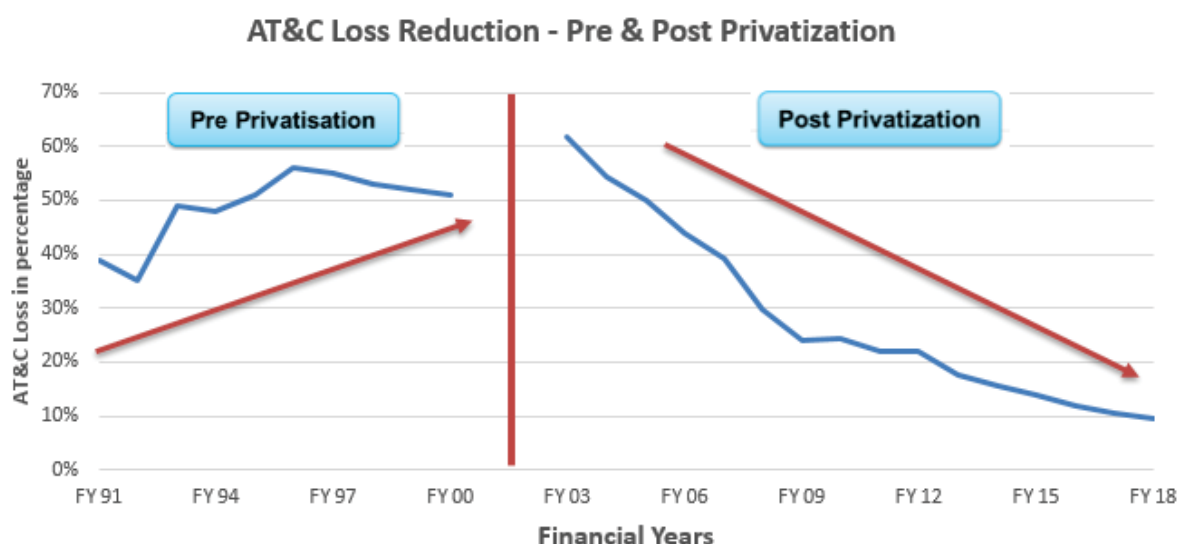
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PERFORMANCE DURING FY 2017-18

AT&C Loss Reduction

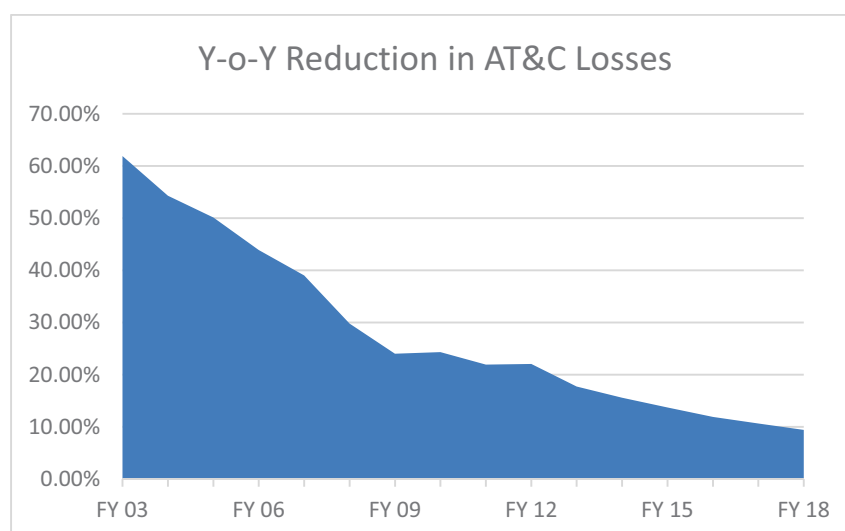
- 2A.1 Since the very inception, the Petitioner has earmarked reduction in AT&C loss as its prime mandate. Unflinching efforts in this direction have resulted in an AT&C loss reduction trajectory that is almost unmatched by any other private Discom in India.
- 2A.2 During FY 2017-18, the Petitioner has reduced AT&C Loss to 9.42% over the existing loss levels of 11.35% in FY 2016-17 (as approved by the Hon'ble Commission in Tariff Order dated 28.03.2018, thereby achieving an absolute reduction of 1.93% over the previous year.
- 2A.3 It is noteworthy that the AT&C Losses were reduced from over 51% in July'2002 to 9.42% during FY 2017-18. The graph below compares the AT&C loss levels in the last two decades:

Figure 2A - 1: AT&C Loss levels-Pre and Post Privatisation



- 2A.4 The average loss reduction of 3.5% per annum in absolute terms since July 2002 is amongst the highest loss reduction rate by a distribution utility in the country as shown in the figure below:

Figure 2A - 2: AT&C Loss reduction



- 2A.5 The Petitioner has been consistent in delivering high performance meeting the performances standard prescribed by the Hon'ble Commission.

- Normal fuse-off Calls: The Petitioner has been able to achieve compliance of 98.28% against Hon'ble Commission's benchmark of 99%.
- Line Breakdown: The Petitioner has been able to achieve compliance of 97.75% against Hon'ble Commission's benchmark of 95%.
- Distribution Transformer Failure: The Petitioner has been able to achieve compliance of 100% (restoration of temporary supply parameter) and 99.11% (rectification of fault parameter) against Hon'ble Commission's benchmark of 95%.
- Scheduled Outage: The Petitioner has been able to achieve compliance of 99.49% and 97.61%(max duration not exceeding 12 hours in a day parameter) against Hon'ble Commission's benchmark of 90%.
- Billing Mistakes: The Petitioner has been able to achieve compliance of 0.03% against Hon'ble Commission's benchmark of 0.2%.
- Faulty Meter: The Petitioner has been able to achieve compliance of 0.34% against Hon'ble Commission's benchmark of 3%.

Note: All aforementioned benchmarks are as specified in the DERC (Supply Code & Performance Standards) Regulations, 2007.

Table 2A - 1: Standards of Performance during FY 2017-18 (Apr. 2017 to Aug. 2017)

Parameter	Prescribed Time Limit/ Measure	Overall Standard of Performance	Number of complaints received	No. of complaints attended within specified timelines	% Complied during FY 14-15
Normal Fuse-Off Calls	Within three hours for Urban areas	At least 99% calls received should be rectified within prescribed time limits in both Cities and Towns and in Rural areas.	459513	451626	98.28%
	Within eight hours for Rural areas				
Line breakdown	Within six hours for Urban areas	At least 95% calls received should be rectified within prescribed time limits in both Cities and Towns and in Rural areas.	9516	9302	97.75%
	Within twelve hours for Rural areas				
Distribution Transformer Failure	Temporary supply to be restored within four hours from alternate source, wherever feasible.	At least 95% of DTR's to be replaced within prescribed time limits in both Cities and Towns and in Rural areas.	144	144	100.00%
	Rectification of fault and thereafter restoration of normal power supply within twelve hours.		112	111	99.11%
Scheduled Outage	Maximum duration in a single stretch shall not exceed 12 hours.	At least 90% of cases should be complied within prescribed time limits.	980	975	99.49%
	Restoration of supply by 6:00 P.M.		880	859	97.61%
			No. of Bills Issued	No. of bills with mistakes	Percentage
Billing Mistakes	Licensee shall maintain the percentage of bills requiring modifications following complaints to the total number of bills issued.	Not exceeding 0.20%	11796706	3860	0.03%
			No. of meters	No. of defective meters reported	Percentage
Faulty Meter	Licensee shall maintain the percentage of defective meters to the total number of meters in service.	Not exceeding 3%	2373939	8025	0.34%
Reliability Indices	SAIFI	NA	Achieved during FY 2017-18		0.74
	SAIDI	NA			0.93
	MAIFI	NA			0.00

Table 2A - 2: Standards of Performance during FY 2017-18 (Sep. 2017 to Mar 2018)

Sl. No.	Service area	Total Cases Rcvd (A)	Complaints Within Time	Complaints beyond time	SOP Acheived (C)
1. Power Supply Failure					
(i)	Continuous power failure affecting individual consumer and group of consumer upto 100 connected at Low voltage supply, excluding the failure where distribution transformer requires replacement.	291018	291012	6	100%
(ii)	Continuous power failure affecting more than 100 consumers connected at Low voltage supply excluding the failure where distribution transformer requires replacement.	13228	13228	0	100%
(iii)	Continuous power supply failure requiring replacement of distribution transformer.	43	43	0	100%
(iv)	Continuous power failure affecting consumers connected through High Voltage Distribution System (HVDS) and not covered under (i) & (ii) above	104064	104064	0	100%
(v)	Continuous scheduled power outages	8413	8409	4	100%
(vi)	Replacement of burnt meter	19657	18727	771	95%
	Period of Scheduled Outage				
2	Maximum duration in a single stretch	53:10 hr	0	0	0
	Restoration of supply by 6:00 PM	5710	3839	10	67%
3	Faults in street light maintained by	9246	9071	175	98%
Reliability Indices					
4	SAIFI	0.3			
	SAIDI	0.4			
	CAIDI	10.8			

Corporate Social Responsibility (CSR):

- 2A.6 During the year in question, the Petitioner successfully undertook various Corporate Social Responsibility initiatives in targeted areas including in Nangloi, Najafgarh, Jaffarpur, Okhla and Mundka. These CSR initiatives were undertaken under five broad categories: (i) Skill Development and Education / Literacy program, (ii) Sanitation, (iii) Health / Medical Services, (iv) Energy Conservation and (v) Miscellaneous.
- Fully utilizing the CSR budget of Rs 2.49 crore, these programs touched the lives of over 50,000 people and their families. These programs have been appreciated by the local people.
 - The Petitioner's CSR rankings have climbed 1454 notches - from 1838 in 2014-2015 to 384 in 2015-2016 as per the latest "CSR Data and Report of the "Ministry of Corporate Affairs" w.r.t. CSR Expenditure (in the MCA21 database).
 - To gauge the impact of the CSR program, Nielsen, a leading market research agency, was engaged to ascertain the views of the beneficiaries on the likeability, impact and relevance of the Petitioner's CSR initiatives. The impact study also helped get insights into the CSR initiatives, which is helping us going forward.
 - All the CSR Initiatives conducted by the Petitioner were found to be immensely likeable, relevant and helpful by the beneficiaries.
 - The Petitioner was also rated highly on providing good quality services and caring about the communities and their welfare.
 - Beneficiaries as well as non-beneficiaries want the Petitioner to continue the good work by organising CSR activities in support of a better society in future too
- 2A.7 During FY 2017-18, the Petitioner undertook several CSR missions touching lives of thousands of citizens and their families. Some of the key CSR initiatives taken by the Petitioner include:
- 2A.8 **Blood Donation Camps:** Playing the role of a responsible corporate citizen, the Petitioner organized several Blood Donation Camps during FY 2017-18. Significant number of employees across all cadres participated in the program.
- 2A.9 **Eye Care Camps:** The Petitioner has been in the forefront in arranging free eye care camps across its license area. During these camps, thousands of individuals got their eyes tested free of cost from certified medical

professionals. Such camps have been widely appreciated by individuals from all walks of life, especially the economically weaker sections of society.

- 2A.10 **Self Defence Training:** Realizing the ever growing insecurity and violence towards young children, the Petitioner arranged several training sessions aimed at imparting self-defence techniques. Such trainings were conducted in several schools in the Petitioner's license area and were appreciated by both the school management as well as the students themselves.
- 2A.11 **Street Light Replacement / Complaint Registration:** The Petitioner has initiated an aggressive project to replace all conventional sodium street lights with highly energy efficient LED street lights. Not only the new LED street lights will be more energy efficient, but will also have a longer life and durability. Also, taking cognizance of complaints from consumer pertaining to non-functional street lights, the Petitioner has launched complaint registration through multiple platforms such as call centre, WhatsApp and the Petitioner's mobile application. Consumers noticing any street light that may require maintenance may inform the Petitioner through any of these means and the Petitioner would ensure that the street light is attended to in an expeditious manner.
- 2A.12 **Cash Back Offers on Electricity Bill Payment:** The Petitioner has been pioneer in engaging key Application Platforms such as PhonePe and PayTM to bring innovative cash back schemes to consumers. Under these schemes, consumers opting to pay their bills through such platforms have been able to receive lucrative cash backs in to their account.
- 2A.13 **Digi Seva Kendras:** Modelled on the lines of Passport Seva Kendras, the Petitioner has rolled out Digi Seva Kendras (DSK). These DSK offers, quick, convenient and hassle free single window facilities to consumers, who can apply and avail a host of services like new connections, load / name / category change etc. Leveraging latest Information Technologies, these DSKs provide end-to-end digitized service experience to consumers who can also book prior appointment.
- 2A.14 **Toilet renovation in Govt. Schools:** The Petitioner in association with Sahyog Care for You, undertook a campaign for repairing and renovating toilets in Government Schools. The campaign covered around 30 schools in which 60

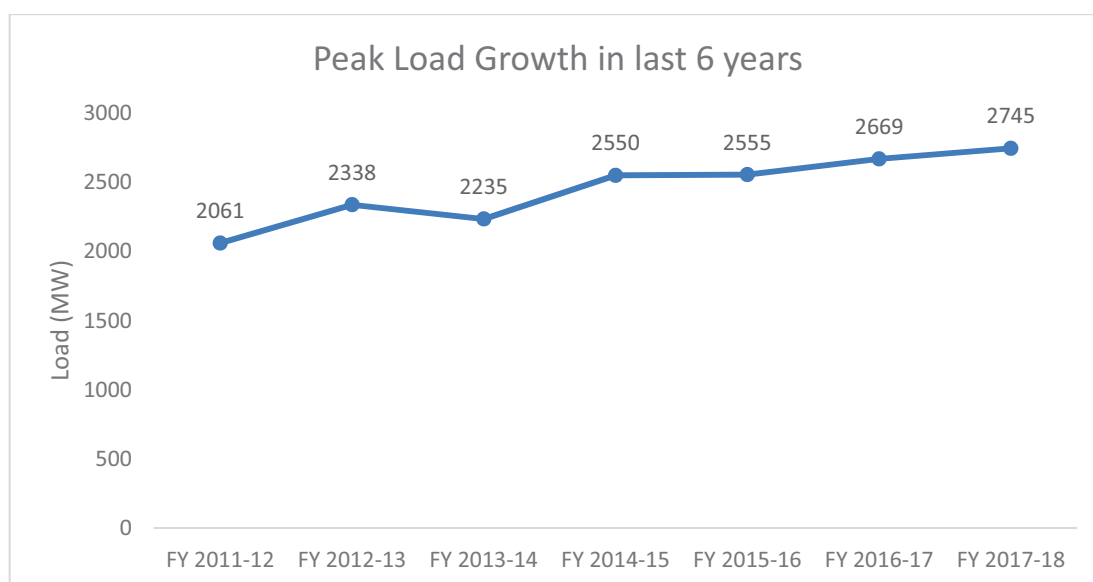
toilets were renovated. In addition to the renovation, experts were called in to teach students about toilet hygiene.

Operational Performance

2A.15 Total number of consumers being served by the Petitioner at the end of FY 2017-18 was 24.65 lakhs as against 23.39 consumers served at the end of FY 2016-17 thus exhibiting annual growth of 5.4%. Evidently, the Petitioner's consumer base is one of the largest consumer base under a private distribution utility in the country.

During FY 17-18, the Petitioner was able to serve peak demand of 2745 MW. The growth in peak demand witnessed in the last 6 years is depicted below:

Figure 2A - 3 : Trajectory of Peak Power demand in Delhi



Other Key Contributions:

2A.16 The Petitioner played its part in ensuring the successful conclusion of the 37th India International Trade Fair (IITF) at Pragati Maidan between November 14th and 27th, 2017. It was the first time that no diesel gensets were used to power the trade fair and probably an event of this magnitude was organized in Delhi solely on grid power for the first time. (EPCA had banned the use of diesel gensets in Delhi- NCR on October 18). The Petitioner's team worked round the clock to gear-up its systems and energized a temporary connection of additional 3 MVA in a record time. The entire exercise managed to save 1.27 lakh litres of diesel. If the gensets were used for powering the event, the use of fossil fuels would have resulted in emissions of 2160 Kgs of Nox and 135 Kgs of PM 2.5 in the atmosphere.

The Petitioner's commitment towards Renewables and Behavioral Management:

- 2A.17 The Petitioner has been aggressively promoting renewable sources of energy. The Petitioner has signed agreements to procure 100 MW of wind power at competitive rates.
- 2A.18 Taking its commitment to promote renewables to the next level, the Petitioner, in partnership with United States Agency for International Development (USAID) -PACE-D and Indo-German Collaboration (GIZ) launched an ambitious 'Solar City Initiative'. This path breaking 'utility anchored rooftop program' aims to maximize the utilization of solar roof top potential in South and West Delhi. Unlike conventional methods, under this program, roof top solar installations are being provided at a single point for the entire apartment complex. In the first phase (Solarise Dwarka), around 150 societies are being targeted in Dwarka. Looking at the response, the program will be expanded to other residential segments across the Petitioner's area of supply.
- 2A.19 The Petitioner has also been aggressively promoting roof top solar net metering and has energized around 800 connections with a sanctioned load of over 27 MW. Of these, over 350 roof top solar net metering connections with a sanctioned load of 14 MW were energized in FY 2017-2018.
- 2A.20 To develop a strategic association to jointly work for achievement of common goals and objectives, the Petitioner and The Energy and Resources Institute (TERI) entered into a strategic partnership to jointly explore collaboration opportunities at utility level for capacity building programs and conducting research on Solar Rooftop PV, Energy Storage Systems, Electric Vehicles, Energy Efficiency, Demand Side Management and Smart Grid technologies for various stakeholders.
- 2A.21 The Petitioner has also been at the forefront of promoting energy conservation. Recognizing these efforts, US Trade and Development Agency (USTDA) signed a grant a million dollar grant (\$ 1,021,896) supporting the Petitioner to develop and deploy India's first Behavioural Energy Efficiency (BEE) program. Under this pioneering initiative, Oracle America Inc. (Redwood Shores, CA) is carrying out a pilot project covering 2 lakh customers in South and West Delhi using Oracle Utilities' Opower customer engagement software.

Awards and recognitions:

- 2A.22 The Petitioner has been conferred with the 'Smart Cities India Award' 2017 for Roof Top Solar Net Metering in the Smart Energy Category. This award was presented during the 3rd Smart City Expo and Conference held at Pragati

Maidan, New Delhi. The event was supported by several Ministries including Ministry of Power, Govt. of India. In addition, the Petitioner has been awarded the following:

- Awarded “Best Secure Company” by **FSAI (Fire and Security Association of India)**
- Received award for **Human resource Training** by Skoch BSE.
- Received **CPIB (Central Power and Irrigation Board)** Award for Adoption of latest technologies in Protection and Automation.
- Received **Star Performance Improvement Award** from **ICC (Indian Chambers of Commerce)**.
- Petitioner was awarded for “Innovation-Best Practices” by IPPAI.



Chapter – 2B



COMPLIANCE WITH DIRECTIVES

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COMPLIANCE WITH DIRECTIVES

The Hon'ble Commission has given various directives in its Tariff Order dated August 31st, 2017. The Petitioner is reporting compliance against each of the said directives as detailed below:

- 1. The Commission directs the Petitioner 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. (Ref: Para 6.1 of the Tariff Order dated 31.08.2017)**

Compliance:

The Petitioner has submitted the month wise audited cash flow statement to the Hon'ble Commission. It is evident from the statements that the Petitioner has paid to the Generating / Transmission companies to the extent of revenue recovered from consumers after meeting its statutory obligations and bank repayments i.e. as per its paying capacity. Hence, the directive of the Hon'ble Commission has been complied with to the extent of the funds available with the Petitioner.

Also, the matter pertaining to payment to Generating Stations and Transmission Utilities are presently sub-judice before Hon'ble Supreme Court in the matter of W.P. 104 & 105 of 2014 and before the Hon'ble Tribunal in the matter of Appeal Nos. 27, 28 & 32 of 2014. Without prejudice to the Petitioner's submissions made in the above matters, it is humbly submitted that pursuant to Hon'ble Supreme Court's order dated 23.03.2014, the Petitioner is making payments to Central and State Gencos and Transmission Utilities against current dues to the extent possible. It would not be out of place to reiterate that these payments are being made against severe odds due to continued non-cost reflective tariff and huge persisting accumulated regulatory assets.

- 2. A total amount of Rs. 299 Cr. has to be paid to the Pension Trust in FY 2017-18 by the Petitioner. The Petitioner shall submit reconciliation of payment which has already been made to Pension Trust during FY 2017-18 and the balance amount to be paid within one month of the issuance of this Tariff Order. Based on the reconciliation statement the Petitioner is directed to pay the balance amount out of (Rs. 299 Cr. – already paid during FY 2017-18) in 7 (seven) equal monthly instalments to pension trust. Any under / over recovery on account of payment to the Pension Trust shall be trued up by the Commission at the time of True Up of ARR of FY 2017-18. (Ref: Para 6.2 of the Tariff Order dated 31.08.2017)**



Compliance:

The Petitioner submits that the aforesaid Directive is being complied with. Reconciliation of payment transferred to Pension Trust is tabulated below:

Invoice Date	Gross Amount	TDS	Net Amt	Date of Payment	Payment	
					Actual Paid	Bank Details
09/05/2017	20.95	0.42	20.53	29/06/2017	4.00	UTIBH17180095343
				26/07/2017	15.00	UTIBR52017072600354716
				23/08/2017	1.53	UTIBH17235059285
06/06/2017	20.95	0.42	20.53	23/08/2017	16.47	UTIBH17235059285
				31/08/2017	4.05	UTIBR52017083100358011
10/07/2017	20.95	0.42	20.53	31/08/2017	5.95	UTIBR52017083100358011
				22/09/2017	14.58	UTIBH17265044402
03/08/2017	20.95	0.42	20.53	22/09/2017	20.53	UTIBH17265044402
14/09/2017	20.95	0.42	20.53	28/09/2017	7.00	UTIBH17271086593
				27/10/2017	13.53	UTIBH17300004611
Total	104.73	2.09	102.63		102.63	

Due Month	Installment	Date of Payment	Amount Paid	Bank Details
Sep-17	27.75	27/10/2017	21.50	UTIBH17300004136
Oct-17	27.75	17/11/2017	14.00	AXISF17321062535
		23/11/2017	2.00	UTIBH17327005476
		23/11/2017	3.00	Fund Transfer
		24/11/2017	15.00	UTIBH17328012669
Nov-17	27.75	21/12/2017	15.00	UTIBH17355010102
		26/12/2017	12.75	UTIBH17360029471
Dec-17	27.75	25/01/2018	10.00	AXISF18025074881
		29/01/2018	10.00	Fund Transfer
		30/01/2018	7.76	UTIBH18030091993
Jan-18	27.75	26/02/2018	20.00	Fund Transfer
		26/02/2018	7.75	UTIBR52018022700359772
Feb-18	27.75	23/03/2018	8.00	Fund Transfer
		26/03/2018	10.00	UTIBR52018032600365190
		27/03/2018	9.76	UTIBR52018032700363681
Mar-18	27.75	24/04/2018	10.00	Fund Transfer
		25/04/2018	10.00	Fund Transfer
		26/04/2018	7.75	Fund Transfer
Total	194.27		194.27	

3. The Petitioner shall directly deposit the amount as per the aforesaid directive (6.2) in the following bank account, of Pension trust (Ref: Para 6.3 of the Tariff Order dated 31.08.2017):

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

Compliance:

The Petitioner would like to submit that adherence to the aforesaid Directive is ongoing and is being complied with.

4. **If the Petitioner purchases any expensive power to meet the demand during any time zone for which cheaper power has been regulated due to non-payment of dues, in such an eventuality, the cost of such expensive power purchases shall be restricted to the variable cost of regulated cheaper power to that extent at the time of true up(Ref: Para 6.4 of the Tariff Order dated 31.08.2017):**

Compliance:

The Petitioner submits that it has endeavoured to comply with the aforementioned directive by ensuring that there is minimal power regulation. As the Hon'ble Commission would be aware, the Petitioner faces continued financial distress due to non-cost reflective tariff and huge accumulated regulatory assets. Because of this shortfall, some of Petitioner's power has been regulated by one station which is the costliest station for the Petitioner. Also, the quantum of power that has been regulated is negligible.

However, it may be noted that due to the aforementioned regulation, no financial burden has been imposed on the Petitioner's consumers as the cost of power procured during the regulated period is less what the Petitioner would had to bear, had there been no regulation of Power from APCPL. Detailed working, establishing this fact has been incorporated in Chapter 3 of this Petition. On the contrary, the Petitioner has incurred lesser power purchase cost due to the aforementioned regulation.

5. **In case the power is regulated by DTL/Interstate Transmission Licensee due to non-payment of their dues, in such case the transmission charges borne by the Petitioner shall also not be allowed(Ref: Para 6.5 of the Tariff Order dated 31.08.2017):**

Compliance:

The Petitioner in this regard would like to submit that no power was regulated by DTL / Interstate Transmission Licensee during FY 2017-18.

6. **The Commission directs the Petitioner to ensure availability of power supply for meeting the demand. The Petitioner shall ensure that the electricity which could not be served due to any reason what-so-ever, shall not exceed 1% of the total energy supplied in units (kWh) in any particular month except in the case of force**



majeure events which are beyond the control of the Petitioner (Ref: Para 6.6 of the Tariff Order dated 31.08.2017):

Compliance:

The Petitioner would like to submit that the aforementioned directive is being complied with. The Petitioner is also submitting month-wise outage reports with the Hon'ble Commission incorporating details of all outages during the month and energy that could not be served due to such outages.

7. It is directed that the Petitioner shall not accept payment from its consumers at its own collection centres/mobile vans in cash towards electricity bill exceeding Rs 4,000/- except from blind consumers and for court settlement cases or any other cases specifically permitted by the Commission. The limit for accepting payment through cash by the consumers at designated scheduled commercial bank branches shall be Rs. 50,000/-. Violation of this directive shall attract penalty to the level of 10% of total Cash collection exceeding these limits(Ref: Para 6.7 of the Tariff Order dated 31.08.2017):

Compliance:

The Petitioner would like to humbly submit that the issue pertaining to the aforementioned compliance is presently sub-judice before Hon'ble APTEL in Appeal 265 of 2013 and Appeal 235 of 2014. Till such time the matter is heard and decided by Hon'ble APTEL, the Petitioner has taken stringent measures to ensure that no cash collection exceeding Rs.4000/- is being accepted and is thus complying with the aforementioned directive.

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(Ref: Para 6.8 of the Tariff Order dated 31.08.2017):

Compliance:

The Petitioner, with regard to the aforementioned directive would like to humbly submit that the Petitioner is required to issue bill amendments / reversals under ordinary course of business. Reversal of bills are also necessary to ensure accounting prudence and accuracy. Several reasons can be attributed for such bill reversals / amendments some of which are as follows:

- Provisional billing: The Petitioner is allowed to raise provisional bills on certain occasions in terms of the DERC Supply Code Regulations. One of the key reasons

for provisional billing is meter readers' inability to obtain meter reading as consumer's premises are either found locked or the consumer refusing to permit meter reading for any reason. There may also be other valid reasons when the Petitioner is constrained to raise a provisional bill such as any abnormality noticed during pre / post audit. The Petitioner has a robust billing process which is designed to eliminate instances of abnormal / inflated billing. Part of this process is an audit before the bill cycle is run and another audit after the bill cycles has been completed. If any abnormality is observed during either pre-audit or post-audit, a provisional bill is issued if sufficient time for a meter re-reading is not available for that month. Once a provisional bill is raised, the Petitioner has to reverse the entire provisional bill once actual meter reading is obtained in subsequent month and a fresh bill is raised after based on actual meter reading after reversing the entire provisional bill raised earlier. It may be noted that this entire process of raising a provisional bill and reversing the same is entirely within the ambit of the DERC Supply Code Regulations.

- Order of a competent court / legal authority: In many instances either consumers of the Petitioner or the Petitioner itself approaches a court of law for adjudication for billing and other disputes. In many such cases, bills raised earlier need to be reversed in accordance with the final verdict of such Court.
- Other reversals: There may be several other reasons why the Petitioner may need to reverse bills and issues amendments. Once such reason is billing for own / self-consumption. The Petitioner has been directed by the Hon'ble Commission to raise bills for own consumption with zero tariff for the entire year. At the end of the financial year, if such self-consumption exceeds the normative limit set forth by this Hon'ble Commission, the same needs to be reversed and re-billed under non-domestic category.
- Changes / revision in tariff components, PPAC, etc.: The Hon'ble Commission has the sole prerogative for determination of tariff including its various constituent components. There have been instances when revisions in certain components of tariff had to be implemented retrospectively. In all such cases, bills raised with the old tariff need to be reversed before new bills can be issued with the revised tariff.

It is further submitted that the subject matter pertaining to the aforementioned directive is presently sub-judice before the Hon'ble APTEL in Appeal 193 of 2018.

In view of the above and pending final outcome in the Appeal 193 of 2018, it is submitted that the Petitioner is endeavoring to comply with the aforementioned directive to the extent possible and within the constraints outlined above.

- 9. The Commission directs the Petitioner to survey the electricity connections of hoardings and display at malls and multiplexes and ensure the billing in the category of advertisements/hoarding category and to submit a compliance report within three months of the date of issuance of this order.**

Compliance:

The Petitioner would like to submit that in accordance with the instant directive, the Petitioner had conducted a survey in all the malls under its license area. In a subsequent meeting held with the Hon'ble Commission, the Petitioner explained its position and the matter has since been resolved.

- 10. The Commission further directs the Petitioner:**

a. To provide the information to the consumer through SMS on various items such as scheduled power outages, unscheduled power outages, Bill Amount, Due date and Maximum Demand during the month, etc. as directed by the Commission from time to time.

The Petitioner would like to submit that the aforementioned directive is being complied with. The Petitioner has submitted its report for compliance of this directive vide letter no. RA/2018-19/01/A/370 dated 7th September 2018.

b. To maintain toll free number for registration of electricity grievances and to submit the quarterly report.

The Petitioner would like to submit that a toll-free number has been instituted for registering complaints / requests from consumers. Hence, the instant directive is being complied with.

c. To conduct a safety audit and submit a compliance report within three months.

In line with the aforementioned directive, the Petitioner conducted safety audit and submitted its report with the Hon'ble Commission vide letter dated 24.09.2018. The Petitioner reiterates the contents of the said letter, which are not being repeated herein for the sake of brevity.

d. To carry out preventive maintenance as per schedule.

The Petitioner is carrying out the preventive maintenance as has been directed by the Hon'ble Commission. The efforts of the Petitioner in this regard are reflected in the low outages and the superior quality of power supply being supplied to the Petitioner's consumers.

e. To submit the information in respect of Form 2.1 (a) as per revised format issued by the Commission to the utilities on monthly basis latest by 21st day of the following month.

The Petitioner would like to submit that the nature of the aforementioned directive is ongoing in nature and is being complied with.

Form 2.1a has been submitted with the Hon'ble Commission on a monthly basis vide the following letters:

S. No.	Month	Letter Ref. No.	Letter Dated
1	April-2017	RA/2017-18/01/A/128	21/06/2017
2	May-2017	RA/2017-18/01/A/129	21/06/2017
3	June-2017	RA/2017-18/01/A/224	01/08/2017
4	July-2017	RA/2017-18/01/A/275	25/08/2017
5	August-2017	RA/2017-18/01/A/335	22/09/2017
6	September-2017	RA/2017-18/01/A/418	03/11/2017
7	October-2017	RA/2017-18/01/A/459	23/11/2017
8	November-2017	RA/2017-18/01/A/501	14/12/2017
9	December-2017	RA/2017-18/01/A/598	22/01/2018
10	January-2018	RA/2017-18/01/A/680	20/02/2018
11	February-2018	RA/2017-18/01/A/755	20/03/2018
12	March & FY 2017-18	RA/2018-19/01/A/221	21/06/2018

The Petitioner reiterates the contents of the aforesaid letters, which are not being repeated herein for the sake of brevity.

f. To submit the annual energy audit report in respect of their network at HT level and above.

In accordance with the aforementioned directive, the Petitioner has submitted energy audit report of HT network and above and has submitted the report with the Hon'ble Commission vide letter dated 29.09.2018. The Petitioner reiterates the contents of the said letter, which are not being repeated herein for the sake of brevity.

g. To submit the Auditor's certificate in respect of Form 2.1(a) on quarterly basis within the next quarter.

The Petitioner would like to submit that the nature of the aforementioned directive is ongoing in nature and is being complied with.

Auditor's certificate in respect of Form 2.1a on quarterly basis has been submitted with the Hon'ble Commission on a monthly basis vide the following letters:

S. No.	Month	Letter Reference Number	Date of letter
1	Quarter 1 (April'17 to June'17)	RA/2017-18/01/A/361	04/10/2017
2	Quarter 2 (July'17 to Sept.'2017)	RA/2017-18/01/A/535	27/12/2017
3	Quarter 3 (Oct.'17 to Dec.'17)	RA/2017-18/01/A/736	12/03/2018
4	Quarter 4 (Jan.'18 to March'18)	RA/2018-19/01/A/220	21/06/2018

The Petitioner reiterates the contents of the aforesaid letters, which are not being repeated herein for the sake of brevity.

h. To incorporate the following information in the annual audited financial statements:-

- i. Category-wise Revenue billed and collected,
- ii. Category-wise breakup of 8% and 3.70% Surcharge billed and collected,
- iii. Category-wise PPAC billed and collected,
- iv. Category-wise Electricity Duty billed and collected,
- v. Category-wise subsidy passed on to the consumers during the financial year, if any,
- vi. Category-wise details of the surcharge billed on account of ToD,
- vii. Category-wise details of the rebate given on account of ToD,
- viii. Street light incentive and material charges for street light maintenance,
- ix. Direct expenses of other business,
- x. Revenue billed on account of Own Consumption,
- xi. Revenue collected on account of enforcement/theft cases,

The Petitioner would like to submit that the nature of the aforementioned directive is ongoing in nature and is being complied with. The aforementioned information has been included in the audited accounts of FY 2017-18.

i. To submit annual auditor certificate in respect of power purchase details of the previous year by 30th July of the next financial year.

The Petitioner has submitted auditor's certificate in respect of power purchase for the FY 2017-18 vide letter no. RA/2018-19/01/A/180 dated 6th June 2018, the contents of which are reiterated but not repeated herein for the sake of brevity.

j. To submit the reconciliation statement in respect of power purchase cost/Transmission cost on a quarterly basis with respective Generation/Transmission companies;

The Petitioner would like to submit that it has complied with the aforementioned directive and has submitted reconciliation statement in respect of power purchase cost and transmission cost with the Hon'ble Commission vide letter no. RA/2018-19/01/A/201 dated 14.06.2018. The Petitioner reiterates the contents of the aforesaid letter, which are not being repeated herein for the sake of brevity.

k. 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 at Rs.5 per 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 per kWh), the Commission reserves the right to restrict allowance of impact of such purchase on total short term power purchase not exceeding 10 Paise /kWh during the financial year.

Compliance to the aforementioned compliance is ongoing in nature and the Petitioner would like to place on record that the same is being complied with. The Petitioner constantly endeavours to procure short term power with the defined limit of Rs.5 per kwh to the extent possible. However, whenever under exceptional circumstances, the Petitioner is constrained to procure power more than the prescribed limit of Rs.5 per kwh, the same is intimated to the Hon'ble Commission in writing.

l. To raise the bills for their own consumption of all their installations including offices at zero tariff to the extent of the normative self-consumption approved by the Commission and exceeding the normative limit of self-consumption at Non-Domestic tariff for actual consumption recorded every month.

The Petitioner would like to submit that the aforementioned directive is ongoing in nature and is being complied with.

m. To submit the quarterly progress reports for the capital expenditure schemes being implemented within 15 days of the end of each quarter.

The Petitioner would like to submit that the aforementioned directive is ongoing in nature and is being complied with. In line with the aforementioned directive, the Petitioner has submitted progress reports with respect to capital expenditure schemes with the Hon'ble Commission vide the following letters, the contents of which are reiterated but not repeated herein for the sake of brevity:

- i. FY 2017-18 Quarter I: Letter no. RA/2017-18/01/F/223 dated 01.08.2017.
- ii. FY 2017-18 Quarter II: Letter no. RA/2017-18/01/F/424 dated 06.11.2017.
- iii. FY 2017-18 Quarter III: Letter no. RA/2017-18/01/F/633 dated 02.02.2018.
- iv. FY 2017-18 Quarter IV: Letter no. RA/2018-19/01/F/115 dated 17.05.2018.

n. To submit the actual details of capitalization for each quarter for the year within one month of the end of the quarter for consideration of the Commission. All information regarding capitalization of assets shall be furnished in the formats prescribed by the Commission, along with the requisite statutory clearances/certificates of the appropriate authority/Electrical Inspector, etc. as applicable.

The Petitioner would like to submit that the aforementioned directive is ongoing in nature and is being complied with. In line with the aforementioned directive, the Petitioner has quarterly capitalization reports with the Hon'ble Commission vide the following letters, the contents of which are reiterated but not repeated herein for the sake of brevity:

- i. FY 2017-18 Quarter I: Letter no. RA/2017-18/01/A/279 dated 25.08.2017.
- ii. FY 2017-18 Quarter II: Letter no. RA/2017-18/01/A/468 dated 04.12.2017.
- iii. FY 2017-18 Quarter III: Letter no. RA/2017-18/01/A/670 dated 16.02.2018.
- FY 2017-18 Quarter IV: Letter no. RA/2018-19/01/A/143 dated 25.05.2018.

Chapter – 3A



TRUE-UP FOR FY 2017-18

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TRUE UP FOR FY 2017-18

Legislative Provisions and judicial directions with respect to Truing-up:

3A.1 The Hon'ble Commission had approved the Aggregate Revenue Requirement (ARR) of the Petitioner for FY 2017-18 vide its Tariff Order dated 31.08.2017. The Petitioner has already submitted copy of the Audited Accounts for FY 2017-18 to the Hon'ble Commission vide letter No. RA/2018-19/01/A/744 dated 26.11.2018. A copy is also enclosed as **Annexure 1**. The Petitioner, through this Petition, seeks truing-up of expenditure and revenue upto FY 2017-18. The Petitioner respectfully submits that before adverting to the issues of Truing up on merits, the Petitioner seeks to highlight the statutory provisions and judicial decisions with respect to the concept of Truing up.

3A.2 The Hon'ble Commission notified the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 (hereinafter referred to as "**Tariff Regulations 2017**") vide gazette notification dated January 31, 2017 which are applicable from February 1, 2017 onwards. Further, operational norms for Distribution utilities have also been approved by the Hon'ble Commission in the DERC Business Plan Regulations, 2017 (hereinafter referred to as "**Business plan Regulations, 2017**") notified vide gazette notification dated 31.08.2017.

3A.3 Regulation 13 of Tariff Regulations, 2017 states as under:

"13. The Utility shall file a Petition for True up of ARR for previous years and determination of tariff in such form and in such manner as specified in these Regulations along with relevant formats of Generating Entity, Transmission Licensee and Distribution Licensee, as the case may be, duly supported with detailed computations."

3A.4 In accordance with the aforesaid, truing-up of FY 2017-18 is required to be carried out. Further, the methodology adopted by the Petitioner for the purposes of Truing-up in the present Petition is based on the following statutory provisions contained in the Tariff Regulations, 2017:

a) AT&C Loss:

Regulation-8 and 9 of DERC Tariff Regulations, 2017 stipulates setting of AT&C Loss for each year as under:

"(8) Distribution Loss & Collection Efficiency trajectory consisting of:
(a) Total and voltage-wise distribution losses (%) along with the basis thereof,
(b) Total and category-wise revenue collection,

(c) AT&C loss level based upon past trends, sales growth and any other factors (9) The AT&C Loss shall be the relationship between Distribution Loss and Collection Efficiency computed as per the following formula:

$$\text{AT\&C Loss} = [1 - (1 - \text{Distribution Loss}) * \text{Collection Efficiency}] * 100$$

where, AT&C Loss, Distribution Loss and Collection Efficiency are in (%) percentages”

Further, the Hon’ble Commission specified the Distribution Loss target for FY 2017-18 in Regulation 25(1) of Business plan Regulations, 2017 as under –

“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	2017-18	2018-19	2019-20
1	BSES Rajdhani Power Limited	10.93%	10.19%	9.50%
2	BSES Yamuna Power Limited	13.00%	11.69%	10.50%
3	Tata Power Delhi Distribution Limited	8.38%	8.19%	8.00%
4	New Delhi Municipal Council	10.30%	9.63%	9.00%

(2) 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) Any financial impact due to Underachievement on account of Distribution Loss target by the distribution licensee for the relevant year shall be to the account of distribution licensee as specified in Regulation 161 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.”

b) Power Purchase Cost:

Regulation-152 of Tariff Regulations, 2017 states as under:

“152. True up of ARR for Distribution (Wheeling & Retail Supply) Licensee shall be conducted on the following principles:

(a) Variation in revenue and sales of the distribution licensee based on projected revenue and sales vis-a-vis actual revenue and sales;

(b) Variation in long term power purchase quantum and cost of the distribution licensee based on merit order dispatch principle of

projected long term power purchase quantum and cost vis-a-vis actual long term power purchase quantum and cost.”

Accordingly, the power purchase cost has been considered on actuals.

c) Operation and Maintenance Expenses:

Regulation 23 of the Business Plan Regulations, 2017 states as under –

“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: O&M Expenses for BRPL for the Control Period

S. No.	Particulars	Unit	FY 2017-18	FY 2018-19	FY 2019-20
1	66 kV Line	Rs. Lakh/ ckt. Km	3.454	3.648	3.853
2	33 kV Line	Rs. Lakh/ ckt. Km	3.454	3.648	3.853
3	11 kV Line	Rs. Lakh/ ckt. Km	1.001	1.058	1.117
4	LT Line System	Rs. Lakh/ ckt. Km	5.170	5.460	5.766
5	66/11 kV Grid S/s	Rs. Lakh/ MVA	0.933	0.986	1.041
6	33/11 kV Grid S/s	Rs. Lakh/ MVA	0.933	0.986	1.041
7	11/0.415 kV DT	Rs. Lakh/ MVA	2.209	2.333	2.464

Accordingly, the Petitioner has considered normative O&M Expenses, details of which have been elaborated later in this chapter.

d) Depreciation

Regulation 29 of the DERC Tariff Regulations 2017, states as under:

“Any grant or contribution or facility or financial support received by the Utility from the Central and/or State Government, any statutory body, authority, consumer or any other person, whether in cash or kind, for execution of the project or scheme, which does not involve any servicing of debt or equity or otherwise carry any liability of payment or repayment or charges shall be excluded from the Capital Cost for the purpose of computation of interest on loan, return on equity and depreciation.”

Accordingly, the Petitioner has computed depreciation for FY 2017-18 on average GFA net of Consumer Contribution.

e) Return on Capital Employed (RoCE)

As per Regulation 65 to 69 of Tariff Regulations 2017, RoCE shall be computed by multiplying WACC with RRB. The Petitioner has computed

RRB in accordance with the methodology specified in Regulation-69 of Tariff Regulations, 2017.

As regards computation of WACC, Regulation-70 specifies as under:

"5.11 The WACC for each year of the Control Period shall be computed at the start of the Control Period in the following manner:

$$WACC = \left[\frac{D/E}{1 + D/E} \right] * r_d + \left[\frac{1}{1 + D/E} \right] * r_e$$

Where,

....

rd is the cost of debt and shall be determined at the beginning of the Control Period after considering Licensee's proposals, present cost of debt already contracted by the Licensee, credit rating, benchmarking and other relevant factors (risk free returns, risk premium, prime lending rate etc.)

re is the Return on Equity and shall be considered at 16% post-tax:

..."

As evident from the aforesaid Regulations, the rate of return on equity is specified as 16%. Further, In terms of Regulation 77 of the Tariff Regulations 2017, *"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"*

Accordingly, the Petitioner has considered the cost of debt at the rate of 14% and ROE at the rate of 16% for computation of WACC during FY 2017-18.

f) Income Tax

Regulation 72 of DERC Tariff Regulations, 2017 specifies as under:

"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-a-vis total income of the Utility in the relevant financial year in line with the provisions of the relevant Finance Acts.

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 assessee.”

Accordingly, the Petitioner has considered Income Tax for FY 2017-18 after grossing-up ROE by MAT rate observed during FY 2017-18.

g) Non-Tariff Income

Regulation-94 of Tariff Regulations, 2017 states as under:

“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 lists 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 contractors and others, etc.*

95. The Non-Tariff Income shall be reduced from ARR.”

The Petitioner has accordingly identified items to be considered for Non-Tariff Income for FY 2017-18.

3A.5 In addition, whilst filing the present Petition for Truing-up, the Petitioner is also guided by the binding principles of law laid by the Hon’ble ATE in its order dated November 11, 2011 in O.P. No. 1 of 2011 wherein the Hon’ble ATE issued the following mandatory directions:

“65. In view of the analysis and discussion made above, we deem it fit to issue the following directions to the State Commissions:

- (i) Every State Commission has to ensure that Annual Performance Review, true-up of past expenses and Annual Revenue Requirement and tariff determination is conducted year to year basis as per the time schedule specified in the Regulations.*
- (ii) It should be the endeavour of every State Commission to ensure that the tariff for the financial year is decided before 1st April of the tariff year. For*

example, the ARR & Tariff for the financial year 2011-12 should be decided before 1st April, 2011. The State Commission could consider making the tariff applicable only till the end of the financial year so that the licensees remain vigilant to follow the schedule for filing of the application for determination of ARR/ Tariff.

.....”

- 3A.6 Keeping in view the provisions of the DERC Tariff Regulations 2017 and the Judgments of the Hon’ble ATE, the Petitioner has computed ARR and Revenue for FY 2017-18 which is discussed in detail in subsequent sections.



Energy Sales

3A.7 Regulation-152 of the Tariff Regulations, 2017 mentions that true up of ARR for Distribution (Wheeling & Retail Supply) shall be conducted on variation in revenue and sales of the distribution licensee based on projected revenue and sales vis-à-vis actual revenue and sales. Accordingly, the Petitioner requests the Hon'ble Commission to carry out the true-up of the variation in the revenue and expenditure on account thereof. The quantum of energy sales is not within the control of the licensee and therefore any variation thereto ought to be allowed by the Hon'ble Commission.

3A.8 The actual energy sales carried out FY 2017-18 was 11688.5 MU (including assessed sales on account of enforcement).

3A.9 The monthly bifurcation of energy sales during FY 2017-18 is tabulated below:

Table 3A - 1: Monthly sales and revenue billed during FY 2017-18

S. No.	Financial Year 2017-18	Energy Billed (MU)	Net Revenue Billed (Rs. Crore)	Avg. Billing Rate (Rs. / Unit)
1	April	804.2	575.0	7.15
2	May	1,110.7	793.1	7.14
3	June	1,229.8	892.1	7.25
4	July	1,226.3	878.3	7.16
5	August	1,252.0	900.7	7.19
6	September	1,204.8	871.6	7.23
7	October	1,072.4	787.7	7.35
8	November	824.3	613.2	7.44
9	December	681.0	511.9	7.52
10	January	731.4	541.9	7.41
11	February	728.7	538.5	7.39
12	March	764.6	551.2	7.21
13	Total	11,630.2	8,455.3	7.27
14	Enforcement	58.3	46.4	7.96
15	Grand Total	11,688.5	8,501.7	7.27

3A.10 The category-wise actual sales and revenue observed during FY 2017-18 is tabulated below:

Table 3A - 2: Category-wise Energy Sales and Revenue Billed

S. No.	Consumer Category	Energy Billed	Net Revenue Billed	Avg. Billing Rate
		(MU)	(Rs. Crore)	(Rs./Unit)
1	Domestic	6,924.1	3,978.1	5.75
2	Non Domestic	3,140.7	3,187.2	10.15
3	Industrial	499.7	464.3	9.29
4	Agriculture	18.9	5.9	3.14
5	Mushroom Cultivation	0.2	0.1	5.78
6	Public Lighting	153.5	113.9	7.42
7	Delhi Jal Board (DJB)	226.2	197.5	8.73
8	Delhi International Airport Limited (DIAL)	198.7	162.4	8.18
9	Railway Traction	21.8	17.5	8.03
10	Delhi Metro Rail Corporation (DMRC)	330.8	211.5	6.39
11	Temporary Supply	92.4	110.6	11.96
12	Advertisement and Hoardings	2.1	4.0	18.87
13	Charging Stations for E-Vehicle	3.2	1.7	5.39
14	Others	76.1	46.9	6.16
	Total	11,688.5	8,501.7	7.27

3A.11 *Self-Consumption*: This includes energy sales towards self-consumption of the Petitioner in its establishment i.e. its offices, call centres, sub-stations, etc. There is a mandatory direction by the Hon'ble ATE in its judgment dated March 2, 2015 to *inter alia* arrive at the quantum of self-consumption based on the actual figures. The Hon'ble ATE 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 centers, 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.”

3A.12 Regulation 23 (2) of the Business Plan Regulations, 2017 provides that:

“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.”

3A.13 As per Regulation 23(2) of the Business plan Regulations 2017, own consumption of the Petitioner for FY 2017-18 is within the normative limit as specified. The same is shown in Table 3.3 below. Further, the Hon’ble ATE has directed the Hon’ble Commission to allow the actual self-consumption and based on metered data. Accordingly, the units billed in the Petitioner’s own office buildings during FY 2017-18 is 14.6 MU.

Table 3A - 3: Self-consumption normative V/s actual during FY 2017-18

S. No.	Particulars	UOM	FY 2017-18
1	Units Billed Excluding Self Consumption	MU	11673.9
2	Self consumption on Normative basis 0.25% of Units Billed	MU	29.2
3	Actual Self consumption	MU	14.6

T&D Loss, AT&C Loss and Collection Efficiency for FY 2017-18

- 3A.14 For FY 2017-18, Hon'ble Commission vide its Regulation 25(1) and 26(1) of Business Plan Regulations, 2017, had approved targets for T&D Loss and Collection efficiency as 10.93% and 99.50% respectively.
- 3A.15 The Petitioner has achieved the actual T&D Loss and Collection efficiency level of 9.94% and 100.58% respectively during FY 2017-18. A comparison of Target and actual performance of the Petitioner during FY 2017-18 is tabulated below:

Table 3A - 4: T&D Loss, Collection efficiency and AT&C Loss for FY 2017-18

S.No	Particulars	Target approved	Actual performance
1	T&D Loss %	10.93%	9.94%
2	Collection Efficiency %	99.50%	100.58%
3	AT&C Loss %*	11.38%	9.42%

**derived based on approved T&D and Collection Efficiency Targets*

- 3A.16 The Petitioner has billed Gross amount of Rs. 9735.7 Crore during FY 2017-18 which includes amount on account of Electricity Tax, 8% RA Surcharge, and 3.70% Pension Surcharge. The Amount Billed considered for the purpose of computation of AT&C losses during FY 2017-18 is tabulated below:

Table 3A - 5: Revenue Billed during FY 2017-18

(in Rs. Crores)

S. No.	Particulars	Amount	Remarks
1	Revenue Billed	9,735.7	Note 57 of Audited Accounts
3	Less: RA Surcharge	686.5	
4	Less: PT Surcharge	142.8	
5	Less: Electricity Tax	404.6	
6	Revenue Billed (For AT&C purpose)	8,501.7	

- 3A.17 The Petitioner has realised the Gross revenue of Rs. 9800.9 Crore during FY 2017-18 which includes collection on account of Electricity Tax, LPSC, 8% RA Surcharge and 3.70% Pension Surcharge. The Amount Collected considered for the purpose of computation of AT&C losses during FY 2017-18 is tabulated below:

Table 3A - 6: Revenue Collected during FY 2017-18

(in Rs. Crores)

S. No.	Particulars	Amount	Remarks
1	Revenue Realised	9,800.9	Note 57 of Audited Accounts
2	Less: LPSC	24.8	
3	Less: RA Surcharge	687.0	
4	Less: PT Surcharge	133.3	
5	Less: Electricity Tax	405.0	
6	Revenue Realised (For AT&C purpose)	8,550.8	

3A.18 Accordingly, the computation of T&D Loss, Collection Efficiency and AT&C Loss for FY 2017-18 is tabulated below:

Table 3A - 7: T&D Loss, Collection Efficiency and AT&C Loss during FY 2017-18

S. No.	Particulars	UOM	Tariff Order dated 31.08.2017	Actuals
1	Energy Input at BRPL periphery	MU	12,856.2	12,979.1
2	Energy Billed	MU	11,451.0	11,688.5
2	Revenue Billed	Rs Crore	8,416.4	8,501.7
3	Average Billing Rate	Rs / Unit	7.35	7.27
4	Revenue Realised	Rs Crore	8,374.3	8,550.8
5	Collection Efficiency	%	99.50%	100.58%
6	Units Realised	MU	11,393.7	11,756.0
7	T&D Loss	%	10.93%	9.94%
8	AT&C Loss	%	11.38%	9.42%

3A.19 Based on the T&D Loss Target approved by Hon'ble Commission in Regulation of 25(1) of Business Plan Regulations 2017 for FY 2017-18, the Petitioner has computed the impact of overachievement in T&D loss in line with the provisions contained in Regulation 159 of Tariff Regulations, 2017.

3A.20 Regulation 159 of Tariff Regulations 2017 provides that 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).

Further, in Regulation 25(4) of Business Plan Regulations 2017, Hon'ble Commission has specified the allocation of financial impact of overachievement of distribution loss target between the petitioner and Consumers.

On the basis of Regulation 159 of Tariff Regulations 2017 and 25(4) of Business Plan Regulations 2017, the impact of overachievement of T&D Loss target is tabulated below:-

Table 3A - 8: Impact of overachievement in T&D loss target for FY 2017-18

S. No.	Particulars	UOM	FY 2017-18
1	Energy Purchased at BRPL's periphery	MU	12,979.1
2	T&D Loss target for FY 2017-18	%	10.93%
3	Actual T&D Loss for FY 2017-18	%	9.94%
4	Average Power Purchase cost for FY 2017-18	Rs/KWh	5.27
5	Financial Impact on account of overachievement of T&D Loss Target	Rs. Crore	67.6
6	Impact of Financial benefit to be retained by Petitioner (2/3)	Rs. Crore	45.1

3A.21 Based on the Collection efficiency Target approved by the Hon'ble Commission in Regulation of 26(1) of Business Plan Regulations 2017 for FY 2017-18, the Petitioner has computed the impact of overachievement on account of Collection Efficiency in line with the provisions contained in Regulation 163 of Tariff Regulations, 2017.

3A.22 Regulation 163 of DERC Tariff Regulations 2017 provides the methodology for computation of financial impact on account of over or under achievement of collection efficiency targets (as the case may be) as under:-

$$\text{Incentive or penalty} = (C1 - C2) * Ab$$

Where,

C1 = Actual Collection Efficiency in %

C2 = Target Collection Efficiency in %

Ab = Actual Amount Billed excluding Electricity Duty, LPSC and any other surcharges in Rs Cr.

3A.23 Further, Regulation 26(3) of the Business Plan Regulations 2017 provides that the financial impact on account of over achievement in terms of Regulation 164 of

the Tariff Regulations, 2017 for the distribution licensee, from 99.50% to 100% shall be shared equally between the consumer and licensee.

- 3A.24 In line with the Regulation 163 of Tariff Regulations, 2017 and Regulation 26(3) of the Business Plan Regulations, 2017, the computation of Financial Impact on account of overachievement of collection efficiency targets is tabulated below:

Table 3A - 9: Impact of overachievement in Collection efficiency target for FY 2017-18.

S. No	Particulars	UoM	FY 2017-18
1	Revenue Billed	Rs. Crore	8,501.7
2	Collection Efficiency Achieved	%	100.58%
3	Collection Efficiency Approved in Tariff Order	%	99.50%
4	Revenue Realised Achieved	Rs. Crore	8,550.7
5	Revenue Realised as per approved Collection Efficiency	Rs. Crore	8,459.2
6	Over-achievement	Rs. Crore	91.5
7	Amount to be retained by petitioner and consumer shared 50:50 for achievement of collection efficiency Target from 99.50% to 100%	Rs. Crore	21.4
8	Entire 100% to be retained for achievement over 100%	Rs. Crore	49.3
9	Total Incentive to be retained by BRPL	Rs. Crore	70.6

3A.25 Shortfall in collection against pension trust surcharge:

The Hon'ble Commission introduced a separate surcharge of 3.7% in its Tariff Order dated 31.08.2017 for recovery of amount payable to Pension Trust and directed the Petitioner as follows:

"6.2. A total amount of Rs. 299 Cr. has to be paid to the Pension Trust in FY 2017-18 by the Petitioner. The Petitioner shall submit reconciliation of payment which has already been made to Pension Trust during FY 2017-18 and the balance amount to be paid within one month of the issuance of this Tariff Order. Based on the reconciliation statement the Petitioner is directed to pay the balance amount out of (Rs. 299 Cr. – already paid during FY 2017-18) in 7 (seven) equal monthly instalments to pension trust. Any under / over recovery on account of payment to the Pension Trust shall be trued up by the Commission at the time of True Up of ARR of FY 2017-18."

- 3A.26 As per the Tariff Order, a total amount of Rs. 299 Cr. was payable to pension trust during FY 2017-18 by the Petitioner. Till the issue of the Tariff Order dated 31.08.2017, the Petitioner had already accounted for payment of Rs. 172 Cr. to

Pension Trust. Therefore, the balance amount of Rs.194.28 Cr. was supposed to be collected against the Pension Trust Surcharge and subsequently transferred to Pension Trust. However, during FY 2017-18, the Petitioner could only recover amount of Rs.133.35 Cr. through the Pension Trust surcharge, leaving a shortfall of Rs. 60.93 Cr. to be recovered through future tariff. A reconciliation in this respect is tabulated hereunder:

Table 3A - 10: Shortfall through recovery of Pension Trust Surcharge FY 2017-18.

S.No.	Particulars	UoM	Amount
1	Collection in respect of Pension Trust Surcharge	Rs. Crore	133.35
2	Total Payable (Upto Mar 2018) as per Tariff Order	Rs. Crore	194.28
3	Amount Paid to Pension Trust	Rs. Crore	194.28
4	Recoverable from Future Tariff/True up / Shortfall	Rs. Crore	60.93
5	Rate of carrying cost	%	14%
6	Carrying cost accrued during FY 2017-18 (for half year)	Rs. Crore	4.27
6	Carrying cost accrued during FY 2018-19	Rs. Crore	8.53
7	Total shortfall recoverable through surcharge	Rs. Crore	73.73

- 3A.27 The Hon'ble Commission had specified in the aforementioned Tariff Order that any shortfall with regards to the collection through the pension trust surcharge shall be allowed to be trued-up during the true-up of expenses for FY 2017-18.
- 3A.28 In view of the above, the Petitioner requests the Hon'ble Commission to kindly allow recovery of the aforesaid shortfall along with applicable carrying cost through the Pension Trust surcharge on FIFO basis i.e. first the Petitioner ought to be allowed to recover total shortfall of Rs. 73.73 Crs. and only then subsequent recoveries through the pension trust surcharge to be allowed to be deposited with Pension Trust. Hon'ble Commission may adjust the present surcharge of 3.8% (as provided for in Tariff Order dated 28.03.2018) appropriately so as to enable recovery of the shortfall indicated above.

Power Purchase Quantum

- 3A.29 The Petitioner purchases almost 90% of the power 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 Hon'ble Commission as per its orders dated 31.03.2007.
- 3A.30 The Petitioner has already submitted the monthly invoices raised by Generating companies with respect to various generating stations for the period April 2017

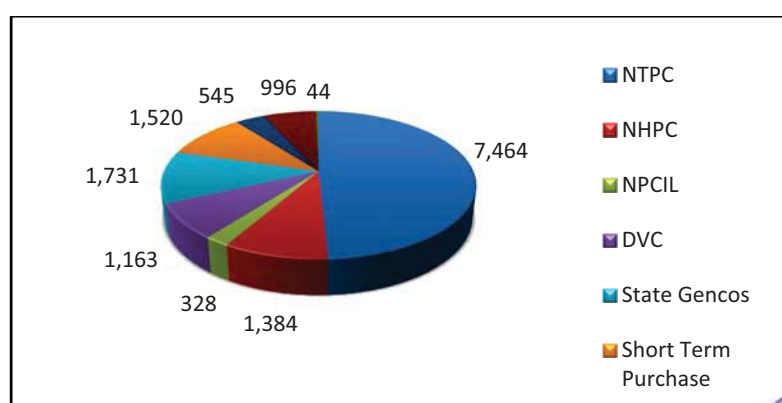
to March 2018 vide various letters listed as under, the contents of which are reiterated but not repeated herein for the sake of brevity:

Table 3A - 11: Correspondences with Hon'ble Commission

S.No.	Months	Letter No.	Dated
1	Apr'17	RA/2017-18/01/A/247	11.08.2017
2	May'17	RA/2017-18/01/A/399	25.10.2017
3	Jun'17	RA/2017-18/01/A/539	28.12.2017
4	Jul'17	RA/2017-18/01/A/619	30.01.2018
5	Aug'17	RA/2017-18/01/A/623	31.01.2018
6	Sep'17	RA/2017-18/01/A/636	06.02.2018
7	Oct'17	RA/2017-18/01/A/649	09.02.2018
8	Nov'17	RA/2018-19/01/A/022	13.04.2018
9	Dec'17	RA/2018-19/01/A/028	16.04.2018
10	Jan'18	RA/2018-19/01/A/083	08.05.2018
11	Feb'18	RA/2018-19/01/A/084	08.05.2018
12	Mar'18	RA/2018-19/01/A/117	18.05.2018

- 3A.31 The Petitioner vide letter dated June 25, 2018 submitted the bills for UI and Intra-State Transactions for FY 2017-18.
- 3A.32 The Power Purchase Statement for the period from April 2017 to March 2018 duly certified by Statutory Auditor has been submitted to the Hon'ble Commission vide letter no. RA/2018-19/01/A/180 dated 06.06.2018. All the PPAs have been submitted to the Hon'ble Commission vide letters dated June 2, 2016, June 6, 2016 and August 30, 2016.
- 3A.33 The quantum of power purchased from various generators are accounted/ metered by Government bodies like NRLDC/ SLDC. The bar graph given below indicates the percentage of power purchased through various sources during FY 2017-18 as under:

Figure 1 : Source-wise bifurcation of quantum percentage increase for FY 2017-18



3A.34 The Power Purchase Quantum during FY 2017-18 is tabulated below:

Table 3A - 12: Power Purchase Quantum for FY 2017-18

(in Rs. Crores)

S. No	Particulars	Tariff Order	Submission	Remarks/ Ref
A	Power Purchase:			
i	Gross Power Purchase Quantum	13731	13975	
ii	Power sold to other sources	482	337	
iii	Net Power Purchase	13249	13638	i-ii
B	Transmission Loss:			
i	Inter-State Transmission Loss	265	659	
ii	Intra-State Transmission Loss	127		
iii	Total transmission loss	393	659	i+ii
C	Net power available after Transmission Loss	12856	12979	A-B

3A.35 The Petitioner has arrived on the aforesaid units based on the following:

- The Petitioner has considered the energy input as given by Delhi SLDC vide mail dated June 14, 2018. The details of Discom-wise energy input for FY 2017-18 enclosed as **Annexure-2**.
- Further, the Petitioner has reduced the units on account of Inter-Discom Transfer, i.e., 14.37 MU. For this purpose, the Petitioner has computed the Transmission and Transformation losses on energy wheeled through its network on Inter Discom Transfer (considering import as well as export at various exchange point) by Other Utilities during FY 2017-18. The Petitioner craves leave of the Hon'ble Commission to explain the workings if and when required by the Hon'ble Commission.
- Further the Petitioner has added units of 3.50 MU on account of net-metering.

- d) The Petitioner has also reduced the units on account of Open Access, i.e., 184 MU.
- e) Accordingly, the net energy input considered for FY 2017-18 is tabulated below:

Table 3A - 13: Energy Input at DISCOM periphery

Particulars	Energy (MU)
Energy Input as per SLDC	13173.84
Less: IDT	-14.37
Add: Net Metering	3.50
Net Energy Input	13162.96
Less: Open Access	-183.88
Net Energy Input after OA	12979.08

3A.36 The source-wise details of power sourced through short term sources is tabulated below:

Table 3A - 14: Details of Short Term Power Purchase

S. No	Particulars	FY 2016-17		FY 2017-18	
		Energy	(%)	Energy	(%)
		(MU)		(MU)	
A	Bilateral	0	0%	157	10.30%
B	Banking	419	28.51%	1022	67.22%
C	Exchange	553	37.62%	206	13.57%
D	Intra-State	365	24.80%	31	2.01%
E	UI	133	9.07%	105	6.91%
F	Total	1470		1520	

In FY 2017-18, the Petitioner has reduced dependency on Exchange due to increase in exchange prices. There is continuous force scheduling by SLDC/NRLDC till date.

As regards short term power purchase, the Hon'ble Commission in Tariff Order dated July 23, 2014 advised the Petitioner that *"in case of excess demand the Petitioner may first utilise the quantum of Banked Energy and in case of further shortage they may purchase from Bilateral/ Exchange etc. so as to keep the short term power purchase cost at minimum level."*

Accordingly, the Petitioner purchased more than 80% of short term energy through Banking and Exchange. The banking transactions involve

any cost. Similarly, the prices at exchange are market discovered prices and are determined on a transparent mechanism.

In lieu of shortages during summer/Peak season of 2017, the Petitioner has arranged a short term bilateral power through open tendering process as per the competitive bidding guidelines issued by the Ministry of Power (MOP) through DEEP e-bidding portal.

3A.37 The source-wise details of sale of surplus power is tabulated below:

Table 3A - 15: Details of Short Term Power Sales

S. No	Particulars	FY 2016-17		FY 2017-18	
		Energy	(%)	Energy	(%)
		(MU)		(MU)	
A	Bilateral	85	15.89%	18	1.17%
B	Banking	248	45.97%	1200	78.08%
C	Exchange	76	14.06%	302	19.65%
D	Intra-State	44	8.14%	3	0.18%
E	UI	87	16.13%	14	0.91%
F	Total	539		1537	

The Hon'ble Commission in Tariff Order dated July 23, 2014 and September 29, 2015 advised that *"the Petitioner should endeavour to maximise revenue from sale of surplus power and enter into more banking, intrastate and bilateral transactions."* Accordingly the Petitioner sold almost 80% of surplus power through Banking, Bilateral and Intra-State Transactions during FY 2017-18.

Regarding UI Sale: The Petitioner has filed a petition no. 42/2017 before Hon'ble Commission seeking adjudication of dispute between the Petitioner and SLDC regarding incorrect methodology adopted for preparing inter-state deviation settlement account and consequently retaining the UI pool accounts. Also In FY 2017-18, the Petitioner observed force scheduling of Long term generating stations by SLDC/NRLDC.

3A.38 The SLDC does not provide station-wise energy received at Delhi Periphery. The Plant-wise Petitioner's share are tabulated below:

Table 3A - 16: Details of Power Purchase Quantum Station wise-FY 2017-18

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share (As per Bills)
		MU	MU	MU
Central Sector Generating Stations (CSGS)				
A	NTPC#			
i	ANTA GAS	Data not provided by SLDC	Data not provided by SLDC	2
ii	AURAIYA GAS			3
iii	DADRI GAS			27
iv	FARAKKA			39
v	KAHALGAON -I			93
vi	NCPP – DADRI			1886
vii	RIHAND – I			283
viii	RIHAND – II			372
ix	RIHAND – III			441
x	SINGRAULI			170
xi	UNCHAHAAR – I			55
xii	UNCHAHAAR -II			117
xiii	UNCHAHAAR -III			75
xiv	KAHALGAON -II			397
xv	DADRI-2(EXTENSION)			2477
xvi	Aravali Power Corporation Ltd			545
	Sub Total			6981
B	NHPC			
i	BAIRA SIUL	Data not provided by SLDC	Data not provided by SLDC	45
ii	CHAMERA – I			124
iii	CHAMERA – II			133
iv	CHAMERA – III			91
v	DHAULIGANGA			102
vi	DULHASTI			201
vii	SALAL			278
viii	TANAKPUR			27
ix	URI			173

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share (As per Bills)
		MU	MU	MU
x	SEWA –II			39
xi	Parbati– III			61
xii	Uri – II			109
	Sub Total			1384
C	THDC			
i	Tehri HEP			133
ii	Koteshwar			82
	Sub Total			215
D	DVC			
i	DVC Chandrapur 7 & 8 (LT-3)			295
ii	Mejia Units -6 (LT-4)			868
	Sub Total			1163
E	NPCIL			
i	NAPS			154
ii	RAPP B Units 3&4			0
iii	RAPP C Units 5&6			174
	Sub Total			328
F	SJVNL			
i	Naptha-Jhakri			292
	Sub Total			292
G	Others			
	Tala HEP			37
	Sasan UMPP			996
	Sub Total			1034
H	Total Outside Delhi			11396
Delhi Generating Stations				
i	BTPS	Data not provided by SLDC	Data not provided by SLDC	483
ii	Rajghat			0
iii	Gas Turbine			185
iv	Pragati – I			537
v	Pragati -III, BAWANA			882
vi	TOWMCL			86
vii	Thyagraj Solar			1

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share (As per Bills)
		MU	MU	MU
viii	DMSW			40
I	Total Delhi Gencos			2214
J	SECI			44
K	Net Metering/Other			1
L	Grand Total			13655

Excludes BTPS

3A.39 In view of the above, it is prayed that the Hon'ble Commission may kindly consider the actual power purchase quantum of 13655 MU during FY 2017-18 as tabulated in the above table.

Power Purchase Cost

Long Term Sources:

3A.40 The power purchase cost is based on the Tariff determined by the "Appropriate Commission" under section 62 (1) (a) of the 2003 Act for the supply of electricity from generating companies to distribution licensees. Accordingly, when the generating company is owned and/or controlled by the Central Govt. or is supplying to more than one State, it is the CERC which is the "Appropriate Commission" and consequently, determines the tariff. In all other cases, it is the Hon'ble Commission which determines the tariff of the generating companies owned and/or controlled by the State Govt. As stated above, the Petitioner has already submitted to the Hon'ble Commission, copies of the monthly invoices raised by the generating companies. The Petitioner has considered the total cost on account of long term sources during FY 2017-18 which includes the following:

- All Power Purchase cost including fixed cost, variable cost, arrears, other charges etc. as scheduling of power is controlled by SLDC.
- Amount received on account of credit against Regulated Power has been considered and the benefit has been passed to the consumers.
- Fixed Cost paid to the Generator during FY 2017-18 on account of Regulated Power has been considered.

A) Scheduling is controlled by SLDC:

At the outset, the Petitioner submits that scheduling and dispatch of power is the prerogative of the Delhi SLDC. The 2003 Act (Refer: Sections 32 and 33) and Indian Electricity Grid Code, 2010 (Refer: Clause 2.7.1-2.7.3) provide for the same. The SLDC is the apex statutory body appointed under Section 32 of the 2003 Act which ensures integrated operation of the power system in the State. The SLDC is responsible for optimum scheduling and dispatch of electricity within a state. The SLDC monitors the grid operations and exercises supervision and control over the intra-state transmission system. Every Licensee, including the Petitioner, is bound by the directions of SLDC, in terms of Section 33 of the 2003 Act.

As per Clause 152 of Tariff Regulations, 2017, Petitioner has to submit any force scheduling to the Petitioner due to the reason not attributable to the Petitioner.

“152. True up of ARR for Distribution (Wheeling & Retail Supply) Licensee shall be conducted on the following principles:

....

(b) Variation in long term power purchase quantum and cost of the distribution licensee based on merit order dispatch principle of projected long term power purchase quantum and cost vis-a-vis actual long term power purchase quantum and cost:

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 it's area of supply;”

The Petitioner has submitted slot-wise, station-wise samples of zero revision (including backing down) and a summary of emails exchanged with SLDC on scheduling/MOD/forced scheduling issues to the Hon'ble Commission vide its various letter as tabulated below:

Table 3A - 17: Monthly Submission to Commission on MOD

S.No.	Months	Letter No.	Dated
1	Apr'17	RA/2017-18/01/A/480	07.12.2017
2	May'17	RA/2017-18/01/A/486	08.12.2017
3	Jun'17	RA/2017-18/01/A/491	11.12.2017
4	Jul'17	RA/2017-18/01/A/494	12.12.2017

S.No.	Months	Letter No.	Dated
5	Aug'17	RA/2017-18/01/A/497	13.12.2017
6	Sep'17	RA/2017-18/01/A/500	14.12.2017
7	Oct'17	RA/2017-18/01/A/508	15.12.2017
8	Nov'17	RA/2017-18/01/A/513	18.12.2017
9	Dec'17	RA/2017-18/01/A/569	10.01.2018
10	Jan'18	RA/2017-18/01/A/663	15.02.2018
11	Feb'18	RA/2017-18/01/A/758	20.03.2018
12	Mar'18	RA/2018-19/01/A/027	16.04.2018

The contents of the above correspondence is reiterated but not repeated herein for the sake of brevity.

The scheduling is being done by SLDC and DISCOMs have no control over backing-down of the costly power plants. Following points may be noted with respect to actual power purchase cost:

- 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.
- 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.
- Further, the CERC (IEGC) 4th 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, it is submitted that Operation of Plant is not under the control of Discoms, and Delhi Discoms allocation is around 10%-30% in a majority of the 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, the decision of actual operation/availability of plant is not under control of the DISCOMs.
- e) There are also various instances where forced Scheduling is done to maintain Grid security which is beyond the Petitioner's control.

In view of the above submissions, it is amply clear that there are a host of reasons which are beyond the control of the Petitioner and thus, it is submitted that the Hon'ble Commission ought not to deduct any Power Purchase Cost denying the Petitioner its legitimate entitlements. As noted above, the scheduling of power is the sole prerogative of the Delhi SLDC and is beyond the control of the Petitioner. Any disallowance would be

egregious since it would get compounded with carrying cost, which would naturally apply to power purchase. Power purchase is a pass through and the Hon'ble Commission is expected to grant carrying cost for delayed recoupment of expenditure arising out of the same.

The Hon'ble Commission may also kindly keep in view the following aspects:

- a. The Hon'ble Commission reiterates at para 3.453 of the Tariff Order dated August 31, 2017 that the GENCOs considered in the islanding scheme of Delhi are to be excluded from the MOD for future scheduling. This is clear from para 3.453, which reads as under:

*"3.453 The Commission directs that the Petitioner to adopt Merit Order Dispatch principle as specified in DERC MYT Regulations, 2011 and directions in various Tariff Orders in totality for all plants **excluding** the plants under must run **and plants associated with islanding scheme** and submit back down requests for such targeted plants to SLDC in a timely and desired manner."*

(Emphasis supplied)

- b. It is pertinent to mention that **Dadri I & II** are part of Delhi islanding scheme. The same is evident from the Islanding Scheme for the State of Delhi, which was presented by DTL on October 15, 2012 (hereinafter referred to as the "**Delhi Islanding Scheme**"). The relevant extracts of the Delhi Islanding Scheme [Ref: Pg. ii] are as under:

"The islanding scheme envisages that fall of frequency to 47.9 Hz will be taken as indication that grid disturbance is imminent and islanding will be initiated. Ideally one island is preferred but due to peculiar network considerations of Delhi and limitation imposed by Rithala CCGT, there is no option but to create four (4) islands, capable of meeting about 3400 MW of load during peak conditions, as listed below:

- (i) Dadri- - Jajjhar- Pragati (part) Island (Peak load 2315 MW)*
- (ii) Bawana CCGT Island (Peak load 600 MW)*
- (iii) BTPS-Pragati (part) Island (Peak load 500 MW)*
- (iv) Rithala CCGT Island (Peak load 20 MW)"*

- c. Hence, it is prayed that the Hon'ble Commission, in accordance with its Order of March 28, 2018, where the Hon'ble Commission has categorically stated that the plants covered under the Delhi Islanding Scheme are exempted from the applicability of the MOD principle, may allow the costs pertaining to Dadri. Therefore, the Hon'ble Commission ought not to make any disallowance and allow the cost as legitimate expenses in Power Purchase cost of the Petitioner.

B) Scheduling of power is beyond the control of the Petitioner:

- a. As explained above, scheduling of power is the prerogative of the Delhi SLDC, which is required to take into consideration various aspects such as grid security and stability, transmission constraints, technical minimum limits of power plants, schedule as prescribed by NRLDC, etc. while scheduling power, which it does for the entire State of Delhi. The SLDC is, under Section 32 of the 2003 Act mandated to be responsible for optimum scheduling and dispatch of electricity. Under Section 33 of the 2003 Act, the SLDC is mandated to exercise supervision and control for achieving economy and efficiency in the operation of the power system. It was accordingly the statute's mandate on the SLDC to consider the relevant facts and maintain the MOD principle. However, the Hon'ble Commission has penalized the Petitioner, albeit erroneously, for violating the MOD principles, whereas this is the statutorily mandated responsibility of the SLDC.
- b. In fact, the Petitioner regularly submitted its request to Delhi SLDC in order to schedule power on principle of MOD and to optimize power purchase cost. As explained, such scheduling is not always done by the Delhi SLDC on MOD principles. However, the Petitioner is bound to adhere to the schedule and directions prescribed by the statutory authority, the Delhi SLDC, in terms of the 2003 Act and the Regulations framed thereunder, failing which the law provides for penalty for contravention. These directions are in the nature of operation of law and leave the Petitioner with no room to disregard the same, i.e. they have to be necessarily complied with. By disallowing the power purchase cost of the Petitioner for merely abiding by the schedule and directions of the Delhi SLDC, the Hon'ble Commission has sought to question the actions of the Delhi SLDC, which is the Apex body responsible for maintaining grid security and stability in NCT of Delhi.

- c. It is submitted that the decision of the Hon'ble Commission to penalize the Petitioner seems to imply that the Petitioner has acted in a manner contrary to the SLDC directions. In other words, the Hon'ble Commission, despite having full knowledge of the reasons behind why expensive power was scheduled at the instance of the Delhi SLDC, has penalized the Petitioner for the same, completely overlooking the fundamental principle of law that a party cannot be penalized for following legally binding directions and orders. Further, the Hon'ble Commission has overlooked the fact that grid discipline is a known exception to the MOD principle, which, though a prudent principle, is subject to the requirements of grid discipline, optimal scheduling and supervision at the instance of the SLDC.

C) Fixed cost paid to the Generators on account of Regulated Power:

This section pertains to the fixed cost paid by the Petitioner to the generating companies which have discontinued power supply to the Petitioner on account of non-payment of their dues, and have further more diverted the power supply to some other beneficiary, in accordance with the CERC (Regulation of Power Supply) Regulations, 2010. This is called regulated power.

The Generators selling power to the Petitioner have cut of power supply on account of non-payment of the power bills as per CERC (Regulation of Power Supply) Regulations, 2010. Such non-payment is exclusively on account of the insufficient tariff determination, non-implementation of judgments of the Hon'ble Tribunal and creation of large Regulatory Assets by the Hon'ble Commission. As a contractual and statutory requirement, when such generators stop supplying power to the Petitioner, it is still obliged to pay the fixed / capacity charges to such generators.

D) Savings to consumers on account of Regulation of Power:

The power of the Petitioner got regulated from costlier station in the MOD stack, i.e., Aravali Power Corporation Pvt. Ltd. (APCPL) station. The Petitioner has actually gained by drawing required quantum of power to meet its demand from exchange rather than from APCPL.

If the APCPL station was not regulated then the Petitioner would have been forced to purchase power (up to Technical Minimum) on RTC basis despite the demand being less (being highest in MOD stack).

As per past practice of the Hon'ble Commission, it always considers the marginal loss on account of regulated power. However, in the respectful submission of the Petitioner, the Hon'ble Commission ought to also consider the marginal gains on account of regulated power.

As noted above, the Petitioner has procured power from exchange to meet its demand and avoided surpluses from the costliest station. The same is evident from the Table below:

Table 3A - 18 : Power procured from exchange

Particulars	Quantum (MU)	Avg. ECR (Rs./kwh)	Amt (Rs.Cr.)	Remarks
Regulated Power (FY17-18)*	216	2.83	61	Quantum of purchase is considered as per slot-wise analysis and rate is considered as per actual bills
Short term power purchased to meet Demand (FY17-18)*	140	2.96	41	140 MU's as per slot-wise analysis and Rs. 2.96/unit as per wt. IEX rate
Savings due to reduction in power purchase cost.			20	B-A
<i>*fig. are provisional subject to confirmation from SLDC</i>				

As evident from the aforesaid table, the Petitioner has saved Rs. 20 Crore due to reduction in power purchase cost on account of regulation of power. Hence, it should be allowed to the Petitioner. Apart from above Hon'ble Commission ought to consider the following as well:

- In terms of the Power Purchase Agreement executed by the Petitioner with various Generating Companies, the Petitioner is contractually mandated to pay fixed charges to the Generating Company even though it is the Generating Company which restricts the power supply under the mechanism of regulation of supply owing to the non-payment of its outstanding dues. Hence, on this basis the Petitioner cannot be denied the fixed charges that it has to incur towards the Generating Companies. Under Section 86(1)(b) while approving procurement of power through

Power Purchase Agreements, the Hon'ble Commission allows fixed charges and variable charges to be paid by the Petitioner to the Generating Companies.

- ii. The precarious financial position of the Petitioner over the past many years was a result of a lack of cost reflective tariff and the various Orders passed and directions issued by the Hon'ble Tribunal which have yet not been implemented by the Hon'ble Commission. As a result, the Petitioner has been facing severe hardship and impediments in the smooth functioning of its business. It is respectfully submitted that it is a settled principle that an act of Court shall prejudice no one. In this regard, the Hon'ble Commission is akin to a Court whose acts shall prejudice no one.
- iii. It is further submitted that the Petitioner had made sincere efforts to comply with and honour all its commitments to the Generating and Transmission utilities. In order to do so, it is imperative that adequate revenue is generated through a cost reflective tariff to enable the Petitioner to not only meet current expenses but also to liquidate the past dues.
- iv. It is a fact that the impact of past tariff orders has not, till date, resolved the cash flow constraints caused primarily due to build-up of large Regulatory Assets as created by the Hon'ble Commission.
- v. The funding of these Regulatory Assets has been done by availing financial assistance from lenders through increased debt. On account of these reasons, payments of suppliers, generators and transmission companies had to be deferred. The reluctance of banks to increase exposure in absence of an adequate and time bound amortisation schedule for liquidation of these Regulatory Assets has further reduced availability of cash and aggravated the problems, which fact has also been brought to the knowledge of the Hon'ble Commission time and again by the Petitioner in its correspondence.



3A.41 The details of station-wise power purchase cost during FY 2017-18 is tabulated below:

Table 3A - 19: Details of Power Purchase Cost Station wise for FY 2017-18

S. No	Stations	Quantum	Fixed Charge	Variable Charge	Other Charges	Arrears	Total Charges	Average Rate	Remarks/ Ref
		MU	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs./ kWh	
Central Sector Generating Stations (CSGS)									
A	NTPC [#]								
i	ANTA GAS	2	10	1	0	0	10	47.62	
ii	AURAIYA GAS	3	14	1	1	7	23	85.57	
iii	DADRI GAS	27	16	8	1	-11	15	5.62	
iv	FARAKKA	39	6	9	3	-1	17	4.43	
v	KAHALGAON -I	93	16	22	1	-2	36	3.91	
vi	NCPP – DADRI	1886	302	597	6	-21	885	4.69	
vii	RIHAND – I	283	25	37	0	-13	49	1.72	
viii	RIHAND – II	372	33	48	0	-2	79	2.13	
ix	RIHAND – III	441	72	57	-1	-1	127	2.88	
x	SINGRAULI	170	13	23	0	-7	29	1.73	
xi	UNCHAHAR – I	55	8	15	1	0	24	4.32	
xii	UNCHAHAR -II	117	14	32	0	2	49	4.16	
xiii	UNCHAHAR -III	75	12	20	0	0	32	4.26	
xiv	KAHALGAON -II	397	54	92	0	0	145	3.65	
xv	DADRI-2(EXTENSION)	2477	465	734	3	-13	1189	4.80	
xvi	APCPL	545	178	158	8	1	345	6.34	
	Sub Total	6981	1236	1855	23	-60	3054	4.37	
B	NHPC								
i	BAIRA SIUL	45	5	4	0	0	10	2.19	
ii	CHAMERA – I	124	11	13	0	1	25	2.04	
iii	CHAMERA – II	133	15	13	0	1	29	2.15	
iv	CHAMERA – III	91	23	19	0	1	43	4.73	
v	DHAULIGANGA	102	16	15	0	6	38	3.70	
vi	DULHASTI	201	50	50	7	7	114	5.68	
vii	SALAL	278	23	16	25	7	71	2.57	
viii	TANAKPUR	27	7	4	0	0	11	4.19	
ix	URI	173	17	14	6	6	43	2.47	
x	SEWA –II	39	12	8	1	0	21	5.53	
xi	Parbati– III	61	15	17	0	0	32	5.24	
xii	Uri – II	109	36	26	7	3	72	6.62	
	Sub Total	1384	230	200	46	33	510		

S. No	Stations	Quantum	Fixed Charge	Variable Charge	Other Charges	Arrears	Total Charges	Average Rate	Remarks/ Ref
		MU	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs./ kWh	
C	THDC								
i	Tehri HEP	133	34	34	0	-16	52	3.90	
ii	Koteshwar	82	16	16	0	0	31	3.81	
	Sub Total	215	49	49	0	-16	83	3.87	
D	DVC								
i	DVC CTPS 7 & 8	295	41	69	0	57	168	5.68	
ii	Mejia Units -6 (LT-4)	868	142	159	0	8	309	3.56	
	Sub Total	1163	183	228	0	66	476	4.10	
E	NPCIL								
i	NAPS	154	0	46	4	0	49	3.22	
ii	RAPP B Units 3&4	0	0	0	0	0	0	-	
iii	RAPP C Units 5&6	174	0	69	2	0	71	4.08	
	Sub Total	328	0	114	6	0	121	3.68	
F	SJVNL								
i	Naptha-Jhakri	292	36	34	0	0	70	2.39	
	Sub Total	292	36	34	0	0	70	2	
G	Others								
	Tala HEP	37	0	8	0	0	8	2.16	
	Sasan UMPP	996	15	115	14	0	144	1.44	
	Sub Total	1034	15	123	14	0	152	1.47	
H	Total Outside Delhi	11396	1749	2604	89	24	4466	3.92	
	SGS								
i	BTPS	483	55	176	-2	-21	208	4.31	
ii	Rajghat	0	0	0	0	-4	-4	-	
iii	Gas Turbine	185	40	57	0	-15	83	4.49	
iv	Pragati – I	537	42	207	0	-5	243	4.53	
v	Pragati -III, BAWANA	882	294	265	0	0	559	6.33	
vi	TOWMCL	86	0	24	0	0	24	2.75	
vii	Thyagraj Solar	1	0	0	0	0	0	3.57	
viii	DMSW	40	0	25	0	4	28	7.03	
I	Total Delhi Gencos	2214	431	754	-2	-42	1141	5.15	
J	SECI	44	0	24	0	0	24	5.50	

S. No	Stations	Quantum	Fixed Charge	Variable Charge	Other Charges	Arrears	Total Charges	Average Rate	Remarks/ Ref
		MU	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs./ kWh	
K	Net Metering/Other	1	0	0	6	0	6	39.33	
L	Grand Total	13655	2180	3382	93	-19	5636	4.13	

3A.42 In accordance with the above, the Petitioner prays that this Hon'ble Commission may kindly allow the aforesaid power purchase cost incurred from long term sources during FY 2017-18.

3A.43 It is submitted that the Petitioner has disputed the amounts billed by the various generating companies including NTPC, PPCL etc. The ultimate decisions of the concerned forum on the Petitions may have an impact on the cost paid to the generating companies.

3A.44 **Short Term Power Purchase:**

The Hon'ble Commission itself in Tariff Order dated August 26, 2011 noted that the load curve in Delhi is peculiar in nature with high morning and evening peaks and very low load demand during night hours. It is due to the fact that a majority of the load in Delhi is of commercial establishments, office buildings, which have requirement primarily during day time. In the same Tariff Order, the Hon'ble Commission directed the Licensee to ensure that electricity which could not be served due to any reason what-so-ever (including maintenance schedule, breakdowns, 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 Licensee. Accordingly during peak hours, to meet the demand, the Licensee was required to procure power from short term sources.

The Petitioner has considered the power purchase cost through short term sources during FY 2017-18 which includes the cost on account of all banking, Exchange, bilateral, UI and intra-state transactions. The Petitioner has deducted the UI Charges paid below threshold frequency as decided by CERC for short term power purchase.

3A.45 **Overlapping of banking transactions:**

During FY 2017-18, there is no overlapping of any Banking transactions of the Petitioner and the Petitioner is in concurrence with the Regulation 152 of Tariff Regulations 2017.

In accordance with the above, the Petitioner requests the Hon'ble Commission to allow all banking transactions as they are revenue neutral in nature and economical.

'Banking of Power', also termed as 'Swapping of Power' is an arrangement between two parties, through which power is traded on barter system. Thus, a banking transaction is a non-monetary transaction where excess power available with a Licensee is traded for power at a subsequent date, without any net payment of money for the power to the other party with whom such an arrangement is entered into. Hence, it is important to see complementary demand and surplus profiles to facilitate banking of power. This is difficult, as finding such profiles is not always possible.

The Hon'ble Commission itself has, in its Short Term Power Procurement Guidelines contained in its letter dated January 20, 2010, stated that arrangement/ disposal of power through banking transactions is preferred. This was reiterated in the various Orders, wherein the Hon'ble Commission directed the DISCOMs to optimize power purchase cost through Banking transactions.

The Petitioner tries to deal with any surplus or shortfall on a real time basis by procuring or disposing off power so as to ensure that it is able to meet the demand requirements of its distribution area on a real time basis as well as remain compliant with the direction from the Hon'ble Commission that there should not be any load shedding greater than 1% of the total demand serviced, vide direction dated October 21, 2009 (Power Directions). Therefore, the Petitioner has to create a sufficient buffer to ensure that it does not fall foul of the Power Directions as well as be able to meet the requirements of its consumers. It is pertinent to note that requirements similar to the Power Directions does not exist outside of Delhi and therefore the attempts of the Petitioner in procuring power and disposing off the same get more challenging than what would be faced by any other distribution licensee in the country. Given the inherent character of electricity, namely, that it cannot be stored, the Petitioner undertakes various commercial arrangements to ensure that it has power available for its demand when such demand arises and in case the demand does not materialize for reasons beyond its control, to dispose the same off in a prudent manner.

Seasonality as well as history of usage has a major impact on the demand for power. For effective management of surplus/shortfall, the Petitioner is required to take decisions on a seasonal basis. The opportunities for purchase and sale of power through banking transactions are not available on a specific time-slot

basis. Thus, even though the power requirement for the Petitioner may be only during specific time-slots, contracts for such supply do not normally exist in the market for these specific slots, and the Petitioner is constrained to procure RTC power or power on a peak period basis, so as to ensure 100% availability, in order to remain compliant with the Power Directions.

Forecasting, importing and exporting of power is done on a best endeavor basis. The same assumes a trajectory of demand based on existing power sources being able to deliver as they have historically. However, at times, it is not possible to forecast with arithmetic precision or even provide in a forecast a deviation which is not in the ordinary course of business. It is in this background any disallowance by the Hon'ble Commission would not be justified. It is submitted that it is no longer *res integra* that a tariff order cannot be the basis of penalizing a Licensee, which can only be imposed in terms of Section 142 of the 2003 Act.

In accordance with the above, the Petitioner requests the Hon'ble Commission to allow all Banking transactions as they are revenue neutral in nature and have been undertaken to comply with the directions of the Hon'ble Commission as well as for the benefit of the consumers.

3A.46 **Contingency limit of 5% on UI:**

As per Business Plan Regulations 2017, the Hon'ble 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 2017-18 to FY 2019-20 of the Distribution Licensees shall be 5% of Net Power Procured by the Distribution Licensee for the relevant month."*

It is also submitted that Petitioner is well in under limits during the FY 2017-18 as defined by the Hon'ble Commission in Business Plan Regulations, 2017.

Also, there are other factors which are beyond the control of the Petitioner. These are as under:

1. Erroneous Billing by Delhi SLDC: The Petitioner has filed a Petition 42/2017 before Hon'ble Commission highlighting erroneous billing by Delhi SLDC.
2. Technical constraints: In Delhi there are unforeseen transmission and technical constraints issues which has already been recognized by Delhi SLDC and left the Petitioner with no option but to do UI Sale on contingency.
3. Force Scheduling: Hon'ble Commission also highlighted in its SOR of Business Plan Regulations, 2017 to allow force scheduling events.
4. Unforeseen demand: Hon'ble Commission also highlighted in its SOR of Business Plan Regulations, 2017 that weather department also have 5% of standard error in projections.

3A.47 Additional UI Charges:

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 supplied)

In this regard, the bifurcation of Force Scheduling of power which are beyond the control of Petitioner is tabulated below:

Table 3A - 20: UI V/s Force Scheduling by Delhi SLDC

Year	Month	Additional UI Charges (Rs. Cr.)	Force Scheduling by Delhi SLDC (Rs. Cr.)*	Net Additional UI towards ARR (Rs. Cr.)
FY 2017-18	April	0.19	0.08	0.11
	May	0.23	0.13	0.10
	June	0.35	0.19	0.16
	July	0.33	0.12	0.21
	August	0.21	0.07	0.14
	September	0.29	0.15	0.13
	October	0.08	0.03	0.05
	November	0.19	0.09	0.10
	December	0.96	0.68	0.28

Year	Month	Additional UI Charges (Rs. Cr.)	Force Scheduling by Delhi SLDC (Rs. Cr.)*	Net Additional UI towards ARR (Rs. Cr.)
	January	0.18	0.12	0.06
	February	0.10	0.04	0.06
	March	0.09	0.03	0.05
	Total	3.19	1.74	1.46

*Subject to confirmation from Delhi SLDC

3A.48 The source-wise details of short term power purchase cost during FY 2017-18 is tabulated below:

Table 3A - 21: Details of Short Term Power Purchase

S. No	Particulars	FY 2016-17		FY 2017-18	
		Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
A	Bilateral	0	0	3.63	57
B	Banking	3.94	165	4.03	412
C	Exchange	4.4	243	4.16	86
D	Intra-State	4.4	108	3.19	10
E	UI	3.76	50	2.86	30
F	Total	3.86	567	3.91	594

3A.49 The Hon'ble Commission did not consider any cost on account of short term purchase in the ARR of FY 2017-18. Further, the existing PPAC formula does not cover the variations on account of short term power purchase cost. The cost incurred on account of short term power purchase transactions to cater the peak demand of Delhi is borne by the Petitioner on its own and is purely revenue gap during FY 2017-18 which will attract at least two years of carrying cost to be recovered now.

3A.50 In view of the above, this Hon'ble Commission may kindly allow the actual power purchase cost of Rs. 594 Crore during FY 2017-18 from short term sources as submitted in the above table, so as to insulate the Petitioner from any loss on this account and to insulate the consumers from the carrying cost.

Sale of surplus energy:

3A.51 The Petitioner put its all-out efforts to maximize the revenue through sale of surplus power.

3A.52 The source-wise details of revenue realized through sale of surplus energy during FY 2017-18 is tabulated as under:

Table 3A - 22: Details of Short term power sales

S. No	Particulars	FY 2016-17		FY 2017-18	
		Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
A	Bilateral	3.05	26	3.05	5
B	Banking	3.8	94	3.66	440
C	Exchange	1.66	13	2.74	83
D	Intra-State	2.34	10	2.10	1
E	UI	1.53	13	0.22	0
F	Total		156		529

3A.53 The Petitioner requests the Hon'ble Commission to grant the revenue on account of sale of surplus power while approving the net power purchase cost as submitted in the above table.

3A.54 **Gross Power Purchase Cost:**

Based on the above discussion, the gross power purchase cost during FY 2017-18 is tabulated below:

Table 3A - 23: Gross Power Purchase Cost before rebate during FY 2017-18(Rs. Crore)

S. No	Particulars	FY 2017-18	Reference
A	Audited Gross Power Purchase Cost	5752.4	Note 35 of Audited Accounts (Rebate availed Rs. 38.77 Crore and Banking sale Rs. 440 Crore already deducted in audited accounts)
B	Add: Transmission Charges	1174.2	Note 35 of Audited Accounts
C	Gross Power Purchase Cost	6926.7	C=A+B

Rebate on power purchase and Transmission Charges

3A.55 The Hon'ble Commission vide letter dated June 5, 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 other than reimbursements. The rebate on power purchase and Transmission Charges is tabulated below:

Table 3A - 24: Details of Rebate-able and Non Rebate-able amount-FY 2017-18

Rebate Details for FY 2017-18					
Sl. No.	Party/Company	Rebate able Amount	Non-Rebate able Amount	Total Bill Amt	Actual Amount claimed against FY 2017-18 (Rs. Cr.)
		(Rs. Cr.)	(Rs. Cr.)		
1	NTPC	3,003.49	(86.51)	2,916.98	28.51
2	NHPC	510.04	(0.00)	510.04	2.38
3	Nuclear	119.88	0.63	120.52	
4	SJVNL	69.91		69.91	0.48
5	THDC	84.63	(1.58)	83.05	
6	Tala HEP	8.06		8.06	0.04
7	DVC	445.53	30.82	476.35	
8	Power stations in Delhi				
8.1	Rajghat	5.46	(9.63)	(4.16)	
8.2	GAS TURBINE	86.66	(3.71)	82.95	
8.3	Pragati-I	244.45	(1.27)	243.18	
8.4	Bawana	558.61		558.61	
8.5	TOWMCL	23.56		23.56	0.46
8.6	Thyagraj Solar	0.35		0.35	
8.7	Delhi MSW	28.46		28.46	0.47
9	ARAVALI	372.04	(26.91)	345.13	
10	SASAN	129.88	13.79	143.67	2.52
11	SECI		23.98	23.98	
12	Short term Purchases	56.88		56.88	1.14
12.1	Short term Power Purchase Thru Power	-	85.73	85.73	

Rebate Details for FY 2017-18					
Sl. No.	Party/Company	Rebate able Amount	Non-Rebate able Amount	Total Bill Amt	Actual Amount claimed against FY 2017-18 (Rs. Cr.)
		(Rs. Cr.)	(Rs. Cr.)		
	Exchange				
12.2	Banking Arrangement Purchase	-	411.84	411.84	
12.3	Banking Arrangement Sale of Power		(439.56)	(439.56)	
12.4	Intra State Power Purchase	-	9.77	9.77	
12.5	Other Payments	-	5.83	5.83	
13	UI PURCHASE DTL SLDC	-	30.05	30.05	
14	Transmission Charges				
14.1	Power Grid Corp. of India Ltd.	593.81		593.81	2.92
14.2	Delhi Transco Ltd.	417.02	108.61	525.63	
14.3	Bhakra Beas Management Board		0.47	0.47	
14.4	Aravali Power Company Private Ltd	-		-	
14.5	Damodar Valley Corporation	(42.22)		(42.22)	
14.6	NTPC Ltd.	11.32		11.32	
14.7	SASAN			-	
14.8	Solar Energy Corporation of India		2.10	2.10	
15	Open Access Charges		81.93	81.93	
16	NRLDC/WRLDC/ERLDC charges billed by Power Vendors		1.20	1.20	
	Total Transmission Charges				
	Total	6,727.83	237.61	6,965.44	38.91
17	Short term Sale				
	Bulk Sale of Power	5.49		5.49	0.14
	Short term Power Sale		82.85	82.85	

Rebate Details for FY 2017-18					
Sl. No.	Party/Company	Rebate able Amount	Non-Rebate able Amount	Total Bill Amt	Actual Amount claimed against FY 2017-18 (Rs. Cr.)
		(Rs. Cr.)	(Rs. Cr.)		
	Thru Power Exchange				
	INTRATATE SALE		0.58	0.58	
	UI SALE DTL SLDC		0.30	0.30	
	Total	5.49	83.74	89.23	0.14
				-	
	Net Rebate				38.77

3A.56 As regards the normative rebate, it is most respectfully submitted that the normative rebate ought not be applied at the time of truing-up inter alia due to the following reasons:

- 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 2% of the power purchase cost is ex-facie in contravention of Hon'ble Tribunal's Judgment in Appeal No. 153 of 2009 which expressly restricted such a deduction to 1% of the power purchase cost.
- A similar issue is pending before Hon'ble Tribunal in Appeal No. 266 of 2013, 235 of 2014, 297 of 2015, 69 and 72 of 2018 and 193 of 2018. Further, in true-up proceedings for FY 2016-17, the Petitioner has again raised the issue before the Commission, vide its letter dated 18.08.2017
- Furthermore, the Petitioner vide letter dated April 8, 2015 submitted a number of reasons as to why the normative rebate ought not to be considered.
- The Hon'ble ATE 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 part 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

(Emphasis added)

- e. The Hon’ble Commission has based the normative rebate on inappropriate assumptions. The concept of normative rebate is based

on an assumptions (albeit incorrect) that the system is perfect and business is being conducted as usual. These assumptions include:

- i. There is no creation of Regulatory Asset. However, there is an accumulated figure of Rs. 4258 Crore upto FY 2016-17 as Regulatory Asset recognized by the Hon'ble Commission.
- ii. The Hon'ble Commission has timely implemented all the Judgments of this Hon'ble Tribunal. In fact as indicated in Chapter-3B of this Petition, directions contained in various Judgments are yet to be implemented; and
- iii. There is no major variation in power purchase cost.

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. Accordingly, the Hon'ble Commission ought not to base the normative rebate on any inapposite assumptions.

- f. Without prejudice to the above, the Hon'ble Commission in the past Tariff Orders has considered rebate on entire power purchase cost incurred by the Petitioner. However, the Hon'ble Commission has made certain disallowances. Therefore, the Hon'ble Commission has considered the rebate even on disallowed power purchase cost thereby doubly penalizing the Petitioner.

3A.57 In accordance with above submissions, the Petitioner requests the Hon'ble Commission to consider the actual rebate on power purchase and Transmission Charges during FY 2017-18.

Renewable Purchase Obligation

3A.58 As per Regulation 27 of the Business Plan Regulations, 2017 the Hon'ble Commission has set the targets for Renewable Purchase Obligation (RPO). The relevant extract is shown below:

"27. TARGET FOR RENEWABLE PURCHASE OBLIGATION

*(1) 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 2017-18 to FY 2019-20 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 Renewable Purchase Obligation shall be as follows:*

Table 16: Targets for Renewable Purchase Obligation

Sr. No.	Distribution Licensee	2017-18	2018-19	2019-20
1	Solar Target (Minimum)	2.75%	4.75%	6.75%
2	Total	11.50%	14.25%	17.00%

3A.59 In view of the above, the target vis-à-vis actual purchase by the Petitioner for Renewable Purchase Obligation for FY 2017-18 is Tabulated below:

Table 3A - 25: RPO Target V/s Actual

S. No	Particulars	Solar	Non-Solar	Total	Reference
i	Sales (MU)	11688			Actual Sales
ii	Hydro Purchases (MU)	1928			
iii	Base for RPO (MU)	9761			i-ii
iv	RPO Target (%)	2.75%	8.75%	11.50%	
v	RPO target (MU)	268	854	1123	iii * iv
	RPO met				
vi	TOWMCL		86	86	
vii	DMSW		40	40	
viii	SECI	44		44	
ix	Thyraj	1		1	
x	Net metering-Solar roof-top	14		14	
xi	Sub-Total - RPO met	58	126	184	
xii	Shortfall (MU)	210	728	938	v-xi

3A.60 The Petitioner is making all diligent efforts for procurement of power for fulfilment of RPO through various schemes and competitive bidding process, etc. Various steps taken by the Petitioner for procurement of renewable power are:

- Short term procurement from small Hydro power station from HPSEB up to **300 MW @ 4.16/kwh during April '18 to Sep'18 (Summer/monsoon period)**. The procurement met the Peak shortages of Petitioner and fulfilled RPO Obligation as well.
- PPA has been signed with Delhi MSW for **10 MW** on 01st June 2017, and Hon'ble Commission approved the said PPA vide its Order dated 02.08.2017.

- c. Petitioner has signed PSA with PTC on 21.07.2017 for procurement of **100 MW** Wind Power under the SECI 1000 MW Competitive Bid for Wind Power. Hon'ble Commission has given principle approval of PSA vide letter no. F.09 (168)/DERC/DS/2015-16NoI.II/5188/2156 dated 20.01.2017. Signed and scanned copy of PSA submitted to Commission for adoption of tariff by the Petitioner vide letter no. RA/2017-18/01/A/216 dated 28.07.2017. This station is likely to commence generation in FY 18-19.
- d. Petitioner sought allocation of **120 MW** Solar Power from SECI VGF scheme vide letter no. Director (BSES)/16-17/110 dated 5th Aug 2016 through GONCTD to MNRE. Hon'ble Commission has issued in-principle approval for the same on 15.11.2016. However, allocation was not received from MNRE /SECI in that Scheme. The Hon'ble Minister of Power GONCTD had called a meeting on 15.09.2017 and Principle Secretary (Power), Delhi had also called meeting on date 26.09.2017. It was decided that Dept. of Power, GONCTD will aggregate requirement of solar power for Delhi for all Discoms and power shall be procured by SECI through bidding process as per MNRE guidelines. **Petitioner got allocation of 400 MW Solar Power as projected RPO requirement for the year 2019-20.**
- e. Petitioner also got allocation of **150 MW** wind power from SECI bid scheme of E-auction of wind power. The power is expected to flow in FY 19-20.
- f. Additionally, the Petitioner is actively facilitating Rooftop Solar PV plants to be set up by consumers as the solar power generated from such plants also is considered towards RPO fulfilment. Hon'ble Commission is being updated regularly in this regard. Installed capacity under net-metered Roof top Solar has already reached **27MW** (Till Jul'18).
- g. Further, aiming to promote clean energy, Petitioner has launched the "country's first" utility anchored solar rooftop consumer aggregation programme for residential buildings, which seeks to provide installations at a single point for an entire apartment complex. The 'BRPL Solar City Initiative – 'Solarise Dwarka' was unveiled by Hon'ble Power Minister, GoNCTD on 7th Jan 2018. Through this program, Petitioner intends to create a platform to catalogue and aggregate all interested consumers in its license area, starting with single point delivery consumers in Dwarka area, which shall be further expanded to other divisions progressively.

Petitioner in partnership with United States Agency for International Development (USAID) - PACE-D and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (India) i.e. GIZ, The Energy Research Institute (TERI) and under guidance of Hon'ble Commission, EEREM, Department of Power, GNCTD, launched the aforesaid initiative.

- h. SDMC has finalised setting up of 25 MW Waste to Energy Plant at Tehkhand Okhla for 2000 TPD of MSW. Further, there is proposal to enhance capacity of DMSW also which will help in meeting RPO requirement.
- i. It is also pertinent to mention here that Delhi Solar Policy is targeting about 2000 MW Solar Power in Delhi, substantial potential power of about 500-600 MW is expected within BRPL license area, which will help in meeting Petitioners Solar RPO obligation.
- j. Hon'ble Commission may also kindly note that there are consumers of Petitioner who have installed rooftop solar for their own consumption. Such solar consumption is presently not being recorded or accounted towards fulfilment of Solar RPO for obligated entities. Hon'ble Commission may kindly appreciate that such solar consumption has an impact on Discom's power procurement as such consumer's drawl from the Discom's network would be inversely proportional to their own solar generation. Therefore, the Petitioner requests the Hon'ble Commission to institute a mechanism through which such captive solar consumption can also be considered against fulfillment of Discom's Solar RPO.
- k. The Petitioner would also like to take this opportunity to request Hon'ble Commission to explore a framework / arrangement for consumers who have deployed roof-top solar for their captive consumption. Presently, the Petitioner has several such consumers who are producing roof-top solar for their own consumption. As a result, their energy drawl from the grid reduces to the extent solar energy produced by them which in turn has a bearing on the Discom's schedule. It is therefore only logical that their captive solar consumption may also be considered for fulfilment of RPO of obligated entities / Discoms.

3A.61 These arrangements will help in meeting RPO targets for FY 2019-20 and also likely to generate surpluses which will help in progressively clearing the past year RPO backlog. Further, these arrangements are also resulting in reduced burden

on Petitioner's consumers due to reverse auction based competitive bidding. However, the actual availability of renewable power is subject to vagaries of nature which are outside the control of the distribution licensee.

- 3A.62 As the above mentioned efforts and new projects arrangement will take some more time to commission and operationalize, it is requested that the Hon'ble Commission may kindly consider the various efforts made by the Petitioner in meeting the RPO Targets and kindly carry forward or waive the shortfall in meeting the RPO for FY 2016-17 and FY 2017-18 in view of supply constraints and other factors beyond the control of the licensee, and defer or spread the past unmet RPO obligations to FY 2019-20, FY 2020-21 and FY 2021-22. We also request for an opportunity of being heard in the matter.

Total Power Purchase Cost for the purpose of Truing-up

- 3A.63 Based on the above submissions, the actual power purchase cost claimed during FY 2017-18 is tabulated below:

Table 3A - 26: Power Purchase Cost during FY 2017-18

(in Rs. Crores)

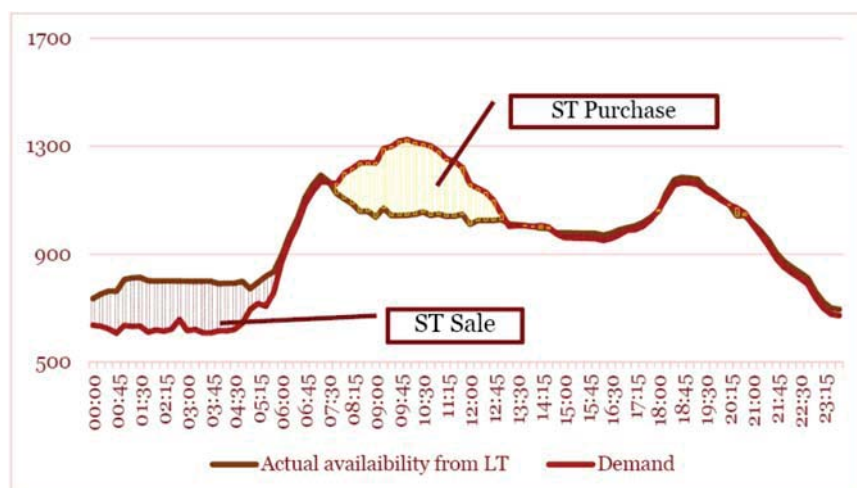
S. No	Particulars	Tariff Order	Submission	Ref
A	Power Purchase Cost			
i	Gross Power Purchase Cost	5,788	6,231	
ii	Power sold to other sources	145	529	
iii	Less Net Additional UI Charges		1.46	
iv	Net Power Purchase Cost	5,643	5,700	i-ii-iii
B	Transmission Charges			
i	Inter-state transmission charges	553	594	
ii	Intra-state transmission charges	556	526	
iii	Other Transmission charges	-	55	
iv	Total Transmission charges	1,109	1,174	i+ii+iii
C	Rebate			
i	Power Purchase Rebate	110	36	
ii	Rebate on Transmission Charges	22	3	
iii	Total rebate	133	39	i+ii
D	Net Power Purchase Cost	6,620	6,836	A+B-C

- 3A.64 The Petitioner requests the Hon'ble Commission to approve the actual power purchase cost during FY 2017-18 as submitted in the above table.

Incentive on Sale of Surplus Power

3A.65 The Petitioner always tries to dispose-off its surplus power in an economic manner. Given the seasonal and within a day variations in temperatures in the state of Delhi, the demand for power varies widely between the peak and the off peak hours during a day and between the summer and winter months. As the demand varies hugely within a day, it becomes essential for the Discoms to prepare or arrange the power on slot-wise basis. The Power System Operation Corporation Limited (National Load Despatch Centre) in “Electricity Demand Pattern Analysis” report, 2016 has also acknowledged the fact that Delhi has a variation of 30% to 60% between peak demand and lean demand. Such rampant fluctuations in demand necessitate the Petitioner to arrange for buffer power so as to ensure uninterruptable supply to Delhi Consumers. In order to cater to the rising demand, the Petitioner has to arrange for power from long and short term sources.

Figure 2 : Sample of Availability V/s Demand



Considering the importance and significance of such uneven demand pattern in Delhi, Hon'ble Commission made a specific provision in its Tariff Regulations, 2017 as shown below:

*“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;”*

3A.66 Further, the Hon'ble Commission vide its letter dated 16.11.2018 has issued a clarification regarding the computation of incentive. While the Petitioner is not agreeable to the said methodology, without prejudice to its rights, the Petitioner is claiming its entitlements on similar methodology as stated in the clarificatory letter. Accordingly, computation of incentive is as under:

Table 3A - 27: Computation of Incentive

(in Rs. Crores)

Month	Exchange Quantum as per Audited A/cs (i)	Exchange Rate as per actuals (ii)	Sale (iii)	Purchase from Dadri-I & Dadri-II for Sale (iv)	Incentive (v) = (iii)-(iv)
	MU	Rs./kwh	Rs. Cr.	Rs. Cr.	Rs. Cr.
Oct-17	23.15	4.07	9.42	7.79	1.63
Nov-17	45.05	3.74	16.86	12.99	3.87
Dec-17	16.79	3.24	5.43	5.35	0.08
Jan-18	18.51	3.29	6.09	5.89	0.20
Feb-18	25.49	2.38	6.07	8.21	
Mar-18	36.74	3.68	13.52	11.97	1.55
Total	151.28		57.39		7.33

Sharing of Incentives with Consumers

3A.67 DERC Tariff Regulation 2017 provides for incentive or disincentive based on the performance vi-a-vis target achieved by the utility including sale of Surplus power. Accordingly, in terms of Regulation 165 of the Tariff Regulations 2017, the Hon'ble Commission in the Business Plan Regulations 2017 has specified the methodology for computation of incentive on sale of surplus power and its sharing as under:

"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 2017-18 to FY 2019-20 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.

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 realization 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."

3A.68 The Average Fixed Cost per Unit approved by the Hon'ble Commission in Tariff Order dated 31.08.2017 is Rs. 1.59/kwh (As per Tariff Order Page no. 352). As none of the incentives above crosses Rs. 1.59/kwh, accordingly rule (2) (i) will apply i.e. 1/3rd to the Petitioner and 2/3rd towards the consumers as tabulated below:

Table 3A - 28: Sharing of Incentive

S.No.	Particulars	Incentive (Rs. Cr.)	1/3 towards Discoms (Rs. Cr.)	2/3 towards consumers (Rs. Cr.)
A	Total Exchange	7.3	2.4	4.9

In view of the above, the Petitioner requests the Hon'ble Commission to approve the incentive of Rs. 2.4 Cr. to be retained by the Petitioner and Rs. 4.9 Cr. to be passed on to the consumers.

Operation and Maintenance (O&M) Expenses

3A.69 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 Hon'ble Commission in its Business Plan Regulations for the respective Control Period.

3A.70 Regulation 23 of the Business plan Regulations, 2017 provides for the normative per unit O&M Expenses for the Delhi Utilities from FY 2017-18 to FY 2019-20 as under:

Table 3A - 29: O&M Expenses for BRPL as per DERC (BAP) Regulations, 2017

S. No.	Particulars	Unit	FY 2017-18	FY 2018-19	FY 2019-20
1	66 kV Line	Rs. Lakh/ ckt. Km	3.454	3.648	3.853
2	33 kV Line	Rs. Lakh/ ckt. Km	3.454	3.648	3.853
3	11 kV Line	Rs. Lakh/ ckt. Km	1.001	1.058	1.117
4	LT Line System	Rs. Lakh/ ckt. Km	5.170	5.460	5.766
5	66/11 kV Grid S/s	Rs. Lakh/ MVA	0.933	0.986	1.041
6	33/11 kV Grid S/s	Rs. Lakh/ MVA	0.933	0.986	1.041
7	11/0.415 kV DT	Rs. Lakh/ MVA	2.209	2.333	2.464

3A.71 The Petitioner has accordingly computed the O&M Expenses for FY 2017-18 as under:

Table 3A - 30: O&M Expenses

(in Rs. Crores)

S. No.	Particulars	FY 2017-18		
		Capacity as on 31.03.2018	Per Unit cost as per BAP (Rs. Lakhs/ unit)	O&M Exp (Rs. Cr.)
		A	B	C=AXB
1	11 kV Line	6,862	1.001	69
2	33 kV Line	1138	3.454	39
3	66 kV Line			
4	LT Line System	11214	5.17	580
5	11/0.415 kV DT	5,422	2.209	120
6	33/11 kV Grid S/s	5800	0.933	54
7	66/11 kV Grid S/s			
8	Total			862

3A.72 The Petitioner requests the Hon'ble Commission to allow the aforesaid expenses in the ARR.

Other Miscellaneous Expenses

3A.73 Ombudsman Expenses:

The Hon'ble Commission had approved the ombudsman expenses which were required to be apportioned amongst the four Distribution Licensees of Delhi in proportion of energy drawn during FY 2013-14. As per the directions of the Hon'ble Commission, the Petitioner has incurred the said expenditure. Accordingly, the Petitioner is claiming incremental ombudsman expenses over FY 2017-18 by using the inflation factor as per DERC Business Plan Regulations, 2017 as under:

Table 3A - 31: Ombudsman Expenses paid during FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 16	FY 17	FY 18
1	Ombudsman Expenses included in base year	0.17		
2	Inflation Factor		5.61%	5.61%
3	Ombudsman Expenses approved		0.18	0.19
4	Ombudsman Expenses actually paid			0.25
5	Incremental Ombudsman Expenses			0.06

The Petitioner requests the Hon'ble Commission to allow incremental Ombudsman Expenses of Rs. 0.06 Cr. during FY 2017-18 as above.

3A.74 Incremental License fees paid on assets:

The Petitioner pays License fees to GoNCTD for land rights. The Hon'ble Commission allowed the license fees to be paid to GoNCTD on normative basis by applying an escalation factor of 5.61%, as per DERC Business Plan Regulations, 2017, on the actual license fees paid during FY 2010-11. However, the same ought to be allowed on actual basis. Accordingly the incremental license fees paid to GoNCTD is as under:

Table 3A - 32: License fees paid to GoNCTD during FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 16	FY 17	FY 18
1	License fees included in base year	5.38		
2	Inflation Factor		5.61%	5.61%
3	License fees approved		5.68	6.00
4	License fees actually paid			8.51
5	Incremental License fees			2.51

Therefore, the Petitioner requests the Hon'ble Commission to consider incremental license fees paid to GoNCTD on assets during FY 2017-18.

3A.75 Fees for Geo-Spatial access:

The Petitioner vide its letter RA/ 2013-14/ 01/A/ 271 dated July 12, 2013 informed the Hon'ble Commission regarding the mandatory fees to be paid for Geo-Spatial Access. Accordingly, the Petitioner requests the Hon'ble Commission to allow the annual fees to be paid on account of geo-spatial access amounting to Rs. 0.30 Cr. as the same was not factored by the Hon'ble Commission while determining O&M expenses for the 3rd Control Period.

Accordingly, the other miscellaneous expenses during FY 2017-18 is claimed as a part of truing-up requirement for FY 2017-18 which is tabulated below:

Table 3A - 33: Other uncontrollable costs/ expenses during FY 2017-18

(in Rs. Crores)

S. No.	Particulars	FY 2017-18
1	Ombudsman Expenses	0.06
2	Incremental license fees paid on assets	2.51
3	Geo-spatial fees	0.30
4	Total	2.88

The Petitioner requests the Hon'ble Commission to allow the aforesaid expenses in the ARR.

Additional O&M Expenses

3A.76 As regards additional expenses, 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;

..."

3A.77 As regards projection of O&M Expenses, Regulation-87 of DERC Tariff Regulations, 2017 states as under:

"87....

Provided that the Normative O&M Expenses for the respective Control Period shall not be trued up;

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."

3A.78 In accordance with the aforesaid Regulations, the Petitioner is claiming the additional O&M expenses as detailed below:

A. Impact on account of Goods & Service Tax (GST):

3A.79 The Petitioner claims the net impact of GST during FY 2017-18 as Rs. 14.88 Cr. as computed hereunder:

Table 3A - 34: Impact of GST during FY 2017-18

(in Rs. Crores)

S. No.	Particulars	FY 2015-16	FY 2016-17	FY 2017-18	Reference
1	Service Tax paid during FY 16	36.58			Note-36 & 38 of Audited A/c for FY 16
2	Escalation Factor		5.61%	5.61%	
3	Service Tax considered in normative expenses		38.63	40.80	

S. No.	Particulars	FY 2015-16	FY 2016-17	FY 2017-18	Reference
4	Service Tax for 9 months			30.60	S.No. 3 /12*9
5	GST paid during 9 months of FY 2017-18			45.48	Note-36 & 39 of Audited A/C for FY 16
5	Net Impact (GST)			14.88	

B. Impact on account of 7th Pay Commission revision and Minimum Wage revision:

3A.80 Further, Regulation-23 (4) of DERC Business Plan Regulations, 2017 states as under:

“23. Operation and Maintenance Expenses

...

(4) Impact of any statutory pay revision on employee's cost as may be applicable on case to case basis shall be considered separately, based on actual payment made by the Distribution Licensees and shall be allowed by the Commission after prudence check at the time of true up of ARR for the relevant financial year.”

3A.81 The Government of NCT of Delhi, Department of power vide Order dated July 26, 2017 directed Delhi Genco and Transco to provide the interim relief based on the recommendations of Wage Revision Committee.

3A.82 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.

3A.83 Accordingly, the Petitioner is claiming the impact on account of 7th Pay Commission amounting to Rs. 104.52 Cr. for FY 2017-18.

3A.84 As regards minimum wages, the Petitioner vide letter dated July 19, 2017 already intimated the Hon'ble Commission about the recommendation of the GoNCTD. The impact on account of minimum wages for FY 2017-18 is Rs. 40.21 Cr.

C. SMS Charges:

3A.85 The Hon'ble Commission vide letter dated 13.01.2016 has directed the Petitioner to send SMS to consumers on the occurrence of the following events:

- Planned outages / forced Outages / Major Breakdowns
- To intimate bill amount, due date and maximum demand during the month.
- To intimate Earth Leakage Messages.
- To intimate Payment received.
- To intimate bounce cheque information.
- To intimate issue of demand note, etc.

3A.86 The Petitioner has entered in to contract with telecom service provider to push SMS to consumers on account of the above mentioned event. In providing this service, the Petitioner has incurred expense of Rs.0.63 crore during FY 2017-18 which is requested to be allowed by the Hon'ble Commission. Since the said expense has been incurred on the direction of the Hon'ble Commission, the same is requested to be allowed under Other Miscellaneous Expenses.

D. Property Tax:

3A.87 The Petitioner has to pay property tax in respect of properties which were transferred to it as licensee through Delhi Electricity Reforms Act-Transfer Scheme Rules 2001. The land owning agency which is MCD in this case, raised bills for payment of property tax against which payments are made by the Petitioner.

3A.88 During FY 2017-18, the Petitioner has incurred expense of Rs.2.65 crore on account of property tax paid to MCD. The Petitioner further refers to Regulation 87 of the Tariff Regulations, 2017, which is reproduced hereunder:

"87. The Utilities shall be allowed Operation and Maintenance expenses on normative basis including expenses for raising the loan for funding of Working Capital and Regulatory Asset as specified by the Commission in the Business Plan Regulations for the respective Control Period:

Provided that the Normative O&M expenses for the respective Control Period shall not be trued up;

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."

- 3A.89 In view of the above, the Petitioner requests the Hon'ble Commission to allow expense of Rs.2.65 crore on account of property tax paid during FY 2017-18.

E. Water Charges:

- 3A.90 The Petitioner obtains water from Delhi Jal Board for various use in its offices such as maintenance of office premises, horticulture and gardening, drinking purposes, various sanitation usage, etc. Delhi Jal Board issues bills against which payment is made for the water supplied to the Petitioner. During FY 2017-18, the Petitioner incurred expense of Rs.2.13 crore towards water expense paid to DJB.
- 3A.91 The Petitioner further refers to Regulation 87 of the Tariff Regulations, 2017, which is reproduced hereunder:

"87. The Utilities shall be allowed Operation and Maintenance expenses on normative basis including expenses for raising the loan for funding of Working Capital and Regulatory Asset as specified by the Commission in the

Business Plan Regulations for the respective Control Period:

Provided that the Normative O&M expenses for the respective Control Period shall not be trued up;

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."

- 3A.92 In view of the above, the Petitioner requests the Hon'ble Commission to allow expense of Rs.2.13 crore on account of water tax incurred during FY 2017-18.

F. Legal Fees and expenses

- 3A.93 The Petitioner respectfully submits that its business is a regulated business under the aegis of the Hon'ble 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'03, 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. In this regard, the Petitioner also craves leave of this Hon'ble Commission to rely on the following judgments of the Hon'ble

Tribunal:

- i. DPSC Limited v. West Bengal Electricity Regulatory Commission, Appeal No. 287 of 2013 decided on 23 May 2014;
- ii. North Delhi Power Limited v. Delhi Electricity Regulatory Commission & Ors., Appeal Nos. 265/266/267 of 2006.

3A.94 Further, the Hon'ble Commission has not considered legal expenses as part of actual expenditure incurred for deriving per unit O&M cost for previous years while computing the per unit O&M costs. In view of the above submissions, the Petitioner requests to the Hon'ble Commission to allow of the legal expenses of Rs. 13.2 Cr. over and above the normative O&M expenses.

G. Loss on Sale of Retired Assets

3A.95 Regulation 45 of DERC 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.”

In view of the above Regulations and as per the methodology provided in the DERC Tariff Regulations, 2017, the Petitioner is claiming Rs. 17.89 Crore on account of loss on retirement of assets as per the audited accounts for FY 2017-18.

H. Impact of revision in Bonus of contractual employees

3A.96 The Ministry of Law and Justice vide notification dated January 2016 revised the amount of bonus for contractual employees which the Petitioner is bound to follow. Accordingly, the petitioner is claiming the impact of Rs. 1.2 Crore on account of same and request the Hon'ble Commission to allow it as additional O&M expenses in ARR for FY 2017-18.

I. DSM Charges

3A.97 The Petitioner had incurred DSM charges equivalent to Rs. 12.58 lakhs on account of mandatory energy audit by M/s Padmashtal Energy Services Private

Limited and tender notice of AC replacement scheme in newspaper.

- 3A.98 Accordingly, the additional O&M expenses during FY 2017-18 are claimed as a part of truing-up requirement for FY 2017-18 which is tabulated below:

Table 3A - 35: Additional O&M expenses during FY 2017-18

		(in Rs. Crores)
S. No.	Particulars	FY 2017-18
1	Impact on a/c of GST	14.9
2	Impact on a/c of 7 th Pay	104.5
3	Impact on a/c of Minimum Wages	40.2
4	SMS Charges	0.6
5	Property Tax	2.7
6	Water Charges	2.1
7	Legal Fees	12.2
8	Legal Expenses	1.0
9	Loss on retirement of assets	17.9
10	Impact of revision in Bonus of contractual employees	1.2
11	DSM Charges	0.1
12	Total	197.5

- 3A.99 The Petitioner requests the Hon'ble Commission to allow the aforesaid expenses in the ARR.

Non-Tariff Income

- 3A.100 The items which have been added apart from the income shown as per Audited Accounts as under:

3A.85.1 Interest on Consumer Security Deposit:

The difference between the interest on Consumer Security Deposit computed on the basis of carrying cost as per SBI PLR and that already paid to the consumers has been added in NTI as under:

Table 3A - 36: Interest on CSD

S. No	Particulars	Amount (Rs. Cr.)
1	Opening Balance of CSD	734
2	Additions	-12

S. No	Particulars	Amount (Rs. Cr.)
3	Closing Balance of CSD	721
4	Average	728
5	Rate of Interest	14.00%
6	Interest on CSD	102
7	Interest already paid	57
8	Interest carried to NTI	45

3A.85.2 Difference on account of Service Line Development (SLD) Charges:

The Hon'ble Commission in Tariff Order dated September 29, 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."

The Petitioner has challenged the aforesaid issue before Hon'ble ATE in Appeal 297 of 2015. Without prejudice to the contentions in the Appeal, the Petitioner has added the difference between the SLD Charges received during FY 2017-18 and that transferred to the statement of Profit & Loss for the purpose of computation of Non-Tariff Income as under:

Table 3A - 37: Difference on account of SLD

S. No	Particulars	Amount (Rs. Cr.)
1	Received during FY 2017-18	48
2	Transferred to statement of P&L	38
3	Difference considered	10

Accordingly, the Petitioner has considered Rs. 10 Crore during FY 2017-18 for the purpose of computation of Non-Tariff Income.

3A.85.3 Interest on inter-company loans:

The Hon'ble Commission in its Tariff Order dated March 28, 2018 has ruled as under:

“3.129 The Commission has considered the submission of the petitioner that the fund used for funding the loan to sister concern is not utilized for the regulated business and the petitioner is not entitled for any return or interest on these funds from ARR. Therefore, the interest on intercompany loan is allowed to be reduced from Non-Tariff Income.”

The Petitioner offered loan to BYPL which otherwise would have been borrowed by BYPL from some other bank/financial institution. The Petitioner has not claimed the cost of such a loan in its ARR and the interest earned should not be deducted from its ARR as a non-tariff income. Such interest earned is on account of inter-company transfer and is not incidental to electricity business. Usage of the funds available to the Petitioner in the form of equity is in terms of Regulation 94 and Regulation-5.35 proviso of Tariff Regulations, 2017 and DERC MYT Regulations, 2011 respectively is specifically excluded from Non-Tariff Income. Under those circumstances, the interest earned on the loan given by the Petitioner from its equity cannot be shared by regulated business of the Petitioner. The aforesaid principle of demarcation is well recognized by the Hon'ble Tribunal in a catena of Judgments specifically in Income Tax starting from Judgment dated April 4, 2007 in Appeal No.251 of 2006 which is carried forward all the way upto the Judgment dated November 28, 2013 in Appeal No.138 of 2012.

In all these Judgments, it has been categorically stated that the licensed business must be treated as a water tight compartment and only the expenses and revenue of the business form as a business activity and statement of affairs of the licensed business. Hence, no part of an unlicensed and an unrelated activity could form either a cost component or a revenue component in the ARR.

Moreover, such an interest is not non-tariff income. In case the Petitioner would not have given the loan to BYPL, the funds available with the Petitioner would have been invested elsewhere and the interest/ income earned on the same would have been retained by the Petitioner. Such an interest is akin to earning moneys on investments from shareholders' funds which are specifically exempted from deduction from ARR.

Therefore, the Petitioner requests the Hon'ble Commission to allow the Petitioner to retain the interest earned on inter-company loans.

3A.85.4 Late Payment Surcharge:

As regards financing cost of LPSC from FY 2013-14 onwards, the Hon'ble Commission in Tariff Order dated August 31, 2017 ruled as under:

"3.346 The Petitioner has submitted that total LPSC collected from the consumer should be allowed to be retained by the Petitioner. However, as per the practice followed by the Commission and Hon'ble APTEL's direction in Appeal no. 61 & 62 of 2012 dated 28/11/2014, the cost of funding of working capital due to delayed payment by the consumers has been allowed to the Petitioner. Therefore, the Commission has not considered the additional cost over and above the cost of funding of working capital for financing of LPSC during FY 2013-14."

As evident from the above, the Hon'ble Commission has referred to Hon'ble Tribunal's direction in Appeal No. 61 and 62 of 2012 which was in respect of truing-up of FY 2008-09 and FY 2009-10 when the LPSC was being levied for entire month of flat rate of 1.5% per month. However, the Hon'ble Commission has not dealt with the submission of the Petitioner that the Hon'ble Commission vide letter dated December 13, 2012 itself changed the methodology of charging LPSC from the consumers and has directed the Petitioner to charge LPSC only corresponding to number of days of delay in the payment by the Consumers.

It is further submitted that the Petitioner levied LPSC @ 1.5% per month on flat basis till FY 2012-13. The Hon'ble 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 principal amount was passed on the consumers by way of NTI.

Based on the representation of Foundation of Rubber & Polymer Manufacturers, the Hon'ble Commission vide letter dated December 13, 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 Hon'ble Commission in Tariff Order dated July 31, 2013 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.

The Petitioner in its Petition for Truing-up of FY 2013-14, Review of FY 2014-15 and ARR and Tariff for FY 2015-16 requested the Hon'ble

Commission to allow the entire LPSC instead of financing cost of LPSC as during FY 2013-14, 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 Hon'ble 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.

It is further submitted that the concept of financing cost of LPSC was introduced by the Hon'ble Commission in Tariff Order dated August 26, 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.

It is 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 within due date and which consumers will not pay the bill within due date. 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 as per the MYT Regulations 2011:

- a. **Penalty on account of under-achievement of AT&C Loss:** As per DERC MYT Regulations, 2011, the AT&C Loss Target has been categorized as controllable parameter. In case of any under-achievement of AT&C Loss, the Hon'ble 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 puts 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.

The Hon'ble Commission's such treatment tantamount to discrimination between Gencos, Transco's and DISCOMs which is depicted in the table below:

Table 3A - 38: Comparison of LPSC between Delhi Gencos& Transco and Delhi DISCOMs

S. No	Particulars	Delhi Gencos and Transcos	Delhi DISCOMs
1	Before FY 2013-14	<ul style="list-style-type: none"> LPSC @ 1.5% per month; LPSC collected allowed to Gencos and Transcos irrespective of actual cost of financing delay in payment; Therefore LPSC not considered as Non-Tariff Income. 	<ul style="list-style-type: none"> LPSC @ 1.5% per month; Only financing cost of delayed payment by computing principal amount, i.e., LPSC Collected/ 18% allowed to DISCOMs; Difference between LPSC collected and financing cost of delayed payment considered as NTI.
2	From FY 2013-14	<ul style="list-style-type: none"> Same treatment continued. 	<ul style="list-style-type: none"> LPSC @ 1.5% proportional to number of days of delay; Same formulae for computing principal amount despite of change in treatment.

The Hon'ble Commission neither allows the amount nor financing cost on account of these penalties. These penalties are entirely borne by the Petitioner. However, the penalty paid by the consumers on account of the

delayed payment is not being allowed to the Petitioner and only financing cost on such delayed payment is being allowed. Therefore, the Petitioner requests the Hon'ble Commission to allow entire LPSC during FY 2013-14 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

As per the aforesaid submissions, the Petitioner requests the Hon'ble Commission to allow entire LPSC during FY 2017-18 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

3A.85.5 Write-back of Miscellaneous Provisions:

The Hon'ble Commission in Tariff Order dated August 31, 2017 did not consider the write-back of miscellaneous provisions and stated as under:

"3.369 The A&G expenses for the base year FY 2010-11 have been benchmarked for the purpose of MYT period FY 2012-13 to FY 2014-15 without adjusting provision for miscellaneous expenses. Thus, the Petitioner has been allowed O&M expenses on a normative basis without considering whether actually spent or provisioned. The Commission is of the view that the provisions written back are to be included in the Non-Tariff Income."

As regards above, it is submitted that the aforesaid treatment is contrary to the statement given at Para-3.305 of the same tariff order where the Hon'ble Commission has stated as under:

"4.199 The Commission has removed abnormal expenses such as provision for retirement of fixed assets, Loss on Sale/Discarding of Assets, Provision for Doubtful debts, Inventory of stores and spares written off, bad debts written off, transfer from opening provision of doubtful debts and has added lease rentals transferred from R&M expenses to the total A&G expenses as per submission of the Petitioner

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
A&G Expenses as per audited accounts	136.82	157.58	108.28	144.94	109.62
Less: Provision for retirement of fixed assets	-	-	-	14.48	12.29

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
Less: Loss on Sale/ Discarding of Assets	1.18	2.25	2.23	0.22	2.88
Less: Provision of Doubtful Debts	76.05	91.99	41.14	-	20.24
Less: Bad Debts written off	0.00	-	-	-	199.59
Less: Inventory of stores & spares written off	-	-	-	-	-
Less: Transfer from opening provision for doubtful debts	-	-	-	78.24	(199.59)
Less: Fines and penalties incl. under Sundry Expenses				1.68	
Add: Lease rentals transferred from R&M Cost	1.57	1.55	2.42	1.54	1.55
Net A&G cost	61.16	64.89	67.33	51.86	75.76

”

(Emphasis supplied)

It is clear from the above extract that if the cost of the provisions were not considered by the Hon’ble Commission while projecting the A&G expenses, in any case, the revenue from any recovery under such provision cannot be added to the ARR.

Further, the Hon’ble Commission in Tariff Order dated September 29, 2015 has also reversed the write-back of excess provisions for doubtful debts allowed during the earlier period, i.e., FY 2007-08 to FY 2011-12. The extracts are reproduced as under:

“3.121 As per Regulation 5.23 of MYT Regulation 2007, the miscellaneous receipts from the consumers shall constitute non-tariff income of the licensee. Write back of provision of doubtful debts related to recovery of debts forms part of miscellaneous receipts of the petitioner. The Commission is of the view that the target of AT&C loss has been fixed by considering the collection efficiency at 99.5% with a scope of 0.5% provisions for bad/doubtful debts. Therefore, any recovery on account of bad and doubtful debts shall constitute non-tariff income of the licensee to the extent of 0.5% provision on

debtors. Accordingly, the income on account of any such write back of provision for doubtful/bad debts is considered as Non-tariff income.”

The finding that “... collection efficiency of 99.5% with a scope of 0.5% provisions for bad/ doubtful debts....” is factually inaccurate. 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%. This is illustrated in the table below:

Table 3A - 39: Collection efficiency after tariff hike at cent percent collection

Months	Amount billed	Amount collected	Collection efficiency	Cumulative collection efficiency	Remarks
	Rs.	Rs.	F/E	Cum.	
April	1000	1000	100%	100%	
May	1000	1000	100%	100%	
June	1000	1000	100%	100%	
July	1000	1000	100%	100%	Tariff Hike of 8% assumed
August	1080	1000	92.59%	98.43%	Billing lag
September	1080	1080	100%	98.70%	
October	1080	1080	100%	98.90%	
November	1080	1080	100%	99.04%	
December	1080	1080	100%	99.15%	
January	1080	1080	100%	99.24%	
February	1080	1080	100%	99.31%	
March	1080	1080	100%	99.37%	
Total	12640	12560	99.37%		

In view of the aforesaid submissions, income on account of write-back of provisions for doubtful debts ought not to be considered as Non-Tariff Income.

3A.85.6 Short term gain:

The Hon’ble Commission in Tariff Order dated August 31, 2017 ruled as under:-

“3.593 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 as Rs. 10.12 Cr. and Rs. 3.00 Cr. for FY 2014-15 and FY 2015-16 respectively.”

Accordingly, the Petitioner requests the Hon’ble Commission to allow the interest on account of short term gain and deduct the same for computation of Non-Tariff Income.

3A.85.7 Transfer from consumer contribution and capital works:

The Hon’ble Commission in Tariff Order dated August 31, 2017 ruled as under:-

“3.597 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.”

In accordance with the above observation, the Petitioner requests the Hon’ble Commission not to consider the amount on account of transfer from consumer contribution and capital works as Non-Tariff Income during FY 2017-18.

3A.85.8 Income on account of bad debts recovered:

The Hon’ble Commission in Tariff Order dated August 31, 2017 ruled as under:

“3.601. 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 is reduced from Non-Tariff Income.”

Accordingly, the Petitioner requests the Hon'ble Commission to not consider income recovered on account of bad debts as NTI as the amounts recovered on account of bad debts is nothing short of normal collection.

3A.85.9 Collection charges on Electricity Duty:

The Petitioner, 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.

It is submitted that MCD pays some charges to the Petitioner for collecting Electricity Duty on its behalf. These charges 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 charges 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.

The Hon'ble Commission has notified the Delhi Electricity Regulatory Commission (Treatment of Income from Other Businesses of Transmission Licensee and Distribution Licensee) Regulations, 2005 (hereinafter referred to as the "2005 Regulations") under the provisions of said section 51 of the 2003 Act and as such the collection charges earned by the Petitioner from the activity of collection of electricity duty should be treated in accordance with the said 2005 Regulations. As per the said 2005 Regulations, the Petitioner is entitled to, as a general principle, retain 20% of the revenue arising on account of other business i.e. activity of collecting the electricity duty on behalf of MCD, and pass on the remaining 80% of the revenues to the regulated business.

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 Hon'ble Commission since O&M Expenses are allowed on a normative basis. It is further submitted that the charges on collection 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 for the GoNCTD. 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 collection charges on collection of Electricity Duty ought to be utilized to defray the additional expenses incurred by the Petitioner while undertaking such activities.

The Petitioner submits 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 Hon'ble 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 Hon'ble Commission in the Tariff Order dated August 31, 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.

The only reason that the Hon'ble Commission has given is that the collection of electricity duty is not a separate function and the same is collected with the electricity bills. The reasons given by the Hon'ble Commission are over-simplified. It is 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 additional 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. It is therefore submitted that the reasons given by the Hon'ble Commission in the Tariff Order dated August 31, 2017 are, with respect, devoid of merits.

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 Hon'ble 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.

The income / collection charges which are 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 categorized 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 realization 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.

Therefore, the Income from commission received on account of collection of Electricity Duty ought to be deducted from Non-Tariff Income.

Based on the above discussion, the Non-Tariff Income during FY 2017-18 is tabulated below:

Table 3A - 40: Non-Tariff Income

S. No	Particulars	Amount (Rs. Crores)	Reference
1	Other Operating Revenue	128.4	Schedule-33
2	Other Income	81.0	Schedule-34
3	Total other income	209.5	
4	Add: Interest from CSD	45.2	
5	Add: Income on SLD	9.8	Schedule-24
6	Total Income for computation of NTI	264.5	
7	Less: Income from other business		
A	<i>Street Light</i>	0.6	
8	Net Income for computation of NTI	263.9	
9	Less: Interest on CR	0.04	
10	Less: LPSC	24.8	
11	Less: write-back of misc. provisions	3.5	
12	Less: Short term gain	0.7	
13	Less: Transfer from Consumer contribution for capital works	35.0	
14	Less: Bad debts recovered	2.3	
15	Less: Interest on inter-company loans	57.2	
16	Less: Collection charges on ED	12.2	
17	Net NTI	128.1	

The Petitioner requests the Hon'ble Commission to allow the NTI during FY FY 2017-18 as mentioned in the above table.

Income from other business

3A.101 Apart from distribution licensee's business, the Petitioner is also generating revenue from other business. This other businesses are being operated in parallel by the Petitioner along with the Distribution Business. The Petitioner is allowed under the applicable laws to carry out these unrelated businesses.

3A.102 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 Hon'ble 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".

3A.103 Regulation 3(5) of DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2005 is as follows:

"3(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*
- b) where the Licensee does not utilize the assets and facilities of the licensed business for other business, the Licensee shall retain 60% of the net revenue from such business and pass on the remaining 40% of the net revenue to the regulated business;"*

3A.104 Accordingly, the claims on account of Street light maintenance business are discussed below:

Street Light Maintenance Business:

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;”

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 March 24, 2004 intimated the Hon’ble Commission that maintenance of street lighting is the responsibility of MCD under DMC Act and not the Petitioner. Also the Hon’ble Commission in Order dated September 3, 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.”

Therefore, it is clear that maintenance of street lighting is an activity assigned to the Petitioner by MCD under DMC Act and does not fall under Regulated Business.

However, there was a dispute between the Delhi DISCOMs and MCD 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 Hon’ble 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 Hon’ble Commission vide letter dated October 15, 2003, identified the scope of works as maintenance of existing streetlights, addition of new streetlights, installing of high mast lights, transformers, etc. Further, the Hon’ble Commission vide Order dated March 5, 2004 determined the rates for maintenance of street lights. These rates were further amended by the Order issued by the Hon’ble Commission on September 24, 2009.

It is further submitted that the determination of rates and scope of work by the Hon’ble 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 Hon'ble Commission has helped MCD and the Petitioner to reach at a consensus.

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 South and West Delhi.

For carrying out the maintenance services the Petitioner optimally engages its existing manpower, Technicians, Electricians, Electric Men, Line Engineers and also outsources further manpower.

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.

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 Hon'ble 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.

In view of the aforesaid discussion, the Petitioner prays 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.

Capital Expenditure and Capitalisation

- 3A.105 The Petitioner has considered the capital expenditure and capitalisation for FY 2017-18 as per the directions of Hon'ble ATE given in Judgment dated October 6, 2009 (Appeal 36 of 2008) and March 2, 2015 (Appeal 177 of 2012) which is the law as of date.
- 3A.106 The Petitioner has also considered de-capitalisation of assets from FY 2002-03 to FY 2017-18 provided that the Hon'ble Commission also allows the loss on assets retirement of assets as per the Petition No. 46 of 2012 filed on November 19, 2012. The capital expenditure and capitalisation from FY 2007-08 to FY 2017-18 is tabulated as under:

Table 3A - 41: Capital expenditure and capitalisation

(in Rs. Crores)

Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
Capex	247	377	305	302	207	267	309	298	360	484	565
Capitalisation	261	459	299	357	156	313	306	338	383	406	584
De-capitalisation	8	10	6	8	95	12	12	29	37	35	47

3A.107 Accordingly the GFA for FY 2017-18 is tabulated below:

Table 3A - 42: Gross Fixed Assets for FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 2017-18	Remarks/ Ref.
A	Opening GFA	6025	
B	Capitalisation during FY	584	
C	De-capitalisation	47	
D	Closing GFA	6562	A+B-C
E	Average GFA	6294	(A+D)/2

The Petitioner requests the Hon'ble Commission to allow the GFA for FY 2017-18 as stated in above table.

3A.108 **Means of finance:**

a. *Funding of capitalisation for FY 2017-18:*

- For calculation of debt-equity during respective Financial Years, the amount of consumer contribution capitalised has been deducted from the capitalisation during and ratio of 70:30 has been applied on the remaining amount to calculate the amount of debt and equity pending implementation of Hon'ble ATE Directions in various Judgments.
- The financing of investment capitalised for FY 2017-18 has been shown below:

Table 3A - 43: Financing of Investment capitalised for FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 2017-18	Remarks/ Ref.
A	Capitalisation	584	
B	De-capitalisation	47	
C	Consumer contribution	72	

S. No	Particulars	FY 2017-18	Remarks/ Ref.
D	Net	465	D=A-B-C
E	Equity (30%)	139	0.3 X D
F	Debt (70%)	325	0.7 X D

b. *Funding of change in working capital for FY 2017-18:*

i. Funding of working capital in debt-equity ratio of 70:30:

- The Hon'ble Commission has also applied the proposed formula for net-worth for the computation of means of finance for working capital which is contrary to the findings of this Hon'ble ATE in Judgment dated July 31, 2011 (Appeal 52 of 2008) which states as under:

*"43. Regulation 5.8 provides formula for calculating the Regulated Rate Base for a particular year wherein **working capital is clearly one of the elements so much so that any change in the normative working capital has to be included.***

*44. Regulation 5.9 sets out the formula for computing the Return on capital employed by multiplying the weighted average cost of capital with the Regulated Rate Base. As mentioned above, **Regulation 5.10 stipulates formula to compute the weighted cost of capital which precedes on a clear belief that the debt equity ratio of 70% and 30% has to be accounted for.***

*45. The Learned Counsel for the Appellant, while refuting the submission of the State Commission that the approach adopted by the State Commission was on the basis of the normal industry practice by referring to the tariff orders of the 4 State Commissions. The Appellant has cited Tariff orders of Karnataka State Commission, Himachal Pradesh State Commission, Jharkhand State Commission and the Gujarat State Commission. **It is noticed from the regulations of these State Commissions have different Regulations for the interest on Working Capital and have treated Working Capital separate from the Regulated Rate Base and do not have the concept of Return on Capital Employed as provided in the Delhi Commission's Regulations. Under these circumstances, the Delhi Commission is directed to re-compute the Weighted Average Cost of Capital for each year of the Control Period along with the carrying cost and apply on the respective years Regulated Rate Base for allowance of Return on Capital***

Employed according to its Regulations. This issue is answered in favour of the Appellant.” (Emphasis supplied)

As evident from above, the Hon’ble ATE directed the Hon’ble Commission to allow the funding of working capital in debt-equity ratio of 70:30 since the Tariff Regulations applicable in Delhi have the concept of RRB which includes working capital unlike the practice of separately allowing interest on working capital adopted by the Regulatory Commissions in other states. However, the Hon’ble Commission instead of implementing the directions of Hon’ble ATE has chosen to allow the funding of working capital based on the formulae of net-worth as proposed in Tariff Order dated July 31, 2013 which is contrary to the directions of the Hon’ble ATE.

- Therefore, the funding of working capital has been considered in debt-equity ratio of 70:30 based on the directions given by Hon’ble ATE in Judgment dated July 31, 2011 (Appeal 52 of 2008).

ii. Funding of opening balance of working capital not be changed as per DERC MYT Regulations, 2011:

- The Hon’ble Commission in Tariff Order dated September 29, 2015 stated that the Petitioner has wrongly interpreted Clause-5.11 of Tariff Regulations, 2011 that only the working capital for the period and not entire working capital during second control period is required to be funded in debt-equity ratio of 70:30.
- It is submitted that the Hon’ble Commission in its Tariff Order dated September 29, 2015 did not deal with any of the reasons given by the Petitioner which are as under:
 - a) Clause-5.11 read with Clause-1.2 of DERC MYT Regulations, 2011 clearly states that working capital, i.e., the change in working capital and not entire working capital during second control period is required to be funded in debt-equity ratio of 70:30. The Hon’ble Commission has not even relied on Clause-1.2 of DERC MYT Regulations, 2011 in Tariff Order dated September 29, 2015.

b) Clause-5.11 deals only with the funding of fresh investments and working capital during the period and nowhere provides for retrospective application of regulations. Clause-5.11 does not even contemplate a retrospective operation. It is settled law that an Act or Regulation has to provide expressly for retrospective application for such Act or provisions to be enforced in a retrospective manner. In fact the Tariff Regulations do not and cannot in law provide for retrospective application. It is settled law that delegated legislation cannot have retrospective application unless and until the main Statute (here the Electricity Act, 2003) contemplates that delegated legislation in the form of regulations could be made with retrospective application. The 2003 Act does not in fact provide or contemplate that regulations could be made thereunder which would have retrospective operation. In fact, a delegatee such as this Hon'ble Commission, cannot in the absence of the 2003 Act or the Delhi Reform Act 2000 specifically empowering it to do so, make Regulations with retrospective operation. Reference may be had in this regard to the following Judgments:

- Shakti Tubes Limited Vs State of Bihar : (2009) 7 SCC 673 paras 24-25;
- Binani Zinc Limited Vs Kerala State Electricity Board (2009) 11 SCC 244 para 36;
- Kusumam Hotels Private Ltd Vs Kerala State Electricity Board & Ors: (2008) 13 SCC 213 paras 23,24, 36;
- Meghalaya SEB vs Meghalaya SERC & Byrnihat Industries Association: 2010 ELR (APTEL) 0940, paras 14,35-38;
- NaniSha vs State of Arunachal Pradesh (2007) 15 SCC 406, at page 413 (Para 13);
- Union of India vs Kartick Chandra Mondal (2010) 2 SCC 422, at page 426 (para 15);
- Anil Chandra v Radha Krishna Gaur (2009) 9 SCC 454, at page 461 (para 19);
- Keshavan Madhava Menon v. State of Bombay, 1951 SCR 228;
- Dayawati v Inderjit (1966) 3 SCR 275 (para 9);
- Subodh S Salaskar v Jayaprakash M Shah (2008) 13 SCC 689 at page 700;
- Workmen v Firestone Tyre & Rubber Co. of India (P)

Limited., (1973) 1 SCC 813, at page 839;

- Ahmedabad Mfg. and Calico Printing Co Ltd., v S G Mehta, ITO, 1963 Supp (2) SCR 92;
- LIC v Escorts Ltd., (1986) 1 SCC 264, at page 317;
- Zile Singh v State of Haryana (2004) 8 SCC 1, at page 9 (Paras 13, 14 and 15);

The Hon'ble Tribunal in Judgment dated 06.01.2014 (Appeal 222 of 2012) has also ruled as under:

*"32. It is settled law that an Act or Regulation has to provide expressly for retrospective application for such Act or provisions to be enforced in a retrospective manner. **The Act and the relevant Regulations do not contain any provision which empower the Petroleum Board to retrospectively apply the tariff order. Such retrospective application cannot be read into the Act under the garb of consumer's interests...**"*

(Emphasis added)

The Hon'ble Commission by retrospective regulation of Clause-5.11 which does not even provide the same has acted contrary to all the aforesaid Judgments.

iii. Consideration of 30% of working capital funded through depreciation during policy direction period equal to loan:

- The Hon'ble Commission in Tariff Order dated September 29, 2015 stated that Policy direction period was applicable only upto FY 2006-07. However the Hon'ble Commission has ignored the following:
 - a) The funding of working capital during policy direction period, i.e., Rs. 71.85 Crore was considered to be funded through depreciation and the same therefore does not reflect in equity or debt balance upto FY 2011-12. When the funding of Rs. 71.85 Crore is not a part of equity balance upto FY 2011-12 then how the same can be deducted from the opening equity.
 - b) In case the same logic is to be applied then whether the 30% of Rs. 71.85 Crore is considered as a part of equity from FY 2007-

08 to FY 2011-12 as per directions given by Hon'ble ATE in Appeal 52 of 2008.

- c) Whether the Petitioner has till now received any return or interest on depreciation utilised for funding of capex or working capital during Policy Direction period?
- Accordingly, the Petitioner has considered the funding of working capital from FY 2002-03 to FY 2006-07 through depreciation and has not claimed any interest or equity on the same. The working capital from FY 2007-08 to FY 2011-12 has been considered to be funded in debt-equity ratio of 70:30. The working capital from FY 2012-13 onwards has been considered to be funded through 100% debt. The financing of change in Working Capital for FY 2017-18 has been shown below:

Table 3A - 44: Financing of working capital

(in Rs. Crores)		
S. No	Particulars	FY 2017-18
A	Financing of working capital	101
B	Equity (30%)	0
C	Debt (70%)	101

Depreciation

- 3A.109 During Policy Direction Period, the depreciation was allowed only on opening GFA and not the additions during the year.
- 3A.110 As regards the depreciation from FY 2007-08 to FY 2017-18, the Hon'ble Commission has been deriving the rates from the audited accounts of the Petitioner instead of considering the same as per the rates specified in DERC Tariff Regulations. Further, the average rate of Depreciation for FY 2017-18 based on the Audited Accounts of the Petitioner is tabulated below:

Table 3A - 45: Comparison between Audited Accounts and Regulatory Books

S. No	Particulars	Audited Accounts	Regulatory books
1	Basis of rates	Schedule XIV (Companies Act, 1956)	DERC MYT Regulations, 2017
2	Asset depreciated upto	95% of original cost of asset	90% of original cost of asset

S. No	Particulars	Audited Accounts	Regulatory books
3	Life of asset	As per CERC Notification no. L-7/ 25 (5)/ 2003-CERC dated 26 March 2004 or independent valuer's certificate whichever is lower	DERC MYT Regulations, 2017

3A.111 Further, the average rate of Depreciation for FY 2017-18 based on the Audited Accounts of the Petitioner is tabulated below:

Table 3A - 46: Avg. rate of Depreciation for FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 2017-18	Remarks/ Ref
A	Opening GFA as per audited accounts	5987	Audited Accounts
B	Closing GFA as per audited accounts	6524	
C	Average of GFA	6255	(A+B)/2
D	Depreciation as per Audited Accounts	298	Audited Accounts
E	Average depreciation rate	4.76%	(D/C)*100

3A.112 As per Companies Act, the depreciation rates 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 DERC Tariff Regulations, 2017. In audited accounts, the depreciation has been computed based on life of assets as specified in the Regulations. In case the Hon'ble Commission desires the computation in support of depreciation on assets appearing in audited accounts, the same can be provided.

3A.113 The depreciation during FY 2017-18 ought to be allowed as per the rates specified in DERC MYT Regulations, 2017. Further the Hon'ble Supreme Court in Judgment reported at 2007 (3) SCC 33 has held as under:

"the reduction in the rate of depreciation is violative of the legitimate expectation of the distribution company to get lawful and reasonable recovery of expenditure."

3A.114 Accordingly, the Petitioner has calculated the depreciation after excluding consumer contribution from the Gross Fixed Assets in accordance with DERC MYT Regulations, 2017. The Petitioner is now submitting the total depreciation for FY 2017-18 as under:

Table 3A - 47: Depreciation for FY 2017-18

		(in Rs. Crores)
S. No	Particulars	FY 2017-18
A	Average GFA	6294
B	Average Consumer Contribution and Grants	664
C	Average assets net of consumer contribution	5630
D	Average depreciation as above	4.76%
E	Depreciation	268

3A.115 The cumulative depreciation on fixed assets for FY 2017-18 is tabulated below:

Table 3A - 48: Cumulative Depreciation on fixed assets during FY 2017-18

		(in Rs. Crores)
S. No	Particulars	FY 2017-18
A	Opening balance of cumulative depreciation	2513
B	Additions during FY 2017-18	268
C	Closing balance of cumulative depreciation	2782

3A.116 As regards utilisation of depreciation, the Hon'ble Commission in Tariff Order dated July 31, 2013 ruled as under:

"3.169 The proposed utilisation of depreciation i.e., 70% of the total depreciation towards repayment of loan and increase in equity to the extent of 30% of the Depreciation is not in accordance with the MYT Regulations, 2007. Further Regulations 5.12 and 5.19 of MYT Regulations indicate clearly that the depreciation has to utilized for repayment of loans. The Commission is of the view that there is no justification in the Petitioner's proposal of utilizing 70% of depreciation towards repayment of loan and the balance towards equity capital. The Commission has therefore considered the entire depreciation towards repayment of loan."

Accordingly, the depreciation has been utilised for repayment of loan during respective financial years.

Working Capital

3A.117 The Working Capital from FY 2007-08 to FY 2017-18 has been calculated in accordance with Clause-5.14 and Clause-5.15 of DERC MYT Regulations, 2017.

3A.118 Accordingly, the Working Capital Calculation for FY 2017-18 is tabulated below:

Table 3A - 49: Working Capital Requirement for FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 2017-18
1	Receivables	8717
A	Receivables-2 Months	1453
2	Less: PP Cost	6836
A	PP Cost- 1 Month	570
3	Total WC Requirement	883
4	Working capital allowed	782
5	Difference	101

3A.119 The Working capital as shown above has been considered for calculation of Regulated Rate Base for FY 2017-18.

Debt and Equity

3A.120 The Hon'ble Commission in its Tariff Order dated September 29, 2015 limited the average equity to 30% of the Regulated Rate Base instead of considering average equity during the year. Such treatment is contrary to Transfer Scheme, DERC MYT Regulations, 2007 and DERC MYT Regulations, 2011. As per the Transfer Scheme, the debt-equity mix of the assets transferred to the Petitioner was as under:

Table 3A - 50: Debt-Equity ratio as per Transfer Scheme

S. No	Particulars	Amount (Rs. Cr.)	Percentage
1	GFA	1533	
2	Accumulated Depreciation	383	25%
3	Equity	460	30%
4	Debt	690	45%

3A.121 As per the Judgment of Hon'ble Supreme Court dated February 15, 2007 in Civil Appeal No. 2733/06, transfer scheme is binding on all including the Hon'ble Commission during Policy direction period. Therefore the funding of the fixed assets covered under transfer scheme cannot be altered.

3A.122 It is further submitted that the Hon'ble Commission shifted from the approach of funding capital expenditure to the approach of funding capital expenditure with

notification of MYT Regulations, 2007 on May 30, 2007 which was made applicable from March 1, 2008 to FY 2011-12. Regulation 5.10 of MYT Regulations, 2007 states as under:

“5.10 The WACC for each year of the Control Period shall be computed at the start of the Control Period in the following manner:

$$WACC = \left[\frac{D/E}{1+D/E} \right] * r_d + \left[\frac{1}{1+D/E} \right] * r_e$$

Where,

*D/E is the Debt to Equity Ratio and for the purpose of determination of tariff, **debt-equity ratio as on the Date of Commercial Operation in case of new distribution line or substation or capacity expanded shall be 70:30.** Where equity employed is in excess of 30%, 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 interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the Licensee for the respective years and shall be further limited to the prescribed rate of return on equity in the Regulations. Where actual equity employed is less than 30%, the actual equity and debt shall be considered is the Cost of Debt and shall be determined at the beginning of the Control Period after considering Licensee's proposals, present cost of debt already contracted by the Licensee, and other relevant factors (risk free returns, risk premium, prime lending rate etc.);*

re is the Return on Equity and shall be determined at the beginning of the Control Period after considering CERC norms, Licensee's proposals, previous years' D/E mix and other relevant factors. The cost of equity for the Wheeling Business shall be considered at 14% post tax.”

(Emphasis supplied)

- 3A.123 As evident from aforesaid Regulation, the Hon'ble Commission shall adopt debt-equity ratio of 70:30 in case of new distribution assets. The said clause does not apply for the assets transferred under privatization and the assets added upto February 29, 2008.
- 3A.124 Also Regulation 5.11 of MYT Regulations, 2011 states as under:

“5.11 The WACC for each year of the Control Period shall be computed at the start of the Control Period in the following manner:

$$WACC = \left[\frac{D/E}{1+D/E} \right] * r_d + \left[\frac{1}{1+D/E} \right] * r_e$$

Where,

D/E is the Debt to Equity Ratio and for the purpose of determination of tariff, debt-equity ratio for the asset capitalized shall be 70:30. Where equity employed is in excess of 30%, 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 interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the Licensee for the respective years and shall be further limited to the prescribed rate of return on equity in the Regulations. 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;

Provided further that the Debt to Equity Ratio for the assets covered under Transfer Scheme, dated July 1, 2002 shall be considered as per the debt and equity in the transfer scheme;

..."

(Emphasis supplied)

3A.125 The aforesaid Regulation clearly states that the debt to equity ratio for the assets covered under transfer scheme shall be considered as per the debt and equity in the transfer scheme. Therefore, when the funding of the assets covered under transfer scheme is required to be maintained as per the Transfer Scheme, 2001, i.e., debt-equity of 45% to 30%.

3A.126 Further, the Hon'ble ATE vide Judgment dated November 28, 2014 (Appeal No. 61 of 2012) has ruled as under:

"102. In the light of above discussions we find force in the contentions of the Appellant and direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant. The issue is decided in favour of the Appellant. "

3A.127 The Hon'ble Commission has not provided the debt and equity schedule from FY 2002-03 to FY 2017-18.

3A.128 The Petitioner has considered one-tenth of the outstanding balance of loan as repayment during the year. The same has been deducted from the loan balance for calculation of average debt during the year. The average debt during FY 2002-

03 to FY 2017-18 is tabulated below:

Table 3A - 51: Average Debt Balance during FY 2017-18

(in Rs. Crores)

S. No	Financial Years	Opening	Capex	Working Capital	Repayment	Closing	Average
1	FY 2002-03	690	10			700	695
2	FY 2003-04	700	19		0.12	718	709
3	FY 2004-05	718	571		0.12	1289	1004
4	FY 2005-06	1289	288		30	1548	1418
5	FY 2006-07	1548	4		6	1546	1547
6	FY 2007-08	1546	163	180	155	1734	1640
7	FY 2008-09	1734	247	10	173	1817	1775
8	FY 2009-10	1817	168	105	182	1908	1862
9	FY 2010-11	1908	204	53	191	1974	1941
10	FY 2011-12	1974	33	62	197	1872	1923
11	FY 2012-13	1872	163	-78	187	1770	1821
12	FY 2013-14	1770	173	2	177	1768	1769
13	FY 2014-15	1768	169	107	177	1867	1818
14	FY 2015-16	1867	186	137	187	2004	1936
15	FY 2016-17	2004	213	-43	200	1974	1989
16	FY 2017-18	1974	325	101	197	2202	2088

3.17.1. The average equity during FY 2017-18 is tabulated below:

Table 3A - 52: Average Equity Balance during FY 2017-18

(in Rs. Crores)

S. No	Financial Years	Opening	Capex	Working Capital	Closing	Average
1	FY 2002-03	460	4		464	462
2	FY 2003-04	464	0		464	464
3	FY 2004-05	464	245		709	586
4	FY 2005-06	709	124		833	771
5	FY 2006-07	832	2		834	833
6	FY 2007-08	834	70	77	981	908
7	FY 2008-09	981	106	4	1091	1036
8	FY 2009-10	1091	72	45	1208	1150
9	FY 2010-11	1208	88	23	1318	1263
10	FY 2011-12	1318	14	26	1359	1339
11	FY 2012-13	1359	70		1429	1394
12	FY 2013-14	1428	74		1503	1466
13	FY 2014-15	1502	72		1575	1539
14	FY 2015-16	1575	80		1655	1615

S. No	Financial Years	Opening	Capex	Working Capital	Closing	Average
15	FY 2016-17	1655	91		1746	1700
16	FY 2017-18	1746	139		1885	1816

3A.129 The Petitioner has considered the aforesaid debt and equity balance for the purpose of computation of RoCE.

Regulated Rate Base (RRB)

3A.130 Based on the above discussions, the Regulated Rate Base (RRB) during FY 2017-18 is tabulated below:

Table 3A - 53: Regulated Rate Base during FY 2017-18

(in Rs. Crores)		
S. No	Particulars	FY 2017-18
1	Opening RRB	3793.9
2	Change in RRB	196.3
3	Investments capitalised	536.7
4	Depreciation	268.2
5	Acc. Dep. On de-cap assets	29.2
6	Consumer contribution	72.2
7	Change in Working Capital	100.9
8	Closing RRB	4120.3
9	RRB for the year	4007.5

Weighted Average Cost of Capital (WACC)

Rate of Interest from FY 2007-08 to FY 2011-12:

3A.131 The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

"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 adjustments. 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.***

(Emphasis added)

In accordance with above, the Hon'ble Commission ought to consider the actual rate of interest for the purpose of computation of RoCE from FY 2007-08 to FY 2011-12.

Rate of Interest from FY 2012-13 onwards:

3A.132 The Petitioner vide its letter dated April 10, 2015 requested the Hon'ble Commission to revise the rate of interest from FY 2012-13 onwards on account of the following:

- a) The Hon'ble Commission in its Tariff Order dated July 13, 2012 has considered the interest rates of loan applicable to TPDDL (same being the lowest) for approving the interest liabilities on the normative loans approved for the Second Control Period for all DISCOMs. The Hon'ble Commission has considered rate of 11.21% and 11.62% for new Capex and working capital loans respectively during the second control period. However, the rate of interest considered for computation of WACC during FY 2012-13, FY 2013-14 and FY 2014-15 is 9.99%, 10.24% and 10.44% respectively which clearly shows that the Hon'ble Commission has considered weighted average of rate of interest for previous loans approved till FY 2011-12 and rate of interest for new loans arrived at after comparison of rate of interest of all Delhi DISCOMs. Since this Hon'ble Tribunal in Judgment dated 28.11.2014 (Appeal No. 61 of 2012) directed the Hon'ble Commission to true-up the interest rates on loans during first control period, same will tantamount to revision in interest rates on loans approved for second control period also.
- b) The True-up of interest rates of working capital loans as per audited accounts on actual basis for TPDDL in Judgment dated 10.02.2015 (Appeal 171 of 2012) will tantamount to revision in interest on loans for computation of WACC. The Hon'ble Commission, in its Tariff Order dated July 13, 2012 has considered the interest rates of loan applicable to TPDDL (same being the lowest) for approving the interest liabilities on the normative loans approved for the Second Control Period for all

DISCOMs. The interest of loans considered for computation of WACC by the Hon'ble Commission in Order dated 13.07.2012 is a function of both interest on Capex loans and working capital loans, therefore any revision in working capital loans will lead to change in overall rate of interest. Since the Hon'ble Tribunal in Judgment dated 10.02.2015 (Appeal No. 171 of 2012) directed the Hon'ble Commission to consider the actual rate of interest for working capital loans as per the Audited Accounts, same ratio will also be applicable in case of the Petitioner and hence, the rate of interest for computation of WACC during second control period will undergo revision.

- c) Incorrect data submitted by TPDDL leading to the lower rates of interest for the Petitioner: As stated hereinabove, the Hon'ble Commission in Tariff Order dated July 13, 2012 has considered the rate of interest applicable to TPDDL (being the lowest) for all Delhi DISCOMs during second control period. However, TPDDL, during proceedings of Appeal 171 of 2012 has pointed out that the rate considered by the Hon'ble Commission in its Tariff Order dated July 13, 2012 is erroneous and the same was submitted with respect to revenue gap loans and not capex loans. The Hon'ble Tribunal has rejected the contention of TPDDL on the ground that TPDDL should have submitted all such arguments during the time of proceedings itself. Since the Hon'ble Commission has considered the rate of TPDDL for the Petitioner also, the Petitioner has suffered due to TPDDL's error in submission without any fault of its own. The Petitioner cannot be made to suffer on account of errors committed by any other DISCOM. Therefore the rate of interest on Capex loans ought to be revised in case of the Petitioner by re-benchmarking the data.

3A.133 The Petitioner vide letter dated April 10, 2015 submitted the Auditor's Certificate in support of the interest rates of loans availed during FY 2013-14. The Petitioner, vide letter dated May 30, 2014 already submitted the Auditor's certificate in requisite format in support of the interest rates of loans availed from FY 2007-08 to FY 2013-14. Further, the Petitioner vide letter dated July 5, 2013 submitted the Auditor's Certificate in support of the interest rates of loans availed from FY 2007-08 to FY 2012-13.

3A.134 The Auditor's Certificate in support of the interest rates of loans availed during FY 2017-18 has been submitted to the Hon'ble Commission vide letter No.RA/2018-19/01/A/482 dated 26.11.2018.

3A.135 Regulation 65 of the DERC Tariff Regulations, 2017 provides as under:

“RETURN ON CAPITAL EMPLOYED (RoCE)

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.”

- 3A.136 Accordingly, the Petitioner has considered syndication fees on account of loan administration while calculating the rate of interest on loan for the purpose of RoCE.
- 3A.137 Also, Regulation 22 of the DERC Business Plan Regulations, 2017 provides that the rate of interest on loan shall not exceed approved base rate of return on equity for wheeling business i.e., 14.00%.
- 3A.138 The Petitioner requests the Hon’ble Commission to consider the rate of interest on loans for FY 2017-18 which is as under:

Table 3A - 54: Actual rates of Interest for term loans

S. No	Particulars	FY 2017-18
1	Rate of Interest (Term Loans)	14.00 %

- 3A.139 The actual rate of interest on loans, as tabulated above, ought to be considered for computation of WACC during FY 2017-18. The Petitioner in accordance with Regulation 72 of DERC Tariff Regulations, 2017 has also considered the rate of Return on Equity on pre-tax basis using MAT rate as the effective tax rate. Accordingly, the computation of WACC for FY 2017-18 is as under:

Table 3A - 55: Weighted Average Cost of Capital (WACC)

(in Rs. Crores)			
S. No	Particulars	FY 18	Reference
A	Average Debt	2088.0	Table-3A-48
B	Average Equity	1815.7	Table-3A-49
C	Total	3903.7	C=A+B
D	Cost of Debt (Rd)	14%	
E	Return on Equity	16%	
F	MAT Rate	21.34%	
G	Rate of RoE (on pre-tax basis) (Re)	20%	G=E/(1-F)
F	Weighted Average Cost of Capital (WACC)	16.95%	H=((A/C)*D) +((B/C)*G)

Return on Capital Employed (RoCE)

- 3A.140 Based on the aforesaid discussion, the RoCE for FY 2017-18 is tabulated below:

Table 3A - 56: RoCE for FY 2017-18

(in Rs. Crores)

S. No	Particulars	FY 2017-18	Reference
A	Weighted Average Cost of Capital (WACC)	16.95%	Table-3A-52
B	RRB (i)	4007.5	Table-3A-50
C	RoCE	679.3	C=AXB

3A.141 The Petitioner requests the Hon'ble Commission to allow RoCE based on above computations.

Aggregate Revenue Requirement approved in Truing-up of FY 2017-18

3A.142 Based on the above discussion, the Annual Revenue Requirement during FY 2017-18 is tabulated below:

Table 3A - 57: Aggregate Revenue Requirement during FY 2017-18

(in Rs. Crores)

S. No	Particulars	TO dated 31.08.2017	Submission	Remarks/ Reference
A	Purchase of power including Transmission and SLDC Charges	6619.9	6836.0	
B	O&M Expenses	831.6	861.6	
C	Additional O&M Expenses		197.5	
D	Other Expenses/ Statutory levies		2.9	
E	Depreciation	176.4	268.2	
F	Return on Capital Employed (RoCE)	546.7	679.3	
G	Sub-total	8174.6	8845.5	Sum (A to F)
H	Less: Non-Tariff Income	188.2	128.1	
I	Aggregate Revenue Requirement	7986.4	8717.4	I=G-H
J	Add: Carrying cost	428.0		
K	ARR	8414.4	8717.4	K=I+L

3A.143 Revenue available towards ARR

The revenue available towards ARR is tabulated as under:

Table 3A - 58: Revenue details

(in Rs. Crores)

S. No	Particulars	Submission	Reference
A	Total amount realised	8955.7	Net of LPSC, Surcharges
B	Less: Electricity Duty	405.0	Schedule 57 of Audited Accounts
C	Less: Carrying cost	428.0	TO dt. 31.08.2017

S. No	Particulars	Submission	Reference
D	Less: Incentives	118.2	D=1+2+3+4
1	<i>Less: Amount to be retained by Petitioner on account of overachievement of T&D Loss Targets</i>	45.1	
2	<i>Less: Amount to be retained by Petitioner on account of Overachievement of Collection efficiency Targets</i>	70.6	
3	<i>Less: Incentives on Sale Rate</i>	2.4	
E	Less: Gain on account of Regulated Power	19.6	
F	Revenue available for expenses	7984.9	F=A-B-C-D-E

Revenue (Gap)/ Surplus

3A.144 The stand-alone revenue gap during FY 2017-18 is tabulated as under:

Table 3A - 59: Revenue (Gap) for FY 2017-18

(in Rs. Crores)			
S. No	Particulars	Submission	Reference
A	ARR for FY 2017-18	8717.4	
B	Revenue available towards ARR	7984.9	
C	Income from Open Access	52.1	
D	Revenue (Gap)/ Surplus	(680.3)	C=B-A

3A.145 The major reasons for revenue gap during FY 2017-8 are listed below:

- RoCE computed in accordance with entitlements considered legitimate by Hon'ble ATE in various Judgments.
- Income-tax sought to be on grossing up ROE basis in accordance with Hon'ble ATE Judgment dated April 4, 2007 (Appeal 251 of 2006) and November 28, 2013 (Appeal 104 of 2012)
- Many industrial and commercial consumers opted for Open Access which has resulted in lesser revenue.

3A.146 The Petitioner requests the Hon'ble Commission to consider the revenue gap shown in the above table.

Chapter – 3B



True Up of past period upto FY 2016-17

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Truing-up of past period upto FY 2016-17

3B.1 The present Chapter pertains to claims which have been raised by the Petitioner in previous years but have not been allowed by this Hon'ble Commission. For the sake of convenience of this Hon'ble Commission, these claims have been categorized in the following three categories:

- A. Directions of Hon'ble Tribunal given in various Judgments which – (a) have attained finality and/or (b) no stay for implementation has been granted by Hon'ble Supreme Court in Civil Appeals filed by the Hon'ble Commission.
- B. Claims on account of arithmetical/computational errors and omissions sought in Review Petition no. 30 of 2018.
- C. Previous claims which merit reconsideration by the Hon'ble Commission.

3B.2 It is submitted that these past claims are being raised before this Hon'ble Commission, inter alia, on the confluence of two settled principles, one of law and the other of fact, namely:-

- (a) Each year's tariff determination is a self-contained determination and does not operate as res-judicata to the next year's determination; and
- (b) Ex necessitous, the impact of most, if not all, tariff items for a particular year will have a cascading effect on the determination of the subsequent years. Hence, an erroneous determination in one year will be carried through in the subsequent years. The earlier such error is corrected, the better it is for both the Discoms and the consumers.

3B.3 These claims have been discussed in detail in subsequent paragraphs and the impact of such claims along with carrying cost accrued till FY 2017-18 has been considered as a part of Regulatory Assets in Chapter-5 of this Petition. These claims in category (A) and (C) are also pending in various appeals before the APTEL etc., however if this Hon'ble Commission were graciously pleased to grant the relief on these items, the Petitioner would withdraw all such claims before the APTEL etc.



Directions of Hon'ble ATE given in various Judgments:

3B.4 This part deals with the issues which have been decided by the Hon'ble ATE in favour of the Petitioner but have not been implemented either in letter or spirit by the Hon'ble Commission till date. A gist of such judgments of the Hon'ble ATE on which the Petitioner is basing the present set of claims is set out hereunder:

Table 3B 1: Summary of ATE Judgments

S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
1	Deferment of Capitalisation based on EI Certificate	October 6, 2009 (Appeal No. 36 of 2008)	To allow the capitalisation based on Electrical Inspector (EI) Application plus 15 days
		March 2, 2015 (Appeal No. 177 of 2012)	To conduct physical verification of assets and complete exercise within 6 months
2	Disallowance of REL Purchases	October 6, 2009 (Appeal No. 36 of 2008)	To allow the impact based on comparison with NDPL prices
		March 2, 2015 (Appeal No. 177 of 2012)	To provide all the data for comparison within a month of receipt of requirement by the Petitioner
3	Cost of Debt	October 6, 2009 (Appeal No. 36 of 2008)	True-up rate of interest of loans based on variation in SBI PLR
		November 28, 2014 (Appeal No. 61 of 2012)	To true-up the rate of interest as SBI PLR has varied by more than +/-1%
		February 10, 2015 (Appeal No. 171 of 2012)	To true-up the rate of interest pertaining to working capital loans from FY 13 to FY 15 based on actuals.
		March 2, 2015 (Appeal No. 177 of 2012)	To true-up the rate of interest as SBI PLR has varied by more than +/-1%
4	Repayment of loans	November 28, 2014 (Appeal No. 61 of 2012)	To consider repayment of loans while computing WACC
		March 2, 2015 (Appeal No. 177 of 2012)	To consider repayment of loans while computing WACC
5	Working Capital	May 31, 2011 (Appeal No. 52 of 2008)	To consider the working capital in debt-equity ratio of 70:30

S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
		November 28, 2014 (Appeal No. 61 of 2012)	Implement the directions in letter and spirit
		March 2, 2015 (Appeal No. 177 of 2012)	Implement the directions in letter and spirit
6	Re-casting of means of finance based on actual consumer contribution capitalised	February 23, 2015 (Appeal No. 109 of 2014)	Matter remanded giving liberty to the DISCOMs to furnish the accounts showing that the excess amount of consumer contribution has been duly considered in ARR from FY 03 onwards in reducing Retail Supply Tariffs.
		May 15, 2017 (Appeal No. 103 of 2017)	Direct to follow instructions given in Judgment dated February 23, 2015
7	Truing-up of FY 2007-08-First 11 months	July 12, 2011 (Appeal No. 142 of 2009)	To allow the impact on truing-up of FY 08 (11 months) as per Reg. 12.1.
		November 28, 2014 (Appeal No. 61 of 2012)	To allow the impact on truing-up of FY 08 (11 months) as per Reg. 12.1.
		March 2, 2015 (Appeal No. 177 of 2012)	To allow the impact on truing-up of FY 08 (11 months) as per Reg. 12.1.
8	Revision in distribution loss from FY 08 to FY 11	October 6, 2009 (Appeal No. 36 of 2008)	To amend the distribution loss based on the representation made by DISCOMs
		November 28, 2014 (Appeal No. 61 of 2012)	To reconsider the matter within 3 months of the Judgment based on submission of the DISCOM
		March 2, 2015 (Appeal No. 177 of 2012)	To reconsider the matter within 3 months of the Judgment based on submission of the DISCOM
9	Computation of AT&C Loss for FY 2009-10	November 28, 2014 (Appeal No. 61 of 2012)	To recompute the AT&C losses for FY 2009-10 using actual kWh figures as recorded in Para-4.8 of the Impugned order
10	AT&C Loss for FY 2011-12	November 28, 2014 (Appeal No. 61 of 2012)	To consider the AT&C Loss for FY 2011-12 as per letter dated March 8, 2011
11	Non-Revision of AT&C Loss for FY 2012-13 and FY 2013-14	March 2, 2015 (Appeal No. 177 of 2012)	To set a reasonable loss trajectory and revise the AT&C Loss trajectory from FY 2012-13 to FY 2014-15 by a percentage of 1.05%, 1.2% and 1.25%. To revise the collection efficiency



S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
12	Increase in employee expenses corresponding to increase in consumer base	October 6, 2009 (Appeal No. 36 of 2008)	To allow the increase in employee expenses corresponding to increase in consumer base
13	Efficiency factor for FY 11	March 2, 2015 (Appeal No. 177 of 2012)	To allow the impact on account of arbitrary determination of efficiency factor for FY 2010-11
14	Incorrect revision of R&M Expenses by revising "K" factor	March 2, 2015 (Appeal No. 177 of 2012)	To include R&M Expenses incurred during FY 08 while determination of K factor for second control period
15	Lower rates of carrying cost	July 30, 2010 (Appeal No. 153 of 2009)	To allow the carrying cost in debt-equity ratio of 70:30 by considering prime lending rates
		November 28, 2014 (Appeal No. 61 of 2012)	To allow the carrying cost in debt-equity ratio of 70:30 by considering prime lending rates
		March 2, 2015 (Appeal No. 177 of 2012)	To allow the carrying cost in debt-equity ratio of 70:30 by considering market lending rates
16	Financing cost of LPSC based on SBI PLR	March 2, 2015 (Appeal No. 177 of 2012)	To allow LPSC at prevalent market lending rates
17	Own Consumption-reversals	March 2, 2015 (Appeal No. 177 of 2012)	To consider the sales for self-consumption based on metered consumption only.
18	Additional UI Charges above 49.5 Hz	March 2, 2015 (Appeal No. 177 of 2012)	To allow UI charges incurred above 49.5 Hz in FY 2010-11

Issue-1: Capitalisation based on EI Application plus 15 daysISSUE IN BRIEF:

3B.5 The grievance of the Petitioner is that the Hon'ble Commission has not implemented the directions of the Hon'ble ATE, as contained in its judgment dated October 6, 2009 in Appeal No. 36 of 2008 and Judgment dated March 2, 2105 in Appeal No. 177 of 2012 by not allowing capitalisation on account of non-availability of Electrical Inspector Certificate. The Hon'ble Commission failed to implement the direction of the Hon'ble ATE that failure to grant EI Certificate within 15 days of application would result in capitalisation of such assets w.e.f. 16th day of submission of such application. This is despite the fact that these assets are already in place and have been serving the consumers of Delhi for providing 24x7 uninterruptable power supply, as also noted by this Hon'ble ATE in its judgments.

LIST OF DATES:

S.No.	Date	Event
1.	06.10.2009	In the Appeal 36 judgment (which arose out a challenge to the Tariff Order dated 23.02.2008 wherein the Hon'ble Commission deferred capitalisation inter alia on account of non-availability of EI Certificate), the Hon'ble ATE had, in para 68 thereof, <i>inter alia</i> directed that if the EIC was not granted within 15 days of the application, capitalization of such assets would be allowed w.e.f. the 16 th day of submission of the said application for EIC. Pertinently, this judgment pertained to the period FY 2004-05 to FY 2006-07.
2.	20.11.2009	Subsequent to the Appeal 36 Judgment, the Petitioner made a claim in that regard before the Hon'ble Commission by way of a separate petition filed on 20.11.2009.
3.	16.03.2012	The Hon'ble Commission appointed M/s Feedback Infrastructure Service Private Limited as an independent consultant to undertake physical verification of assets capitalized in years FY 2006-2007 to FY 2010-11.

S.No.	Date	Event
4.	11.10.2013	<i>Vide</i> its letter, the Hon'ble Commission sought from the Petitioner, the details of capitalization in respect of FY 2004-05 to FY 2006-07 in its specific format. The said details were promptly submitted by the Petitioner vide its letter dated 29.10.2013 in the format specified by the Hon'ble Commission.
5.	17.07.2014	<p>By its Order of even date, the Hon'ble Commission, after a lapse of 5 years, finally disposed of the Petitioner's Petition filed on 20.11.2009. In the said order, the Hon'ble Commission <i>inter alia</i> held that the issues raised by the Petitioner in its Petition dated 20.11.2009 had already been raised in the proceedings before the Hon'ble ATE, on which the orders were also passed by the Hon'ble Supreme Court of India. The Hon'ble Commission also held that the issues had already been addressed by it in its previous Tariff Orders.</p> <p>The Petitioner appealed against the Hon'ble Commission's Order dated 17.7.2014 in Appeal No. 230 & 231 /2014, which is part of the batch of matters being led by Appeal 235 & 236 of 2014, and the same is presently pending before the Hon'ble ATE.</p>
6.	02.03.2015	By its Appeal 177 Judgment, the Hon'ble ATE was <i>inter alia</i> pleased to direct the Hon'ble Commission to carry out the physical verification of the assets capitalized during FY 2004-05 and FY2005-06 and expedite the implementation of the decision of this Hon'ble Tribunal in the Appeal 36 Judgment within 6 months of the date of the said judgment.
7.	13.03.2015	<p>In point of fact, the EI Certificates for the assets capitalized in FY 2004-05 and FY 2005-06 have in fact been furnished to the Hon'ble Commission under cover of various letters, between 9.08.2007 to 17.10.2013.</p> <p><i>Vide</i> its letter dated 13.03.2015, the Petitioner once again submitted the EIC Certificates and reiterated the aforesaid position.</p>

S.No.	Date	Event
8.	29.09.2015	In the Tariff Order dated 29.09.2015, the Hon'ble Commission held that it has appointed consultants for physical verification of the assets vis-a-vis value and relevant documents pertaining to capitalization of assets from FY 2006-07 to FY 2010-11. Furthermore, the Hon'ble Commission held that it had also invited bids for appointment of consultants for physical verification of asset for FY 2004-05, FY 2005-06 and FY 2011-12 to FY 2013-14. The Hon'ble Commission held that True up of capitalisation and the impact of EI Certificate as per the direction of the Hon'ble ATE would be considered based on the final reports submitted by the Consultant and subject to the outcome of Civil Appeal No. 884 of 2010 filed by the Hon'ble Commission before the Hon'ble Supreme Court of India, on this issue.
9.	18.07.2017	The Hon'ble Commission, <i>vide</i> its email dated 18.07.2017, called for a meeting with the Petitioner on 21.07.2017, to conduct prudence check on the implementation of this Hon'ble ATE's judgments.
10.	25.07.2017	The Petitioner submitted details of EI Certificates received pertaining to the capitalization from FY 2004-05 to FY 2006-07.
11.	16.08.2017	The Hon'ble Commission called for another meeting with respect to bifurcation of the capitalization for the years FY 2004-05 to FY 2006-07, on the basis of REL purchases and non-REL purchases.
12.	25.08.2017	The Petitioner, <i>vide</i> its letter, submitted details of segregation of disallowed schemes on account of non-availability of EIC and related party transactions, along with the relevant purchase orders, in 37 box files.
13.	28.03.2018	The Hon'ble Commission, in its tariff order dated 28.03.2018, reiterated that it has engaged consultants for review of capitalization of distribution licensees for the period w.e.f. FY 2004-05 to FY 2005-06 and for FY 2011-12 to FY 2015-16. It has further stated by the Hon'ble Commission that report shall be submitted by the consultants for examination and further deliberation for taking a final view regarding the issue.

DETAILED SUBMISSIONS:

3B.6 The Hon'ble Commission in the Tariff Order dated February 23, 2008 disallowed capitalisation of Rs. 855 crores, pending clearance for the capital schemes by the Electrical Inspector for the FY 2004-05 to FY 2006-07. The capital schemes have been put to use by the Petitioner and are servicing 24.65 lakh consumers. However, since FY 2004-05 the Petitioner has been deprived of the costs of such expenditure.

3B.7 The Hon'ble ATE in its order dated October 6, 2009 (Appeal 36 of 2008) has rendered the following decision:

"118) ...For capitalisation of fresh assets the DISCOM shall make appropriate applications to the Electrical Inspector and the capitalisation of such assets will be allowed w.e.f. 16th day of filing of the application and payment of necessary fee.."

3B.8 The Hon'ble commission vide its letter dated January 6, 2015 specified a format in which the details related to Electrical Inspector Certificate was sought. The Petitioner vide letter dated March 13, 2015 submitted all the details along with the documentary proofs before the Hon'ble Commission.

3B.9 Meanwhile the Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) directed the Hon'ble Commission as under:

*"10.4... We, therefore direct the State Commission to carry out the physical verification of the assets capitalised during FY 2004-05 and 2005-06 through its appointed agency and **expedite implementation of the decision of this Tribunal in Appeal no. 36 of 2008 decided on 06.01.2009. The whole issue shall be decided within 6 months of the date of this Judgment.**" (Emphasis bold and underlined)*

3B.10 As regards the aforesaid issue, the Hon'ble Commission in Tariff Order dated August 31, 2017 stated as under:

"3.13 Further, the Petitioner has submitted segregation of disallowed schemes on account of non-availability of Electrical Inspector certificates and related party transactions as well as rectification of



any scheme capitalized in the subsequent years. As the data is voluminous and its segregation will take some time, therefore, the impact due if any, on non-related party transactions, **will be considered in the subsequent Tariff Orders whose Electrical Inspector certificates have been obtained.** (Emphasis bold and underlined)

3B.11 However the Hon'ble Commission in Tariff Order dated March 28, 2018 stated as under:

*"3.27 Accordingly, the Commission engaged Consultants for review of capitalisation of distribution licensee for the period w.e.f FY 2004-05 to FY 2005-06 and FY 2011-12 to FY 2015-16. The scope of work of the contracts included 100% physical verification of assets at site for the above period, prudence check of tendering process, related party transactions, verification of documents including Electrical Inspector (EI) certificate, de-capitalization of assets and also physical verification of left out assets of FY 2006-07 to FY 2010-11. The work is in progress. **As per time schedule in respective contracts, the work is likely to be completed during FY 2018-19** and thereafter, report shall be submitted by the Consultants to the Commission for examination and further deliberation for taking a final view."* (Emphasis bold and underlined)

3B.12 As regards above, it is respectfully submitted that the exercise of physical verification of assets was initiated in FY 2009-10. Since then, different consultants were appointed but the exercise of physical verification of assets could not be concluded. Chronology of the exercise of physical verification of assets is tabulated below:

Table 3B 2: Chronology of exercise of physical verification of assets

S.No	Date	Event
1.	December 10, 2009	The Hon'ble Commission appointed M/s ASCII as an independent consultant to undertake physical verification of assets.
2.	March 16, 2012	The Hon'ble Commission appointed M/s Feedback Infrastructure Service Private Limited as an independent consultant to undertake physical verification of assets capitalized in years FY 2006-2007 to FY 2010-11.

S.No	Date	Event
3.	September 29, 2015	The Hon'ble Commission held that it has also invited bids for appointment of consultants for physical verification of asset for FY 2004-05, FY 2005-06 and FY 2011-12 to FY 2013-14. However the bid was scrapped.
4.	September 6, 2017	The Hon'ble Commission appointed yet another agency, namely, M/s REC-PDCL, for conducting another physical verification of assets for the years FY 2004-05 to FY 2015-16.

As evident from above, the impact of capitalisation is pending to be recovered in ARR on account of pendency of completion of exercise of physical verification of assets. However, most of these assets have been verified by Electrical Inspector and Electrical Inspector Certificate has already been obtained and submitted vide letters dated March 13, 2015 and 25.07.2017.

3B.13 It is respectfully submitted that despite holding out an assurance in the previous Tariff Order that it would give effect to this issue in the present Tariff Order, the Hon'ble Commission has once again taken an untenable plea that it is in the process of conducting additional physical verification of assets to deny the Petitioner is legitimate claims. Pertinently, this Hon'ble Tribunal had, in its Judgment dated March 2, 2015 (Appeal 177 of 2012), directed the Hon'ble Commission to also carry out the physical verification of the assets capitalized during FY 2004-05 and FY2005-06 and expedite the implementation of the decision of this Hon'ble Tribunal in the Judgment dated October 6, 2009 (Appeal 36 of 2008) within 6 months of the date of the said judgment dated March 2, 2015. This period expired on September 2, 2015, i.e., even before the Tariff Order dated September 29, 2015. This establishes that there has been undue delay on part of the Hon'ble Commission, and this Hon'ble Tribunal ought to direct the Hon'ble Commission to forthwith implement its directions.

3B.14 Without prejudice to the above, it is respectfully submitted that the Hon'ble Commission ought not to have awaited the outcome of the aforesaid physical verification to allow the legitimate claims of the Petitioner. It is further submitted that denying the legitimate claims of the Petitioner since FY 2004-05

is against the principles enshrined in the National Tariff Policy and the National Electricity Policy and would ultimately lead to a tariff shock for the consumers. It was therefore incumbent upon the Hon'ble Commission to allow the Petitioner its dues as per its audited accounts pending such physical verification, notwithstanding the contention of the Petitioner that such physical verification is not required. This is more so when the Hon'ble Commission has consistently taken the revenue from such assets as a part of the Petitioner's ARR.

3B.15 In any event and without prejudice to the above, the Petitioner submits as under:

- i. The EI Certificates for the assets capitalized in FY 2004-05 and FY 2005-06 have in fact been furnished to the Hon'ble Commission under cover of various letters, from August 9, 2007 to April 10, 2013.
- ii. Further, vide letter dated March 13, 2015, the Petitioner had reiterated the aforesaid position.
- iii. It is evident from an ex-facie reading of the EICs that prior to such certification the Electrical Inspector has physically verified the assets in question. In such event, there cannot be any necessity for the Hon'ble Commission to undertake a fresh physical verification of the very same assets, whose physical verification has already been carried out by an independent statutory authority under the EA, 2003, namely the Electrical Inspector. This is particularly so in the present situation, when, the assets in question had, undisputedly been commissioned and distribution of electricity through those assets had commenced more than a decade ago, and continue still date. This is so recorded even in the Judgment dated October 6, 2009 (Appeal 36 of 2008). It is further held in the Judgment dated October 6, 2009 (Appeal 36 of 2008) that *"... there is however, no regulation that prevents recovery of revenue for electricity delivered through such assets, pending approval by the Electrical Inspector, in case any such asset has been actually put to use."* In this light, there cannot be any question of the Hon'ble Commission continuing to withhold the capitalisation of these assets, whether on a provisional basis or otherwise, even after the Electrical Inspector's certificate have been issued and placed before the Hon'ble Commission.
- iv. The aforesaid submissions are made without prejudice to the stand of the Petitioner in RP No. 16 of 2015 in Appeal No. 177 of 2012,



wherein it is *inter alia* contended that the physical verification directed in the Appeal 177 Judgment was not necessary, *inter alia* since the Hon'ble Commission had already physically verified the assets capitalized during FY 2004-05 and FY 2005-06.

PRAYER(S):

- 3B.16 Accordingly, the Petitioner requests the Hon'ble Commission to allow the impact pending physical verification of assets. Any adjustment can always be done in ARR after completion of the exercise of physical verification of assets.
- 3B.17 The implementation of the aforesaid direction shall translate to increase in Depreciation from FY 2004-05 to FY 2006-07 and RoCE and Depreciation from FY 2007-08 to FY 2016-17. However there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at Para- 3B.78 to Para-3B.152.



Issue-2: Capex and Capitalisation pertaining to REL Purchases:ISSUE IN BRIEF:

3B.18 The Petitioner submits that the Hon'ble Commission has failed to implement directions of the Hon'ble ATE as contained in its judgments dated October 6, 2009 in Appeal No. 36 of 2008 and Judgment dated March 2, 2015 in Appeal 177 of 2012. The Hon'ble Commission has not allowed capital expenditure pertaining to REL purchases and has not compared the prices with that of a neighbouring DISCOM, TPDDL, despite directions of the Hon'ble ATE to this effect.

LIST OF DATES:

S. No	Date	Event
1.	23.02.2008	The Hon'ble Commission in its Tariff Order dated 23.02.2008 disallowed 38% of the capital expenditure, i.e., Rs. 364 Crore out of Rs. 972 Crore pertaining to REL EPC on ad-hoc basis, without actual verification and benchmarking of rates, to determine the arm's length nature of the prices. This was despite a detailed dissent order of a member of the Hon'ble Commission, mandating an actual verification be done for determining the arm's length nature of the prices for the REL purchases. This was overruled by the Chairman of the Hon'ble Commission by using his casting vote.



S. No	Date	Event
2.	06.10.2009	<p>Aggrieved by the MYT Order, the Petitioner challenged the issue before the Hon'ble ATE in Appeal No. 36 of 2008. The Hon'ble ATE in its Appeal 36 Judgment ruled as under:</p> <p><i>"57) The NDPL submitted its records before the Commission simultaneously with the appellant during the tariff hearing of the relevant year. <u>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.</u> 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. <u>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.</u> Till such exercise is completed the appellant will have to accept the decision of the Commission as reflected in the view of the Chairperson."</i></p> <p>(Emphasis supplied)</p>
3.	1.12.2009	The Petitioner, vide its letter dated December 1, 2009 requested the Hon'ble Commission to provide the data pertaining to TPDDL (previously known as NDPL) for comparison of the rates of TPDDL (NDPL) with that of the Petitioner so as to facilitate the implementation of the directions given by the Hon'ble ATE in the Appeal 36 Judgment.
4.	15.12.2009	The Hon'ble Commission, vide letter dated 15.12.2009 refused to provide the data stating that the onus is on the Petitioner to provide the comparison as per the directions of Hon'ble ATE in the Appeal 36 Judgment.
5.	26.08.2011	The Hon'ble Commission did not implement the directions of this Hon'ble ATE even in Tariff Order dated 26.08.2011.



S. No	Date	Event
6.	13.07.2012	The Hon'ble Commission, in its Tariff Order dated 13.07.2012 remained silent on the issue and did not implement the directions of this Hon'ble ATE. The Petitioner filed Appeal No. 177 of 2012, challenging the said Tariff Order dated 13.07.2012.
7.	31.07.2013	The Hon'ble Commission failed to implement the directions of this Hon'ble Tribunal even in its Tariff Order dated 31.07.2013. The Petitioner has filed Appeal No. 266 of 2013, challenging the said Tariff Order dated 31.07.2013, which is presently pending before this Hon'ble ATE.
8.	23.07.2014	The Hon'ble Commission once again failed to implement the directions of the Hon'ble ATE in its Tariff Order dated 23.07.2014. The Petitioner filed Appeal No. 235 of 2014, challenging the said Tariff Order, which is presently pending.
9.	6.01.2015	The Hon'ble Commission, vide letter dated 06.01.2015 specified a format in which the comparison with the rates of TPDDL (NDPL) was to be provided along with documentary proofs.
10.	13.02.2015	In order to provide the data in the requisite format specified by the Hon'ble Commission, the Petitioner filed an inspection application on 13.02.2015, for seeking the data pertaining to TPDDL in Petition No. 50/2007, i.e., the Petition against which the Hon'ble Commission issued Tariff Order dated 23.02.2008.
11.	20.02.2015	The Petitioner, vide letter number RA/ 2014-15/ 01/ A/ 742 dated 20.02.2015 once again requested the Hon'ble Commission to provide opportunity for inspection of documents so as to facilitate in furnishing the information as per requisite format.

S. No	Date	Event
12.	02.03.2015	<p>Aggrieved by the above, the Petitioner challenged the issue before the Hon'ble ATE in Appeal No. 177 of 2012. The Hon'ble ATE pronounced the Appeal 177 Judgment on 02.03.2015. In the said Judgment, the Hon'ble ATE directed the Hon'ble Commission as under:</p> <p><i>"9.6 Without going into the controversy, we direct the Appellants to submit the details of the items for which data is required by an application to the State Commission. The State Commission will make available the data to the Appellants within a month of the application. The Appellant after analysis will file its claim before the State Commission and the Commission will consider the same as per the directions of the Tribunal in Appeal no. 36 of 2008 decided on 06.01.2009 and decide the matter within 60 days of submissions made by the Appellants. Accordingly directed."</i></p> <p>(Emphasis supplied)</p>
13.	09.03.2015	<p>The Hon'ble Commission vide letter dated 09.03.2015 informed the Petitioner to inspect the documents, as sought in the Petitioner's Petition No. 50 of 2007. The inspection was purportedly offered on 11.03.2015 (3:00 PM).</p>
14.	11.03.2015	<p>The Petitioner duly and promptly visited the office of the Hon'ble Commission on the given time. However, none of the files shown during the time of inspection contained any information about TPDDL's rates/ Purchase Orders/ Invoices based on which the capital expenditure was approved by the Hon'ble Commission. The Petitioner, vide letter number RA/ 2014-15/ 01/ A/ 778 dated 11.03.2015 informed the Hon'ble Commission about the same and requested to provide another opportunity for inspection of files relevant for the purpose of comparison.</p>

S. No	Date	Event
15.	13.03.2015	The Petitioner vide letter number RA/ 2014-15/ 01/ A/ 786 dated 13.03.2015 submitted all the information pertaining to its own records in the format specified by the Hon'ble Commission vide letter dated 06.01.2015 along with documentary proofs. The Petitioner also submitted the comparison based on the invoices and records pertaining to TPDDL (NDPL) which the Petitioner was able to arrange independently, along with documentary proofs. Further the Petitioner again requested the Hon'ble Commission to provide inspection so as to facilitate in submission of information pertaining to TPDDL (NDPL) for implementation of directions in the Appeal 36 Judgment.
16.	16.03.2015	The Petitioner vide letter number RA/ 2014-15/ 01/A/ 792 dated 16.03.2015 requested the Hon'ble Commission to provide the information required for comparison with TPDDL (NDPL) in accordance with the direction given by the Hon'ble ATE in its Appeal 177 Judgment. The Petitioner once again requested for another opportunity to inspect the relevant documents, as sought in Petition 50/ 2007.
17.	17.03.2015	The Hon'ble Commission conducted a meeting on 17.03.2015 to discuss the implementation of Hon'ble ATE's directions given in various Judgments. As regards the issue of REL purchases, the Hon'ble Commission enquired from the Petitioner about the data required for comparison of REL with TPDDL (NDPL). The Petitioner asked the Hon'ble Commission to provide the data pertaining to TPDDL based on which the capital expenditure has been approved by the Hon'ble Commission. These discussions are captured in minutes of meeting sent to the Hon'ble Commission vide letter number RA/ 2014-15/ 01/ A/810 dated 23.03.2015. This letter/ minutes has not been responded to by the Hon'ble Commission.
18.	20.04.2015	The Hon'ble Commission vide letter dated 20.04.2015 informed the Petitioner to inspect the documents in the said petition (Petition No. 50 of 2007) on 23.04.2015 at 3:00 PM.
19.	23.04.2015	The Petitioner duly and promptly visited the office of the Hon'ble Commission at given time to inspect the documents. The documents shown during 2 nd inspection on 23.04.2015 contained <u>only the relevant covering letters</u> referring to Purchase Orders, Invoices, BOQs but not the copies of Purchase Orders, Invoices, and BOQs which are actually required for comparison with TPDDL (NDPL).

S. No	Date	Event
20.	29.04.2015	The Petitioner, vide letter number RA/ 2015-16/ 01/A/ 78 dated 29.04.2015 informed the Hon'ble Commission about the incomplete documents shown at the time of inspection on 23.04.2015. Further, the Petitioner specified the list of relevant letters and files inspected on 23.04.2015 and requested the Hon'ble Commission to provide the copies of documents in accordance with Conduct of Business Regulations, 2001.
21.	29.09.2015	The Hon'ble Commission did not respond to the Petitioner's letter dated 29.04.2015. Instead, in the Tariff Order dated 29.09.2015, the Hon'ble Commission stated as under: <i>"3.13 In view of the above judgment, the Petitioner has requested for inspection of documents/records vide its letter 13.02.2015 before the Commission in order to submit its claim before the Commission after analyzing the relevant document and comparing the rate of TPDDL. As per request of the Petitioner, two opportunities have been provided to the Petitioner for inspection of the relevant documents/records available in the office of the Commission on 11.03.2015 and 23.04.2015. As per the direction of Hon'ble APTEL, the Petitioner is yet to submit the detailed report after analyzing the documents inspected in the Commission's office. Therefore, the Commission shall take a final view, as per directions of Hon'ble APTEL, after receipt of the Petitioner's report."</i> (Emphasis supplied)
22.	7.03.2016	The Appeal 177 Judgment directed the necessary information to be provided within one month thereof. Even after one year of the Appeal 177 Judgment, the Hon'ble Commission failed to supply the required information in its letter dated 07.03.2016. The Hon'ble Commission only provided copies of the covering letters sent by TPDDL to the Hon'ble Commission, but did not provide the enclosures thereto, which contained the details of the materials and prices which are required for the purpose of comparison as directed in the Appeal 36 Judgment and reiterated in the Appeal 177 Judgment. Interestingly, these were the same documents which had been offered for inspection.
23.	04.07.2016	The Petitioner responded to the aforesaid letter dated 07.03.2016, by its letter dated 04.07.2016 and clearly detailed all the information which was required to be furnished by the Hon'ble Commission but not so furnished.

S. No	Date	Event
24.	31.08.2017	<p>Instead of responding to the above letter dated 04.07.2016, the Hon'ble Commission has, in the tariff order dated 31.08.2017 stated that the Petitioner has failed to comply with the directions of this Hon'ble Tribunal in the Appeal 177 Judgment. The Hon'ble Commission has held as under:</p> <p><i>"3.19 The Commission has not considered this issue in this Tariff Order because the Petitioner has failed to comply with the directions of the Hon'ble APTEL in Appeal No. 177 of 2012. This aspect has also been submitted before the Hon'ble APTEL in Appeal No. 297 of 2015."</i></p>
25.	28.03.2018	<p>The Hon'ble Commission, in its tariff order dated 28.03.2018, has reiterated that it has engaged consultants for review of capitalization of distribution licensees for the period w.e.f. FY 2004-05 to FY 2005-06 and for FY 2011-12 to FY 2015-16. It has further been stated by the Hon'ble Commission that report shall be submitted by the consultants for examination and further deliberation for taking a final view regarding the issue.</p>

DETAILED SUBMISSIONS:

3B.19 The Hon'ble Commission in its Tariff Order dated February 23, 2008 disallowed capital expenditure of Rs. 364.16 crores, since the goods were purchased by the Petitioner from REL for Rs. 868.70 crore during FY 2004-05 & FY 2005-06. The goods purchased have been put to use by the Petitioner, and are servicing 24.65 lakh consumers. However, since FY 2004-05 the Petitioner has been deprived of the costs of such expenditure. The year-wise bifurcation of the disallowance is tabulated below:

Table 3B 3: Impact on account of disallowance of REL Purchase

(Rs. Cr.)						
S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09
1	REL Disallowances	3	61	69	122	109
2	Reference	Annexure-V; Para 32; Pg. No. 275 of Tariff Order dtd 23.02.2008				

3B.20 The Hon'ble ATE in its Judgment dated October 6, 2009 (Appeal 36 of 2008) has viewed the following:

“57) ...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.”

3B.21 The Petitioner vide its letter dated July 31, 2013 and March 13, 2015 has already furnished the information as desired by Hon’ble Commission, whereby, the Petitioner has suitably submitted a comparison of rates of the capital expenditure incurred for equipment’s purchased from REL, with rates as that of TPDDL which could be obtained on best effort basis. Earlier, the Petitioner vide its letter dated December 1, 2009 requested the Hon’ble Commission to provide the necessary information pertaining to TPDDL required for comparison as per the directions of Hon’ble ATE. However, the same was not provided by the Hon’ble Commission and therefore the Petitioner has submitted the information to the extent it could be obtained.

3B.22 Based on the information as obtained from the market sources, the Petitioner furnished documents which demonstrate that out of Rs. 868.70 cr., being the value of total goods purchased from REL, the price paid for goods worth Rs. 550.91 cr. i.e. ~ 63% were 23% lower than the price paid by TPDDL.

3B.23 The Hon’ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) directed the Hon’ble Commission as under:

*“9.6 Without going into the controversy, we direct the Appellants to submit the details of the items for which data is required by an application to the State Commission. **The State Commission will make available the data to the Appellants within a month of the application. The Appellant after analysis will file its claim before the State Commission and the Commission will consider the same as per the directions of the Tribunal in Appeal no. 36 of 2008 decided on 06.01.2009 and decide the matter within 60 days of submissions made by the Appellants.** Accordingly directed.” (Emphasis bold and underlined)*

3B.24 In accordance with the aforesaid directions, the Hon’ble Commission vide



letter dated April 20, 2015 informed the Petitioner to inspect the documents in Petition No. 50 of 2007 on April 23, 2015. The Petitioner duly and promptly visited the office of the Hon'ble Commission at given time to inspect the documents. The documents shown during 2nd inspection on April 23, 2015 contained only the relevant letters referring to Purchase Orders, Invoices, BOQ but not the copy of Purchase Orders, Invoices, and BOQs which are actually required for comparison with TPDDL. The Petitioner vide letter number RA/ 2015-16/ 01/A/ 78 dated April 29, 2015 informed the Hon'ble Commission about the incomplete documents shown at the time of inspection on April 23, 2015. Further the Petitioner specified the list of relevant letters and files inspected on April 23, 2015 and requested the Hon'ble Commission to provide the copies of documents in accordance with Conduct of Business Regulations, 2001. The Petitioner also submitted a Demand Draft bearing No. 022104 dated April 30, 2015 drawn on IDBI Bank, of Rs. 5 Lakh towards fees for copy of the documents.

3B.25 The Hon'ble Commission vide its letter dated March 7, 2016 only provided copies of the covering letters sent by TPDDL to the Hon'ble Commission, but did not provide the enclosures thereto, which contained the details of the materials and prices which are required for the purpose of comparison as directed in the Appeal 36 Judgment and reiterated in the Appeal 177 Judgment. These were the same documents which had been offered for inspection by the Hon'ble Commission on April 23, 2015. The Hon'ble Commission however purported to comply with the directions of this Hon'ble Tribunal in the Appeal 177 Judgment by its letter dated March 7, 2016. The Appeal 177 Judgment directed the necessary information to be provided within one month thereof.

3B.26 The Petitioner responded to the aforesaid letter dated March 7, 2016, by its letter dated July 4, 2016 and clearly detailed all the information which was required to be furnished by the Hon'ble Commission but not so furnished. The Petitioner reiterated the above facts in its letter dated July 4, 2016 to the



Hon'ble Commission and pointed out that the Hon'ble Commission had, till date not implemented the directions of this Hon'ble Tribunal. The Petitioner emphasized that on account of this, the Petitioner was not able to recover the financial impact towards the capitalization of the equipment purchased from REL for the past 7 years, despite repeated directions from this Hon'ble Tribunal.

3B.27 Instead of responding to the above letter dated July 4, 2016, the Hon'ble Commission has, in Tariff Order dated August 31, 2017 alleged that the Petitioner has failed to comply with the directions of this Hon'ble Tribunal in the Appeal 177 Judgment. The Hon'ble Commission has held as under:

"3.19 The Commission has not considered this issue in this Tariff Order because the Petitioner has failed to comply with the directions of the Hon'ble APTEL in Appeal No. 177 of 2012. This aspect has also been submitted before the Hon'ble APTEL in Appeal No. 297 of 2015."

3B.28 Further the Hon'ble Commission in Tariff Order dated March 28, 2018 held as under:

*"3.27 Accordingly, the Commission engaged Consultants for review of capitalisation of distribution licensee for the period w.e.f FY 2004-05 to FY 2005-06 and FY 2011-12 to FY 2015-16. The scope of work of the contracts included 100% physical verification of assets at site for the above period, prudence check of tendering process, related party transactions, verification of documents including Electrical Inspector (EI) certificate, de-capitalization of assets and also physical verification of left out assets of FY 2006-07 to FY 2010-11. The work is in progress. **As per time schedule in respective contracts, the work is likely to be completed during FY 2018-19** and thereafter, report shall be submitted by the Consultants to the Commission for examination and further deliberation for taking a final view." (Emphasis bold and underlined).*

3B.29 As regards above, it is respectfully submitted that the aforesaid direction of the Hon'ble Tribunal was a matter of limited remand and the Hon'ble Commission was directed to provide the relevant data for comparison of prices. However the Hon'ble Commission instead of providing the data has suo-moto linked the

issue of disallowance of REL Purchases with physical verification of assets.

PRAYER(S):

3B.30 Accordingly the Petitioner once again requests the Hon'ble Commission to:

- a) Provide copies of all the documents, i.e., invoices, purchase orders, tender specification documents etc. pertaining to TPDDL rates from FY 2002-03 to FY 2006-07 required to fill the format specified by the Hon'ble Commission itself vide letter number January 6, 2015; and
- b) Provisionally allow the capex pertaining to REL Purchases so as to avoid burden of carrying cost till the time, the Hon'ble Commission approves the same based on comparison.
- c) In case physical verification is not completed by FY 2018-19 as stated in Tariff Order dated 28.03.2018, the impact may be allowed pending physical verification of assets. Any adjustment (positive or negative) may be done in subsequent tariff exercise.

3B.31 The implementation of the aforesaid direction shall translate to increase in Depreciation from FY 2004-05 to FY 2006-07 and RoCE and Depreciation from FY 2007-08 to FY 2016-17. However, there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at Para- 3B.78 to Para-3B.152.



Issue-3: True-up of rate of interest on loans:ISSUE IN BRIEF:

3B.32 The Petitioner submits that the Hon'ble Commission has not implemented the directions of the Hon'ble ATE in Judgment dated November 28, 2014 in Appeal No. 61 of 2012 and Judgment dated February 10, 2016 in Appeal No. 171 of 2012, by failing to revise the cost of debt for the First Control Period and the Second Control Period.

LIST OF DATES:

S.No	Date	Event
1.	23.02.2008	The Hon'ble Commission vide its Order determined the cost of debt for the purpose of computation of Weighted Average Cost of Capital (hereinafter referred to as " WACC ") during first control period with the direction that the same will be trued-up if there is a deviation in the PLR of the scheduled commercial banks by more than 1% on either side.
2.	06.10.2009	The aforesaid treatment given by the Hon'ble Commission was challenged by the Petitioner in Appeal No. 36 of 2008. The Hon'ble ATE directed as under: <i>"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. Thus there is sufficient safeguard for the appellant and sufficient room to procure loans at the given market rate of interest. We are not inclined to interfere with the Commission's decision on the approval of interest rate."</i>

S.No	Date	Event
3.	26.08.2011	The issue of true-up of cost of debt was again raised in Appeal 61 of 2012 filed against Tariff Order dated 26.08.2011 (1 st control period) (2007-08 to 2010-2011) wherein it was stated that the SBI PLR considered by the Hon'ble Commission while determining cost of debt for the first control period was incorrect as the same was based on SBI PLR prevailing as on April 1, 2007 and not on weighted average SBI PLR during FY 2006-07. Further the Hon'ble Commission did not even true-up the cost of debt during first control period even though there was deviation of more than +/- 1% in SBI PLR during first control period.



S.No	Date	Event
4.	13.07.2012	<p>The Hon'ble Commission vide its Order dated 13.07.2012 at para 4.289 issued for respective distribution licensees of Delhi, determined the cost of debt for the purpose of computation of WACC during second control period, i.e., FY 2012-13 to FY 2014-15.</p> <p>While determining the cost of debt for the purpose of computation of WACC in its Order dated 13.07.2012, the Hon'ble Commission analyzed the submissions made by all the DISCOMs on new loans taken by them during FY 2011-12 and compared the average interest rates applicable for FY 2011-12 across all the DISCOMs. The Hon'ble Commission observed that the average interest rate at which the loans were availed by TPDDL for funding of Capex and working capital was the lowest among all the DISCOMs and hence, considered the same for approving interest liabilities on the normative loans approved for the control period for all the DISCOMs.</p> <p>It is pertinent to note that the Petitioner was unaware about the data submitted by TPDDL regarding interest on loans availed during FY 2011-12 to the Hon'ble Commission. Further, the Appeal filed by the Petitioner (Appeal 61 of 2012) with respect to the rate of interest during first control period was pending adjudication before this Hon'ble Tribunal which will lead to revision in cost of debt approved from FY 2012-13 to FY 2014-15. As mentioned herein below, in the judgment in Appeal Nos. 61-62 of 2012 pronounced on November 28, 2014, in any event the interest rates for the period had to be re-determined.</p> <p>The same treatment given by the Hon'ble Commission in Tariff Order dated 13.07.2012 for TPDDL was also challenged by TPDDL in Appeal 171 of 2012.</p>
5.	05.07.2013	The Petitioner vide letter number RA/ 2013-14/ 01/A/ 243 dated 5.07.2013 submitted the Auditor's certificate in support of the interest rates of loans availed from FY 2007-08 to FY 2012-13.
6.	30.05.2014	The Petitioner vide letter number RA/ 2014-16/ 01/ A/ 138 dated 30.05.2014 already submitted the Auditor's certificate in requisite format in support of the interest rates of loans availed from FY 2007-08 to FY 2013-14..



S.No	Date	Event
7.	28.11.2014	<p>The Hon'ble ATE in its Appeal 61 Judgment directed the Hon'ble Commission as under:</p> <p><i>"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. <u>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.</u> The issue is accordingly decided in favour of the Appellants."</i></p> <p>(Emphasis supplied)</p>
8.	18.12.2014	<p>Subsequent to the pronouncement of the Appeal 61 Judgment, the Petitioner in the ARR Petition leading upto the Tariff Order dated 29.09.2015, requested the Hon'ble Commission to revise the cost of debt for the second control period based on the implementation of the directions given by Hon'ble ATE in the Appeal 61 Judgment for the first control period.</p>

S.No	Date	Event
9.	10.02.2015	<p>Meanwhile, on the issue of rate of interest for working capital loans, the Hon'ble ATE vide its Appeal 171 Judgment ruled as under:</p> <p><i>"13.4 We find that the State Commission has considered interest rate for working capital as 11.62% and interest rate for capital at 11.25% for the control period 2012-13 to 2014-15. The Appellant has produced a letter from SBI dated 02.01.2012 showing working capital facilities sanctioned at an interest rate of 3.25% above base rate which works out to 13.25% p.a. with monthly interests. <u>This letter was furnished to the State Commission by letter dated 21.05.2012. This has not been considered by the State Commission while deciding the rate of interest on working capital. In the submissions of the State Commission before us they have not denied receipt of this letter but have not given any explanation why the this letter was not considered by them while deciding the interest on working capital. There is also no explanation in the impugned order regarding fixing interest rate at 11.25% on working capital. We, therefore, direct 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.</u>"</i></p> <p>(Emphasis supplied)</p> <p>On the issue of rate of interest for long term debt, the Hon'ble ATE in the said Judgment ruled as under:</p> <p><i>"14.5 Shri Sitesh Mukherjee, Learned Counsel for the Appellant forwarded the data regarding increase in base rate of SBI from 01.07.2010 to 31.03.2012 indicating increase in base rate from 7.50% to 10%. <u>According to him the email dated 13.06.2012 was provided to the Commission with respect to revenue gap loans and not capex loans. Further, even the rate of interest of revenue gap loans was wrong as the same ignored the opening loans, period of loans, the loans spread up during the year itself and the purpose of loan. These aspects have also not been dealt with in the written submissions of the State Commission. The approach of composite interest rate instead of approving the spread and allowing the base rate to be trued up as per actual is erroneous and would deprive the Appellant of its entitlement to the interest as contemplated under the 2011 MYT Regulations.</u></i></p>



S.No	Date	Event
		<p>[...]</p> <p>14.7.... <u>The Appellant is now making submissions which they should have presented before the State Commission at the time of the submissions of the petition and the proceedings before the Commission.</u> Therefore, we do not find any fault in the State Commission adopting the weighted average of loans availed by the Appellant. However, 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."</p> <p>(Emphasis supplied)</p>
10.	10.04.2015	The Petitioner vide letter number RA/ 2015-16/ 01/ A/ 31 dated 10.04.2015 requested the Hon'ble Commission to revise the interest rates of loans from FY 2007-08 to FY 2013-14. This is on account of the fact that True-up of interest rates of loans during first Control Period, i.e., FY 2007-08 to FY 2011-12, as per directions of this Hon'ble ATE in the Appeal 61 Judgment, will tantamount to revision in interest rates of loans during second control period.
11.	05.06.2015	The Petitioner vide letter number RA/ 2015-16/ 01/ A/ 168 dated 05.06.2015 once again requested the Hon'ble Commission to revise the interest rates of loans during second control period.
12.	29.09.2015	Despite the Appeal 61 Judgment of the Hon'ble ATE, by way of the Tariff Order dated 29.09.2015, the Hon'ble Commission did not revise the cost of debt for the first MYT control period nor did the Hon'ble Commission revise the cost of debt consequently for the Second MYT control period. Instead, the Hon'ble Commission maintained the cost of debt as per its original MYT Orders dated February 23, 2008 and July 13, 2012.
13.	31.08.2017 & 28.03.2018	The Hon'ble Commission, in its Tariff Orders dated 31.08.2017 and 28.03.2018, simply relied upon its findings in the tariff order dated 29.09.2015.

DETAILED SUBMISSIONS:

3B.33 The Hon'ble Commission in Tariff Order dated February 23, 2008 ruled as under:

"4.223 The Commission shall true-up the means of finance for the Control Period as the asset capitalisation is subject to true-up. The Commission may true-up the interest rates considered for 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."

3B.34 However, the Hon'ble Commission in Tariff Order dated August 26, 2011 did not true-up the interest rates considered for new loans despite variation in PLR of scheduled commercial banks by more than 1%. Aggrieved by the same, the Petitioner challenged the aforesaid issue before this Hon'ble Tribunal in Appeal 61 of 2012.

3B.35 The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

*"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 favour of the Appellants.**"(Emphasis added)*

3B.36 The Hon'ble Commission in Tariff Order dated September 29, 2015 undertook the truing-up of rate of interest of loans by linking the same with SBI PLR rates. However truing-up of interest rates of loans was required to be done based on variation of +/-1% in PLR of scheduled commercial banks and not SBI PLR. This fact was highlighted before the Hon'ble Commission during TVS held on July 21, 2017. The Petitioner vide letter dated July 25, 2017 provided the list of banks along with change in PLR during first Control Period. However the Hon'ble Commission in Tariff Order dated August 31, 2017 maintained the same stand as in Tariff Order dated September 29, 2015 and ruled as under:

"3.23 The Commission has already clarified this issue in Tariff Order dtd. 29/09/2015 as follows and needs no further deliberation in this



Tariff Order as the matter is sub-judice before Hon'ble APTEL:

"3.31 In view of the above direction of the Hon'ble APTEL, it is pertinent to state that the SBI PLR has not deviated from FY 2007-08 to FY 2010-11 by more than 1% on either side. Therefore the Commission has not revised the interest rate from FY 2007-08 to FY 2010-11. The Commission, as such, has considered the revision in interest rate in truing up of FY 2011-12, since the SBI PLR has deviated by more than 1% (14.50%-12.50%) in FY 2011-12.

*3.32 The Commission had provisionally allowed the actual rate of interest for FY 2011-12. It is observed that the SBI PLR varied by 2.13% in FY 2011-12 over the previous year, while the DISCOM was provisionally allowed the interest rate at 4.91% above the normative interest rate for FY 2010-11 in the Tariff Order dated July 2013. The Commission has decided to revise the rate of interest applicable to FY 2011-12 based on actual variation in average rate for SBI PLR from FY 2010-11 to FY 2011-12 of 2.13% and revised rate of interest is 11.29% (9.16% + 2.13%). Further, in view of the Hon'ble APTEL's direction in Appeal No. 36 of 2008 and Appeal No. 61 & 62 of 2012, the Commission has filed a Clarificatory Application before the Hon'ble APTEL, **therefore a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said application.**"(Emphasis bold and underlined)*

3B.37 It is submitted that the Hon'ble APTEL vide Judgment dated October 31, 2017 dismissed the clarificatory application. However, the Hon'ble Commission in Tariff Order dated 28.03.2018 instead of implementing the aforesaid direction ruled as under:

*"3.36 This matter is sub judice before Hon'ble Supreme Court of India and the same has also been clarified by Hon'ble APTEL vide it's Order dated 31/10/2017 in the Clarificatory Appeal. **Therefore, the view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court of India in the pending Appeal.**"(Emphasis bold and underlined)*

3B.38 The Petitioner requests the Hon'ble Commission to implement the directions of Hon'ble Tribunal and its own observations at Para-4.223 of Tariff Order



dated February 23, 2008 in true letter and spirit.

3B.39 Further the Hon'ble ATE in Judgment dated February 10, 2015 (Appeal 171 of 2012) has ruled as under:

"13.4 We find that the State Commission has considered interest rate for working capital as 11.62% and interest rate for capital at 11.25% for the control period 2012-13 to 2014-15. The Appellant has produced a letter from SBI dated 02.01.2012 showing working capital facilities sanctioned at an interest rate of 3.25% above base rate which works out to 13.25% p.a. with monthly interests. This letter was furnished to the State Commission by letter dated 21.05.2012. This has not been considered by the State Commission while deciding the rate of interest on working capital. In the submissions of the State Commission before us they have not denied receipt of this letter but have not given any explanation why the this letter was not considered by them while deciding the interest on working capital. There is also no explanation in the impugned order regarding fixing interest rate at 11.25% on working capital. We, therefore, direct 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."

3B.40 The Petitioner vide its letter dated April 10, 2015 request the Hon'ble Commission to revise the rate of interest for the period FY 2012-13 to FY 2016-17 on account of the following:

- a) The Hon'ble Commission in its Tariff Order dated July 13, 2012 has considered the interest rates of loan applicable to TPDDL (same being the lowest) for approving the interest liabilities on the normative loans approved for the Second Control Period for all DISCOMs. The Hon'ble Commission has considered rate of 11.21% and 11.62% for new Capex and working capital loans respectively during the second control period. However, the rate of interest considered for computation of WACC during FY 2012-13, FY 2013-14 and FY 2014-15 is 9.99%, 10.24% and 10.44% respectively which clearly shows that the Hon'ble Commission has considered weighted average of rate of interest for previous loans approved till FY 2011-12 and rate of interest for new loans arrived at after comparison of rate of interest of all Delhi DISCOMs. Since this Hon'ble Tribunal in Judgment dated 28.11.2014 (Appeal No. 61 of 2012) directed the Hon'ble Commission to true-up



the interest rates on loans during first control period, same will tantamount to revision in interest rates on loans approved for second control period also.

- b) The True-up of interest rates of working capital loans as per audited accounts on actual basis for TPDDL in Judgment dated 10.02.2015 (Appeal 171 of 2012) will tantamount to revision in interest on loans for computation of WACC. The Hon'ble Commission, in its Tariff Order dated July 13, 2012 has considered the interest rates of loan applicable to TPDDL (same being the lowest) for approving the interest liabilities on the normative loans approved for the Second Control Period for all DISCOMs. The interest of loans considered for computation of WACC by the Hon'ble Commission in Order dated 13.07.2012 is a function of both interest on Capex loans and working capital loans, therefore any revision in working capital loans will lead to change in overall rate of interest. Since the Hon'ble ATE in Judgment dated 10.02.2015 (Appeal No. 171 of 2012) directed the Hon'ble Commission to consider the actual rate of interest for working capital loans as per the Audited Accounts, same ratio will also be applicable in case of the Petitioner and hence, the rate of interest for computation of WACC during second control period will undergo revision.
- c) Incorrect data submitted by TPDDL leading to the lower rates of interest for the Petitioner: As stated hereinabove, the Hon'ble Commission in Tariff Order dated July 13, 2012 has considered the rate of interest applicable to TPDDL (being the lowest) for all Delhi DISCOMs during second control period. **However, TPDDL, during proceedings of Appeal 171 of 2012 has pointed out that the rate considered by the Hon'ble Commission in its Tariff Order dated July 13, 2012 is erroneous and the same was submitted with respect to revenue gap loans and not capex loans.** The Hon'ble Tribunal has rejected the contention of TPDDL on the ground that TPDDL should have submitted all such arguments during the time of proceedings itself. Since the Hon'ble Commission has considered the rate of TPDDL for the Petitioner also, the Petitioner has suffered due to TPDDL's error in submission without any fault of its own. **The Petitioner cannot be made to suffer on account of errors committed by any other DISCOM. Therefore, the rate of interest on Capex loans ought to be revised in case of the Petitioner by re-benchmarking the data.**



3B.41 The Petitioner craves leave to refer to and rely upon the analysis of the interest rates of Scheduled Commercial Banks placed before this Hon'ble Commission in the previous tariff proceedings.

3B.42 The Petitioner has considered the actual rate of interest for the purpose of computation of RoCE from FY 2007-08 to FY 2016-17 which are as under:

Table 3B 4: Rate of Interest for ROCE computation FY 2007-08 to FY 2016-17

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Rate of Interest	10.34%	11.12%	11.52%	12.30%	14.16%	14.47%	14.15%	14.25%	14%	13.56%

PRAYER(S):

3B.43 Therefore, the Petitioner once again requests the Hon'ble Commission to implement the directions of Hon'ble Tribunal given in Judgment dated November 28, 2014 (Appeal 61 of 2012) in true letter and spirit. The implementation of the aforesaid direction shall translate to increase in RoCE from FY 2007-08 to FY 2016-17. However there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at Para- 3B.78 to Para-3B.152.

Issue-4: Repayment of loans:ISSUE IN BRIEF:

3B.44 This issue involves the computation of the Debt/Equity Ratio for the purpose of funding of capitalisation and the return to the Petitioner. The Debt /Equity Ratio is one of the components of the WACC. The Hon'ble ATE vide its Judgment in Appeal No. 61 of 2012 remanded the matter back to the Hon'ble Commission on a very limited issue (as elaborated subsequently). However, the Hon'ble Commission travelled beyond the said limited remand and instead of re-evaluating the WACC by considering the actual debt repayment, reduced the WACC by not taking into account the actual debt repayment and by embarking upon a methodology whereby the Hon'ble Commission erred in computing the actual available equity.

LIST OF DATES:

LIST OF DATES:

S.No	Date	Event																
1.	20.11.2001	<p>As per the Transfer Scheme Rules notified on November 20, 2001 by the GoNCTD, which are binding in terms of Sections 15 and 16 of the Delhi Electricity Reforms Act, 2000, the assets were transferred to the three DISCOMs in the debt equity ratio as under:</p> <p style="text-align: center;">TABLE – 1</p> <table><tr><th>S. No</th><th>Particulars</th><th>Amount (Rs. Cr.)</th><th>%</th></tr><tr><td>1</td><td>Net Fixed Assets</td><td>1150</td><td></td></tr><tr><td>2</td><td>Equity</td><td>460</td><td>40%</td></tr><tr><td>3</td><td>Debt</td><td>690</td><td>60%</td></tr></table> <p>As can be seen from the above table, the Hon’ble Commission has used the opening mix of debt equity as provided in the Transfer Scheme, which was binding on all the stakeholders including the Petitioner (as upheld by the Hon’ble Supreme Court in its judgment dated 15.02.2007 in Civil Appeal No. 2733/2006), for computation of debt equity ratio for the future years.</p> <p>The Petitioner has accordingly followed the same opening debt equity mix as specified in the statutory Transfer Scheme while filing its tariff entitlements and has at no point post privatization, from the Policy Direction period, claimed as equity an amount greater than 30% as a part of means of finance for capitalisation undertaken post the policy direction period.</p>	S. No	Particulars	Amount (Rs. Cr.)	%	1	Net Fixed Assets	1150		2	Equity	460	40%	3	Debt	690	60%
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1	Net Fixed Assets	1150																
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S.No	Date	Event																														
2.	15.02.2007	Judgment of the Supreme Court of India in DERC v. BSES Yamuna Power Limited Civil Appeal No. 2733 of 2006.																														
3.	30.05.2007	The MYT Regulations, 2007 at Regulation 5.10 set out the principles for determination of debt-equity in the ratio of 70:30.																														
4.	23.02.2008	<p>The Hon’ble Commission, in its MYT Order (Para 3.64 thereof) explained the priority order for means of finance for funding of capital expenditure.</p> <p>Further, the Hon’ble Commission in this Tariff Order considered working capital funding entirely through debt (in paras 4.220-4.222 thereof). This was challenged before the Hon'ble Tribunal in Appeal No. 52 of 2008, as the Hon’ble Commission did not consider the amount in accordance with the Regulations and the factual/ commercial realities applicable to a regulated business, thereby denying the Petitioner its legal entitlements/ return.</p>																														
5.	31.05.2011	In its Judgment in Appeal No. 52 of 2008, paras 40-45 thereof, the Hon'ble Tribunal directed the Hon’ble Commission to recompute the WACC for each year of the control period, along with carrying cost, and apply the respective year’s RRB for allowance of RoCE in terms of its Regulations (i.e. debt: equity ratio of 70:30 has to be accounted for computation of WACC).																														
6.	31.07.2013	<p>As stated above, the MYT Regulations, 2007 set out the principles for determination of debt-equity in the ratio of 70:30.</p> <p>Pending the physical verification of assets, the Hon’ble Commission vide its Order dated 31.07.2013, in para 3.182, Table 58 thereof allowed the debt-equity mix towards capitalisation which was carried out during the 2nd MYT control period in the ratio of 70:30 as under:</p> <p style="text-align: center;">TABLE – 2</p> <p style="text-align: right;">(Rs. Cr.)</p> <table><tr><th>Particulars</th><th>FY 08</th><th>FY 09</th><th>FY 10</th><th>FY 11</th><th>FY 12</th></tr><tr><td>Internal Accruals</td><td>10.39</td><td>57.48</td><td>19.11</td><td>12.43</td><td>17.59</td></tr><tr><td>Internal Accruals (%)</td><td>30%</td><td>30%</td><td>30%</td><td>30%</td><td>30%</td></tr><tr><td>Loan</td><td>24.23</td><td>134.11</td><td>44.6</td><td>29</td><td>41.05</td></tr><tr><td>Loan (%)</td><td>70%</td><td>70%</td><td>70%</td><td>70%</td><td>70%</td></tr></table>	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	Internal Accruals	10.39	57.48	19.11	12.43	17.59	Internal Accruals (%)	30%	30%	30%	30%	30%	Loan	24.23	134.11	44.6	29	41.05	Loan (%)	70%	70%	70%	70%	70%
Particulars	FY 08	FY 09	FY 10	FY 11	FY 12																											
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Loan	24.23	134.11	44.6	29	41.05																											
Loan (%)	70%	70%	70%	70%	70%																											

S.No	Date	Event
7.	28.11.2014	<p>In Appeal No. 61-62 of 2012 before the Hon'ble Tribunal, the grievance raised by the Petitioner was that whilst computing the debt (loan balance) of the Petitioner (in the D/E Ratio) the Hon'ble Commission was not taking into account the loans repaid by the Petitioner. Hence, by not taking into account the loans repaid by the Petitioner, the Hon'ble Commission was artificially increasing the debt component thereby reducing the WACC and thence reducing the return on equity allowable to the Petitioner.</p> <p>By its judgment in the said appeal ("Appeal 61 Judgment") the Hon'ble Tribunal after a detailed analysis <i>inter alia</i> concluded that:-</p> <p><i>"102. In the light of above discussions we find force in the contentions of the Appellant and direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant. The issue is decided in favour of the Appellant."</i></p> <p>Hence, the Appeal 61 Judgment contained a limited remand to the Hon'ble Commission – <i>"..to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant..."</i></p>
8.	19.06.2015	<p>In point of fact, the Petitioner had opposed the proposed formulation of net-worth by the Hon'ble Commission vide its letter No. RA/2015-16/01/A/213.</p> <p>This letter has was not acknowledged by the Hon'ble Commission in Table 1.1 of its Tariff Order, which gives the list of letters supposedly sent to the Hon'ble Commission.</p>
9.	29.09.2015	<p>The Tariff Order dated 29.09.2015, (paras 3.33-3.37) purports to reopen the calculation of the so-called "actual equity" invested by the Petitioner in capitalisation by a method of "net worth" which is alien to the Regulations framed by the Hon'ble Commission itself and also contrary to the established practice of the Hon'ble Commission in the previous year's Orders.</p> <p>By the said Tariff Order, the Hon'ble Commission has not only refused to take into account the repayment of loans, despite the clear direction of the Hon'ble Tribunal but has gone ahead and completely changed the entire basis of the computation of WACC. Not only has this new computation been done for the future years but, it has been reopened for not only the 1st MYT control period (2007-08 to 2011-12), but also the 2nd MYT Control period (2012-12 to 2015-16) and even for the Policy direction period (2002-03 to 2006-07).</p>

S.No	Date	Event
10.	31.08.2017	The Hon'ble Commission vide its tariff order dated 31.08.2017 (paras 3.26) held that it had already clarified the said issue in the Tariff Order dated 29.09.2015 (Para nos. 3.34 to 3.37) and the matter was therefore not deliberated as it is <i>sub-judice</i> before the Hon'ble APTEL in Appeal No. 297/ 2015. The relevant extracts of the said order are set out below: <i>"The Commission has already clarified this issue Tariff Order dtd. 29/09/2015 in para nos. 3.34 to 3.37 and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon'ble APTEL in Appeal No. 297/2015".</i>
11.	31.10.2017	The Hon'ble Commission had filed a Clarificatory Application in Appeal 177 of 2012 seeking clarification/ review of ten tariff issues including the present one. The Hon'ble Tribunal vide its judgment dated 31.10.2017 dismissed the said Clarificatory Application.
12.	28.03.2018	The Hon'ble Commission vide its tariff order dated 28.03.2018 has stated that the matter is sub-judice before Hon'ble Supreme Court of India and any view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court in the pending Appeal.

DETAILED SUBMISSIONS:

3B.45 As per DERC Tariff Regulations, 2007 and DERC Tariff Regulations, 2011, depreciation shall be considered towards repayment of loans.

3B.46 However, the Hon'ble Commission in Tariff Order dated August 26, 2011 did not consider the repayment of loan while computing average balance of loan for respective years.

3B.47 The issue was challenged before Hon'ble ATE in Appeal 61 and 62 of 2012. The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

"102. In the light of above discussions we find force in the contentions of the Appellant and direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recomputed the RoCE payable to the Appellant. The issue is decided in favour of the Appellant."

3B.48 The Petitioner has considered one-tenth of the outstanding balance of loan as repayment during the year. The same has been deducted from the loan balance for calculation of average debt during the year.

3B.49 The Petitioner in its Petition for True-up of FY 2016-17 and ARR and Tariff of FY 2018-19 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.39 This matter is sub judice before Hon'ble Supreme Court of India and the same has also been clarified by Hon'ble APTEL vide it's Order dated 31/10/2017 in the Clarificatory Appeal. Therefore, the view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court of India in the pending Appeal."

3B.50 As regards aforesaid, it is respectfully submitted that there is no bar on the Hon'ble Commission to implement the directions of Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 of 2012) pending adjudication of Civil Appeal filed before Hon'ble Supreme Court as it is settled law that in the absence of any interim Order(s)/ stay, mere pendency of an Appeal is not a ground to refuse implementation of Orders passed by an Appellate Court. It is respectfully submitted that the Hon'ble Tribunal has already clarified the issue in the Judgment dated November 28, 2014 (Appeal 61 of 2012) wherein it remanded the matter to the Hon'ble Commission on a limited issue and therefore there was no warrant or justification for the Hon'ble Commission to have not implemented the same.

3B.51 It is respectfully submitted that the remand in terms of Judgment dated November 28, 2014 (Appeal 61 of 2012), was a "limited remand" and not an open remand. It is well settled law that when an Appellate Court remits a matter to the lower authority in a limited compass, the authority of the lower court to address the issue is limited by the four corners of the remand. Reference in this regard may be had to:

- i. The Hon'ble Tribunal's judgment dated 10.08.2010 in Appeal No. 37 of



2010, para 17-31;

- ii. The Hon'ble Tribunal's Judgment in MIAL vs MERC Appeal No. 195 of 2009 Judgment dated 31.05.2011 paras 53-55;
- iii. The judgments of the Hon'ble Supreme Court in :-
 - *Mohan Lal vs. Anandibat* (1971) 1 SCC 813;
 - *Paper Products Ltd. vs. CCE* (2007) 7 SCC 352;
 - *Smt. Bidya Devi vs. Commissioner of Income Tax, Allahabad* AIR 2004 Calcutta 63;
 - *K.P. Dwivedi vs. State of U.P.* (2003) 12 SCC 572;
 - *Mr. Muneswar and Ors. vs. Smt. Jagat Mohini Des*, AIR (1952) Calcutta 368;
 - *Amrik Singh vs. Union of India* (2001) 10 SCC 424;
 - *Union of India & Anr. Vs. Major Bhadur Singh* (2006) 1 SCC 3670; and
 - *Prakash Singh Badal & Anr. Vs. State of Punjab and Ors.* (2007) SCC 1.

3B.52 It is submitted that the remand in this case was only to “re-evaluate the WACC considering the repayment of loans”. The clear and categorical direction was to recompute the RoCE after taking into consideration only one aspect, and no more, i.e. the repayment of loans. However, the Hon'ble Commission has not done the same till date.

PRAYER(S):

3B.53 Therefore, the Petitioner once again requests the Hon'ble Commission to implement the directions of Hon'ble Tribunal given in Judgment dated November 28, 2014 (Appeal 61 of 2012) in true letter and spirit. The implementation of the aforesaid direction shall translate to increase in WACC which in turn will increase RoCE from FY 2007-08 to FY 2016-17. However, there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at Para-3B.78 to Para-3B.152.

Issue-5: Financing of Working Capital in debt-equity ratio of 70:30:ISSUE IN BRIEF:

3B.54 This issue pertains to the non-implementation of the Judgment of the Hon'ble ATE to recompute the WACC by considering financing of working capital in debt-equity ratio of 70:30 during first control period, i.e., FY 2007-08 to FY 2011-12. However, the Hon'ble Commission instead of re-evaluating the WACC by considering the funding of Working Capital in debt-equity ratio of 70:30, reduced the WACC by embarking upon a methodology whereby the Hon'ble Commission erred in computing the actual available equity.

LIST OF DATES:

S.No	Date	Event
1.	31.05.2011	<p>The Hon'ble APTEL in Judgment dated 31.05.2011 (Appeal 52 of 2008) directed the Hon'ble Commission as under:</p> <p>"67...</p> <p>(vi) The next issue is with reference to the equity component for margin on working capital requirement. The State Commission has considered the entire working capital requirement by way of loan contrary to the norms of debt and equity ratio of 70:30-. The State Commission relies on Regulation 5.10 but this Regulation would not support the contention of the State Commission. The MYT Regulations stipulate that Weighted Average cost of capital, as computed in the Regulation 5.10, needs to be applied on Regulated Rate Base which includes the working capital. This apart, Regulation 5.8 and Regulation 5.9 provide for the formula for calculating the Regulated Rate Base for a particular year and for computing the return on capital employed by multiplying the Weighted Average Cost of capital with Regulated Rate Base. Under those circumstances, the Delhi Commission is directed to re-compute the Weighted Average Cost of capital for each year of the Control Period, along with the carrying cost."</p>

S.No	Date	Event
2.	26.08.2011	The Hon'ble Commission did not implement the aforesaid issue. The issue was again raised in Appeal 61 of 2012. The Hon'ble Tribunal in Judgment dated 28.11.2014 (Appeal 61 of 2012) directed the Hon'ble Commission to implement the directions in letter and spirit.
3.	13.07.2012	The Hon'ble Commission did not implement the directions of Hon'ble Tribunal. The issue was raised in Appeal 177 of 2012. The Hon'ble Tribunal in Judgment dated 2.03.2015 directed the Commission to allow the same in true letter and spirit.
4.	31.07.2013	The Hon'ble Commission stated that it is implementing the Hon'ble ATE's Judgment by considering working capital in debt-equity ratio of 70:30. However there were computational errors due to which entire working capital was considered to be funded through 100% debt and 0% equity. The aforesaid treatment has been challenged in Appeal 266 of 2013 which is pending adjudication before Hon'ble Tribunal.
5.	23.07.2014	The Hon'ble Commission did not correct the error committed in Tariff Order dated 31.07.2013. The aforesaid treatment has been challenged in Appeal 235 of 2014 which is pending adjudication before Hon'ble Tribunal.
6.	29.09.2015	The Hon'ble Commission in Tariff Order dated 29.09.2015 changed the entire scheme of funding of working capital and capital expenditure and allowed the funding on net-worth derived from the audited statements of respective years. The challenge on account of net-worth and working capital funding is pending in Appeal 297 of 2015.

DETAILED SUBMISSIONS:

3B.55 The Hon'ble ATE in its Judgment dated May 31, 2011 (Appeal 52 of 2008) has ruled as under:

"45) The Learned Counsel for the Appellant, while refuting the submission of the State Commission that the approach adopted by the State Commission was on the basis of the normal industry practice by referring to the tariff orders of the 4 State Commissions. The Appellant has cited Tariff orders of Karnataka State Commission, Himachal Pradesh State Commission, Jharkhand State Commission and the

Gujarat State Commission. It is noticed from the regulations of these State Commissions have different Regulations for the interest on Working Capital and have treated Working Capital separate from the Regulated Rate Base and do not have the concept of Return on Capital Employed as provided in the Delhi Commission's Regulations. Under these circumstances, the Delhi Commission is directed to re-compute the Weighted Average Cost of Capital for each year of the Control Period along with the carrying cost and apply on the respective years Regulated Rate Base for allowance of Return on Capital Employed according to its Regulations. This issue is answered in favour of the Appellant."

3B.56 In view of the directions of the Hon'ble ATE, the Hon'ble Commission was required to re-compute the WACC and RRB for allowance of RoCE during the period.. However, the Hon'ble Commission did not implement the aforesaid direction of Hon'ble Tribunal in subsequent Tariff Order dated August 26, 2011. This issue was challenged in Appeal 61 of 2012.

3B.57 The Hon'ble ATE once again in its Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

"9. However, the Appellants have reiterated in written submission that the Respondent has still not implemented the direction of this Tribunal to consider the working capital in the Debt: Equity ratio of 70:30.

10. We are not inclined to involve ourselves in to fact finding and direct the Commission to implement our directions in letter and spirit."

3B.58 The Petitioner in its Petition for True-up of FY 2016-17 and ARR and Tariff of FY 2018-19 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.42 The Commission has already clarified this issue in Tariff Order dtd. 29/09/2015 in para nos. 3.22 to 3.26 and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon'ble APTEL in Appeal No. 290/2015.

3.43 Further, it is clarified that the Commission has implemented its MYT Regulations, 2007 & 2011 and directions of Hon'ble APTEL in letter and spirit. The formula specified in MYT Regulations, 2007 & 2011 does not provide opening Working Capital requirement to be

part of opening RRB instead for the 1st year of the Control period change in WC shall be taken as the normative working capital requirement of the 1st year.”

3B.59 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon’ble ATE in Appeal No. 61/62 of 2012 and therefore, there is no legal embargo upon the Hon’ble Commission to implement the same, on the other hand, this Commission is legally bound to implement the same in the absence of any stay of the same.

PRAYER(S):

3B.60 In these circumstances, it is respectfully submitted that the Hon’ble Commission may be pleased to allow the impact on account of the said issue.

3B.61 The implementation of the aforesaid direction shall translate to increase in WACC which in turn will increase RoCE from FY 2007-08 to FY 2016-17. However there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at 3B.78 to Para-3B.152.



Issue-6: Re-casting of means of finance based on actual capitalisationISSUE IN BRIEF:

3B.62 This issue pertains to the non-implementation of the Judgment of the Hon'ble ATE to recast the means of finance based on actual consumer contribution capitalised instead of consumer contribution received from FY 2002-03 to FY 2006-07.

LIST OF DATES:

S.No	Date	Event
1.	23.02.2008	<p>The Hon'ble Commission vide its Order trued-up the means of finance from FY 2002-03 to FY 2006-07 considering entire consumer contribution received as means of finance.</p> <p>The Hon'ble Commission in NDPL's Order (Now TPDDL) dated February 23, 2008 also held as under: <i>"3.72 In the Policy Direction Period, the Commission has provided means of finance for the total capital investment for the year. Therefore, the Commission believes that total consumer contribution should be considered as a source of funding for capital investment irrespective of asset capitalised or not."</i></p>
2.	17.06.2009	<p>The Hon'ble Commission wrote a letter to the Petitioner stating that this Hon'ble Commission was in the process of compiling a database of deposit schemes executed by the Delhi DISCOMs. In furtherance of this exercise, the Petitioner was requested to furnish the list of deposit schemes executed by the Petitioner since taking over, i.e., w.e.f. July 1, 2002 till March 31, 2009 in the prescribed format.</p>



S.No	Date	Event
3.	3.12.2009	<p>The Hon'ble Commission wrote a letter to the Petitioner on December 3, 2009 stating that the treatment given by the Petitioner to the unspent portion of the consumer contribution was not only a wrong accounting practice but also a dishonest one. Relevant extract of the letter dated December 3, 2009 is produced below:</p> <p><i>"Retaining the refundable amount for such a long time and utilizing the same on global basis for financing of capital investment en-bloc is surely not only a wrong accounting practice but also a dishonest one. This is also against the directions given by the Commission at the time of granting initial approval that the accounts should be reconciled with the consumers depositing such amount."</i></p> <p>The Hon'ble Commission further gave the following directions to the Petitioner:</p> <p><i>"Accordingly, the Commission hereby orders as under:</i></p> <ol style="list-style-type: none"> <i>The DISCOM shall finalize the accounts of the deposit works already executed by them and approved by the Electrical Inspector (wherever applicable) and refund the amounts due to the agencies on whose behalf the work has been carried out by the DISOMS within a period of one month of energisation.</i> <i>The DISCOMs shall send reconciled account to all such consumers and refund them the due amount, along with the penal interest of 12% per annum. The interest will be to the account of DISCOMs only and cannot be booked to the ARR because this has become payable because of their fault.</i> <i>In all future cases, the accounts be finalized immediately after completion of works and refunds made to the consumers within three months of energization. A quarterly report shall be submitted to the Commission in this regard in the format enclosed."</i>

S.No	Date	Event
4.	05.01.2010	<p>The Petitioner filed a petition before this Hon'ble Commission under Section 86 of the Electricity Act, 2003, Section 11 and Section 28 of the Delhi Electricity Reforms Act, 2000 and the Conduct of Business Regulations, 2001 issued by this Hon'ble Commission being Petition No. 01/2010. In the said Petition, the Petitioner inter alia sought the following reliefs from this Hon'ble Commission:</p> <ol style="list-style-type: none"> Reconsider its statement made in the letter dated December 3, 2009 and expunge the term 'financing of capital investment en-bloc is surely not only a wrong accounting practice but also a dishonest one.' Suitably modify its letter dated December 9, 2009 and consider implementing the principles prospectively.
5.	11.03.2014	<p>The Hon'ble Commission vide its order dated March 11, 2014 passed in Petition No. 01/2010, was pleased to partly allow the Petition filed by the Petitioner. This Hon'ble Commission vide its Order dated March 11, 2014 was pleased to expunge the remark '<i>...but also a dishonest one,</i>'. However, this Hon'ble Commission declined to interfere with the directions of the Ld. Secretary as contained in the letter dated December 3, 2009.</p>

S.No	Date	Event
6.	----	<p>Being aggrieved by the order dated March 11, 2014 passed by this Hon'ble Commission, the Petitioner approached the Hon'ble Tribunal by way of an appeal under Section 111 of the Electricity Act, 2003 (hereinafter "2003 Act") being Appeal No. 110 of 2014. Briefly put, the Petitioner's case before the Hon'ble Tribunal was that this Hon'ble Commission cannot direct the Petitioner to refund the unspent portion of the consumer contribution without providing the Petitioner the consequential benefits of such a refund. In other words, the Petitioner's case before the Hon'ble Tribunal was that it may direct this Hon'ble Commission to adopt either of the following methodologies:</p> <ol style="list-style-type: none"> consider making its directions with respect to the refund of the unspent portion of the consumer contribution, prospective or, in the event the Petitioner was required to refund the unspent consumer contribution since inception, then this Hon'ble Commission may recast the Petitioner's means of finance since inception and give the Petitioner all the consequential benefits including the carrying cost associated with such amounts. This was on account of the fact that the unspent portion of the consumer contribution had admittedly been utilised by this Hon'ble Commission as a means of finance thereby reducing the tariff. In other words, the benefit of the unspent consumer contribution had already gone to the consumers at large in the form of a reduced tariff and the Petitioner had not in any manner benefited from the same.

S.No	Date	Event
7.	23.02.2015	<p>The Hon'ble APTEL was pleased to allow the Appeal with the following directions:</p> <p>"18. Summary of findings:</p> <p><i>The learned Delhi Electricity Regulatory Commission has been considering consumer contribution as means of financing the capital cost. The appellant's contention, that the unutilized portion of the consumer contribution was also used as means of finance for the capital works and accordingly regulated rate base from FY 2002-03 onwards was reduced and consumers got the benefit of lower tariff, has legal force which we accept. If the unutilized consumers contribution has been utilized as means of financing for the tariff orders from FY 2002-03 onwards and corresponding relief has been given to the consumers in terms of retail supply tariffs, then the appellants are entitled to get consequential relief and the said unspent contribution amount be refunded by the appellants as per the Commission's order. The unspent consumer's contribution amount may be considered as an expenditure in the future ARR of each of the appellants / DISCOMs. These matters are fit to be remanded giving liberty to appellant's to furnish the accounts showing that the excess amount of consumers contribution has been duly considered in the annual revenue requirements from FY 2002-03 onwards in reducing the retail supply tariffs.</i></p> <p>19. In view of the above, these appeals being Nos. 109, 110 and 111 of 2014 are hereby partly allowed and the common impugned order dated 11.03.2014 passed by the Delhi Electricity Regulatory Commission in Review Petition Nos. 1, 2 & 3 of 2010 is modified to the extent indicated above. The matters are remanded to the learned Delhi Electricity Regulatory Commission giving liberty to the appellant's / DISCOMs to furnish the accounts showing that the excess amount of consumers contribution has been duly considered in the ARRs from FY 2002-03 onwards in reducing the retail supply tariffs. In that situation the Commission is further directed to hear the matter and pass the consequential order as it thinks fit and proper in the facts and circumstances of these matters. No order as to costs."</p>

S.No	Date	Event
8.	23.12.2015	The Hon'ble Commission disposed of the matter related to consumer contribution with the following ruling: <i>"4. On the issue of how to arrive at the exact figure of the amount to be refunded to the respective consumers and from what date, the Commission directed the Petitioners to come up with the details of balance of consumer contribution in each case and from which date it has to be refunded. The Commission directed that this exercise should be completed within two months. Regarding re-casting of ARR for previous years, the Commission directed the Petitioners to submit the details of such cases, where the unutilized consumer contribution for assets capitalized were considered as means of finance for other capital schemes of the Petitioners. This information will be utilized for passing orders on details of refund of consumer contribution as well as re-casting of previous ARR's in the next tariff order."</i>
9.	7.03.2016	The Petitioner, vide letter number RA/ 2015-16/ 01/ A/ 785 dated 07.03.2016 submitted the details of cases where unutilised consumer contribution for assets capitalised were considered as means of finance for other capital schemes. The details contained consumer-wise details in respect of amounts refundable against schemes completed upto FY 2014-15 in cases where the deposits were received upto FY 2011-12.
10.	21.06.2016	The Petitioner, vide letter number RA/ 2016-17/ 01/A/189 dated 21.06.2016 submitted the auditor certificate in regard to balance consumer contribution which remained unutilised after the completion of respective scheme (along with interest @ 12% per annum as per the direction of the Hon'ble Commission).
11.	12.01.2017	The Hon'ble Commission directed the Petitioner to refund the balance amount of consumer contribution to the respective consumers and stated that any failure to comply with the same would attract action under section 142 of Electricity Act 2003 and further directed the Petitioner to submit comprehensive report within 15 days.
12.	---	The Petitioner filed Appeal against the letter dated 12.01.2017 before Hon'ble APTEL.
13.	15.05.2017	The Hon'ble APTEL directed the Hon'ble Commission to implement the directions given in Judgment dated 23.02.2015.

S.No	Date	Event
14.	----	The Hon'ble Commission challenged the said decision of Hon'ble APTEL in Judgment dated 15.05.2017 before Hon'ble Supreme Court. The said Civil Appeal has already been dismissed by the Hon'ble Supreme Court.
15.	18.06.2018	The Hon'ble Commission in suo-motu proceedings in Petition No. 1 of 2010 (which already stood disposed of on 23-12-2015) issued an interim order and stated as under: <i>"5. After hearing the counsels for the petitioners, it is made clear that the ARR's of previous year's upto FY 2015-16 have already been trued up and it would not be desirable to recast ARR's at this juncture. As much as it is related to the issue of arranging the finance for refund, it is for the DISCOMs to arrange the necessary finance. Once refund of the Consumer contribution is made by the DISCOMs, the actual amount refunded shall be allowed in the subsequent true up of the ARR's."</i>
16.	---	Aggrieved from the aforesaid interim order, the Petitioner has challenged the same before Hon'ble APTEL which is pending adjudication.

DETAILED SUBMISSIONS:

3B.63 The Hon'ble Commission in respective tariffs order while approving the means of finance, considered the consumer contribution on receipt basis instead of actual capitalised basis. Since the consumer contribution was considered on receipt basis which includes unspent consumer contribution also, the Petitioner was allowed lower ROE and Interest on loan. Therefore, the benefit of unspent consumer contribution was passed on a global basis through lower electricity tariffs to the consumers.

3B.64 However, the Hon'ble Commission vide letter dated December 3, 2009 directed the Petitioner to finalize the accounts of the deposit works already executed by them and approved by the Electrical Inspector (wherever applicable) and refund the amounts due to the agencies on whose behalf the works had been carried out by the Petitioner. The Hon'ble Commission further directed that the DISCOMs were to send reconciled accounts to all such consumers and refund them the due amount along with a penal interest of

12% per annum.

- 3B.65 The Petitioner on January 5, 2010 filed a petition bearing No.01/2010 before the Hon'ble Commission requesting to modify its letter dated December 3, 2009 and consider implementing the principles prospectively.
- 3B.66 The Hon'ble Commission vide Order dated March 11, 2014 acknowledged the fact that unspent consumer contribution has been considered as means of finance. Despite of the same, the Hon'ble Commission maintained the same direction as was contained in letter dated December 3, 2009.
- 3B.67 The said issue was challenged by all DISCOMs including the Petitioner, BYPL and TPDDL before Hon'ble ATE in Appeal 109, 110 and 111 of 2014. The Hon'ble ATE in Judgment dated February 23, 2015 (Appeal 109, 110 and 111 of 2014) has ruled as under:

"19. In view of the above, these appeals being Nos. 109, 110 and 111 of 2014 are hereby partly allowed and the common impugned order dated 11.3.2014 passed by the Delhi Electricity Regulatory Commission in Review Petition Nos. 1, 2 & 3 of 2010 is modified to the extend indicated above. The matters are remanded to the learned Delhi Electricity Regulatory Commission giving liberty to the appellant's/ DISCOMs to furnish the accounts showing that the excess amount of consumers contribution has been duly considered in the ARR from FY 2002-03 onwards in reducing the retail supply tariffs...."

- 3B.68 Pursuant to the above direction of Hon'ble Tribunal, the Hon'ble Commission in Order dated December 23, 2015 ruled as under:

"4. On the issue of how to arrive at the exact figure of the amount to be refunded to the respective consumers and from what date, the Commission directed the Petitioners to come up with the details of balance of consumer contribution in each case and from which date it has to be refunded. The Commission directed that this exercise should be completed within two months. Regarding re-casting of ARR of previous years, the Commission directed the Petitioner to submit the detail of such cases, where the unutilised consumer contribution for assets capitalised were considered as means of finance for other capital schemes of the Petitioners. This information will be utilised for



passing orders on details of refund of consumer contribution as well as re-casting of previous ARR's in the next tariff order."

- 3B.69 With reference to the aforesaid directions, the Petitioner vide its letter dated March 7, 2016 submitted consumer-wise details in respect of amounts refundable against schemes completed upto FY 2014-15 in cases where the deposits were received upto FY 2011-12 alongwith single line item of the total amount refundable for the scheme, where deposits were received after FY 2011-12.
- 3B.70 The Hon'ble Commission by its letter dated April 21, 2016 observed that the Petitioner has given the list of schemes only without intimating whether refund is made or not, vide its letters dated March 7, 2016 and March 17, 2016. The Hon'ble Commission stated that the Petitioner was advised to submit information alongwith interest @12% per annum to work out the complete liability for consideration in ARR for the relevant years. The Hon'ble Commission further stated that therefore the Petitioner were advised to submit final figures about their total liability only after payment of balance of consumers contribution along with interest within a month, supported by an Auditor's certificate reconciling with the audited accounts. Only for those cases where the unutilized consumer contribution for assets capitalized were considered as means of finance and for other capital schemes the Hon'ble Commission was to be intimated. The Hon'ble Commission directed the Petitioner to submit the desired information and refund the consumers contribution including the interest along with tariff petition for FY 2016-17.
- 3B.71 The Petitioner vide its letter dated June 21, 2016 submitted the Auditor's certificate in regard to the balance consumers contribution which remained unutilized after the completion of respective scheme (along with interest @12% per annum as per direction of the Hon'ble Commission).
- 3B.72 However, the Hon'ble Commission despite the clear instructions of remand by this Hon'ble Tribunal to examine the Accounts of the Petitioner to find out whether the excess amount of consumers contribution has been duly



considered in the ARR from FY 2002-03 onwards in reducing the retail supply tariffs, vide its letter/Order dated 12.1.2017 misinterpreted the aforesaid judgment dated February 23, 2015 of this Hon'ble Tribunal negating the position that refund of balance of consumer contribution is to be done only after recasting of ARRs and stated that the refund has to be made at first before recasting of ARR. The Hon'ble Commission in the said letter also stated that any failure to comply with the same would clearly attract action under Section-142 of Electricity Act, 2003 against the Petitioner.

3B.73 The issue was challenged before Hon'ble ATE in Appeal No. 103 of 2017. The Hon'ble ATE vide Judgment dated May 15, 2017 directed the Hon'ble Commission as under:

"14.6 We have also noticed that the Respondent Commission while determining the tariff order from FY 2002-03 onwards, a methodology was followed and in the methodology, the consumers' contribution was considered as "Means of finance" while arriving ARR of respective years from 2002-03 onwards. The Respondent Commission raised the issue regarding refund of consumer contribution to the respective consumers only after the issue was raised by some of the stake holders during the public hearing held between 08.01.2008 and 11.01.2009. However, we once again direct the State Commission (DERC) to examine the submissions made by the Appellants with respect to consumers 'contribution and give an opportunity to the Appellants to place their case on Merits."

3B.74 The aforesaid Judgment was challenged by Hon'ble Commission before Hon'ble Supreme Court. The Hon'ble Supreme Court vide Judgment dated October 3, 2017 dismissed the appeal. Therefore, the directions of Hon'ble Tribunal in Judgment dated February 23, 2015 have attained finality. The Order dated 18-6-2018 does not in any way prevent the Commission from recasting the ARR's for the simple reason that the Order dated 18-6-2018 was a quorum non-judice since the same had been passed while the Commission was *functus officio* in a disposed of proceeding.

3B.75 The Hon'ble Commission has issued Tariff Order 28.03.2018 after the aforesaid

Judgment of Hon'ble Supreme Court. However the means of finance has yet not been re-casted in respective ARRs.

PRAYER(S):

3B.76 The Petitioner once again requests the Hon'ble Commission to re-cast the ARRs of respective years by considering the impact on account of the aforesaid direction.

3B.77 The implementation of the aforesaid direction shall result in increase in depreciation, RoCE, Interest on loan and ROE. However there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters. Therefore the impact on account of this issue has been discussed along with other capitalisation related issues at Para- 3B.78 to Para- 3B.152.

3B.78 Impact on account of the directions related to capitalisation from FY 2002-03 to FY 2016-17:

3B.79 The Petitioner has considered the capital expenditure and capitalisation from FY 2002-03 to FY 2016-17 as per the directions of Hon'ble ATE given in Judgment dated October 6, 2009 (Appeal 36 of 2008) and March 2, 2015 (Appeal 177 of 2012) which is the law as of date. The Hon'ble ATE has also opined the same in Judgment dated February 11, 2014 (Appeal Nos. 112, 113 and 114 of 2013) as under:

"The Judicial discipline demands that Appellate Tribunal's or Appellate Court's judgments should be implemented and complied with in letter and spirit by the subordinate authorities, commissions or the court without any if & but, particularly, when the operation of the said judgment has not been stayed by the higher Appellate Court or Higher Forum. If this practice is allowed to prevail, that would create judicial anarchy in the country which is not permissible under the Constitution of India."

3B.80 Also the Hon'ble Commission has tendered an unconditional apology on Affidavit before Hon'ble ATE during the proceeding of Appeal 14 of 2012 and has stated that the Hon'ble Commission is duty bound to implement the

directions of the Hon'ble ATE. The extracts of the Affidavit are reproduced below:

"1. That at the outset of the written submissions the Respondent most respectfully submits that the language used in the impugned order is not appropriate and the Respondent submits unconditional apology for use of the said language in the impugned order. The Respondent duty is bound to implement all the directions issued by this Tribunal."

3B.81 However the implementation of directions of Hon'ble ATE in various Judgments has not found any place till now in previous tariff orders.

3B.82 Since the implementation of ATE directions are pending since FY 2004-05 and the treatment of capex related expenses for the period FY 2002-03 to FY 2006-07 was different from the period from FY 2007-08 onwards, the capital expenditure and capitalisation has been divided into two sections as under:

a) Capital Expenditure and Capitalisation from FY 2002-03 to FY 2006-07:

REL Purchases:

3B.83 The REL Disallowances as considered by the Hon'ble Commission in Tariff Order dated February 23, 2008 is tabulated below:

Table 3B 5: Year-wise REL Disallowances

(in Rs. Cr.)						
S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09
1	REL Disallowances	3	61	69	122	109
2	Reference	Annexure-V; Para 32; Pg. No. 275 of Tariff Order dtd 23.02.2008				

EIC Disallowances:

3B.84 As regards the issue of allowance of capitalisation based on EI Certificates, the Hon'ble ATE in Judgment dated October 6, 2009 (Appeal 36 of 2008) ruled as under:

"118) ...For capitalisation of fresh assets the DISCOM shall make appropriate applications to the Electrical Inspector and the capitalisation of such assets will be allowed w.e.f. 16th day of filing of the application and payment of necessary fee.."

- 3B.85 Since the cost incurred on account of capitalisation pertaining to FY 2004-05 to FY 2006-07 is yet to be recovered from last 12 years, despite the fact that the benefit of putting the assets in use have already been passed on to the consumers, the same ought to be allowed pending physical verification of assets.
- 3B.86 Accordingly, the Petitioner has considered the capitalisation on account of EI Certificates deferment in respective Financial Years in which the disallowance was considered by the Hon'ble Commission in its MYT Order dated February 23, 2008.
- 3B.87 Further the Petitioner has also considered de-capitalisation of assets from FY 2002-03 to FY 2006-07 provided that the Hon'ble Commission also allows the loss on retirement of assets as per the Petition No. 46 of 2012 filed on November 19, 2012.
- 3B.88 Consequently, the Closing GFA as on March 31, 2007 will get revised which is tabulated as under:

Table 3B 6: GFA from FY 2002-03 to FY 2006-07

(in Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Opening GFA	1533	1552	1658	1923	2689
2	Opening CWIP	0	58	66	723	463
3	Investment in Year	76	115	923	519	207
a	REL Additions	0	0	325	39	0
b	EI Additions	0	0	59	-138	-100
c	Already allowed by DERC	76	115	539	619	306
4	Assets capitalised	19	106	266	779	316
5	Closing WIP	58	66	723	463	354
6	Less: Retirements	0	0	0	13	4
7	Closing GFA	1552	1658	1923	2689	3001

b) Capital Expenditure and Capitalisation from FY 2007-08 to FY 2016-17:

- 3B.89 As regards capital expenditure and capitalisation from FY 2007-08 onwards, the

Petitioner has considered the capitalisation in accordance with the Audited Accounts. The REL Disallowances during FY 2007-08 and FY 2008-09 have not been considered as it is expected that the Hon'ble Commission will implement Hon'ble ATE Judgment dated October 6, 2009.

3B.90 Further, the Petitioner has also considered de-capitalisation of assets from FY 2007-08 to FY 2016-17 provided that the Hon'ble Commission also allows the loss on assets retirement of assets as per the Petition No. 46 of 2012 filed on November 19, 2012.

3B.91 Based on the above submissions, the capital expenditure and capitalisation from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 7: Capital expenditure and capitalisation

(in Rs. Cr.)

Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Capex	247	377	305	302	207	267	309	298	360	484
Capitalisation	261	459	299	357	156	313	306	338	383	406
De-capitalisation	8	10	6	8	95	12	12	29	37	35

3B.92 Accordingly the GFA from FY 2007-08 to FY 2015-16 is tabulated below:

Table 3B 8: Gross Fixed Assets from FY 2007-08 to FY 2015-16

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	Remarks/ Ref.
A	Opening GFA	3001	3254	3702	3995	4343	4404	4705	4999	5307	5654	
B	Capitalisation during FY	261	459	299	357	156	313	306	338	383	406	
C	De-capitalisation	8	10	6	8	95	12	12	29	37	35	
D	Closing GFA	3254	3702	3995	4343	4404	4705	4999	5307	5654	6025	A+B-C
E	Average GFA	3127	3478	3848	4169	4374	4555	4852	5153	5480	5839	(A+D)/2

3B.93 The Petitioner requests the Hon'ble Commission to allow the GFA from FY 2007-08 to FY 2016-17 as stated in above table.

Means of finance:

3B.94 The Petitioner has considered the funding of capitalisation from FY 2002-03 to

FY 2016-17 in debt-equity ratio of 70:30 after deducting actual consumer contribution capitalised from FY 2002-03 to FY 2016-17 (unspent consumer contribution not considered) in terms of Hon'ble ATE directions in Judgment dated February 23, 2015.

c) Funding of capital expenditure from FY 2002-03 to FY 2006-07:

3B.95 The means of finance from FY 2002-03 to FY 2006-07 as considered by Hon'ble Commission in Tariff Order dated February 23, 2008 is tabulated below:

Table 3B 9: Funding of capex from FY 03 to FY 07 as per Order dated 23.02.2008

(in Rs. Cr)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
A	Capex	76	115	923	506	203
B	Closing value of sundry creditors				21	
C	Financing Required	71	115	923	527	203
	Funding					
D	Consumer Contribution	12	57	60	39	48
E	APDRP Grants	0	19			
F	APDRP Loans	0	19			
G	Depreciation utilisation	57	20	143	88	120
H	Internal accruals	1	0	95	154	41
I	Loan	1	0	221	359	96
J	Closing value of sundry creditors			21		
K	Total	71	115	539	639	306

3B.96 During the Policy Direction Period, the funding of capital expenditure was allowed instead of capitalisation in the following priority:

- Consumer contribution
- APDRP Grant/ Loan
- Unutilised depreciation including available unutilised depreciation of previous years
- Balance funds required-assumed normative debt to equity ratio of 70:30.

3B.97 In case of EI, only capitalisation was disallowed. However in case of REL Purchase, both capital expenditure and capitalisation was disallowed.

3B.98 The implementation of Hon'ble ATE directions with respect to REL Purchases will also lead to revision in depreciation from FY 2002-03 to 2006-07. The revised depreciation so computed has been considered for computing means of finance from FY 2002-03 to FY 2006-07. The utilisation of depreciation is tabulated as under:

Table 3B 10: Revised Utilisation of depreciation from FY 03 to FY 07

(in Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Depreciation during FY	77	104	111	129	180
2	Means of finance					
a	Working Capital	20	26	26	0	0
b	Loan repayment	0	0	0	30	6
c	Capex	57	77	85	99	174
3	Unutilised if any	0	0	0	0	0

3B.99 Balance funds are assumed to be funded in normative debt to equity ratio of 70:30. The revised means of finance from FY 2002-03 to FY 2006-07 after considering REL purchase is tabulated below:

Table 3B 11: Revised means of finance from FY 03 to FY 07

(in Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
A	Capex	76	115	923	506	203
B	Closing value of sundry creditors				21	
C	Financing Required	71	115	923	527	203
	Funding					
D	Consumer Contribution	0	0	1	16	23
E	APDRP Grants	0	19			
F	APDRP Loans	0	19			
G	Depreciation utilisation	57	77	85	99	174
H	Internal accruals	4	0	245	124	2
I	Loan	10	0	572	288	4
J	Closing value of sundry creditors			21		
K	Total	71	115	923	527	203

d) Funding of capitalisation from FY 2007-08 to FY 2016-17:

3B.100 For calculation of debt-equity during respective Financial Years, the amount of consumer contribution capitalised has been deducted from the capitalisation

during and ratio of 70:30 has been applied on the remaining amount to calculate the amount of debt and equity pending implementation of Hon'ble ATE Directions in various Judgments.

3B.101 The financing of investment capitalised from FY 2007-08 to FY 2016-17 has been shown below:

Table 3B 12: Financing of Investment capitalised from FY 2007-08 to FY 2016-17

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	Remarks/ Ref.
A	Capitalisation	261	459	299	357	156	313	306	338	383	405	
B	De-capitalisation	8	10	6	8	95	12	12	29	37	35	
C	Consumer contribution	20	96	53	57	13	69	47	67	81	67	
D	Net	232	352	239	292	48	232	247	241	266	304	D=A-B-C
E	Equity (30%)	70	106	72	88	14	70	74	72	80	91	0.3 X D
F	Debt (70%)	163	247	168	204	33	163	173	169	186	213	0.7 X D

e) Funding of change in working capital from FY 2002-03 to FY 2016-17:

i. Funding of working capital in debt-equity ratio of 70:30:

3B.102 The Hon'ble Commission has also applied the proposed formula for net-worth for the computation of means of finance for working capital which is contrary to the findings of this Hon'ble ATE in Judgment dated July 31, 2011 (Appeal 52 of 2008) which states as under:

*"43. Regulation 5.8 provides formula for calculating the Regulated Rate Base for a particular year wherein **working capital is clearly one of the elements so much so that any change in the normative working capital has to be included.***

*44. Regulation 5.9 sets out the formula for computing the Return on capital employed by multiplying the weighted average cost of capital with the Regulated Rate Base. As mentioned above, **Regulation 5.10 stipulates formula to compute the weighted cost of capital which precedes on a clear belief that the debt equity ratio of 70% and 30% has to be accounted for.***

45. The Learned Counsel for the Appellant, while refuting the

submission of the State Commission that the approach adopted by the State Commission was on the basis of the normal industry practice by referring to the tariff orders of the 4 State Commissions. The Appellant has cited Tariff orders of Karnataka State Commission, Himachal Pradesh State Commission, Jharkhand State Commission and the Gujarat State Commission. It is noticed from the regulations of these State Commissions have different Regulations for the interest on Working Capital and have treated Working Capital separate from the Regulated Rate Base and do not have the concept of Return on Capital Employed as provided in the Delhi Commission's Regulations. Under these circumstances, the Delhi Commission is directed to re-compute the Weighted Average Cost of Capital for each year of the Control Period along with the carrying cost and apply on the respective years Regulated Rate Base for allowance of Return on Capital Employed according to its Regulations. This issue is answered in favour of the Appellant." (Emphasis supplied)

3B.103 As evident from above, the Hon'ble ATE directed the Hon'ble Commission to allow the funding of working capital in debt-equity ratio of 70:30 since the Tariff Regulations applicable in Delhi have the concept of RRB which includes working capital unlike the practice of separately allowing interest on working capital adopted by the Regulatory Commissions in other states. However the Hon'ble Commission instead of implementing the directions of Hon'ble ATE has chosen to allow the funding of working capital based on the formulae of net-worth as proposed in Tariff Order dated July 31, 2013 which is contrary to the directions of the Hon'ble ATE.

3B.104 Therefore, the funding of working capital has been considered in debt-equity ratio of 70:30 based on the directions given by Hon'ble ATE in Judgment dated July 31, 2011 (Appeal 52 of 2008).

ii. Funding of opening balance of working capital not be changed as per DERC MYT Regulations, 2011:

3B.105 The Hon'ble Commission in Tariff Order dated September 29, 2015 stated that the Petitioner has wrongly interpreted Clause-5.11 of Tariff Regulations, 2011

that only the working capital for the period and not entire working capital during second control period is required to be funded in debt-equity ratio of 70:30.

3B.106 It is submitted that the Hon'ble Commission in its Tariff Order dated September 29, 2015 did not deal with any of the reasons given by the Petitioner which are as under:

- a) Clause-5.11 read with Clause-1.2 of DERC MYT Regulations, 2011 clearly states that working capital, i.e., the change in working capital and not entire working capital during second control period is required to be funded in debt-equity ratio of 70:30. The Hon'ble Commission has not even relied on Clause-1.2 of DERC MYT Regulations, 2011 in Tariff Order dated September 29, 2015.
- b) Clause-5.11 deals only with the funding of fresh investments and working capital during the period and nowhere provides for retrospective application of regulations. Clause-5.11 does not even contemplate a retrospective operation. It is settled law that an Act or Regulation has to provide expressly for retrospective application for such Act or provisions to be enforced in a retrospective manner. In fact the Tariff Regulations do not and cannot in law provide for retrospective application. It is settled law that delegated legislation cannot have retrospective application unless and until the main Statute (here the Electricity Act, 2003) contemplates that delegated legislation in the form of regulations could be made with retrospective application. Electricity Act does not in fact provide or contemplate that regulations could be made thereunder which would have retrospective operation. In fact, a delegatee such as this Hon'ble Commission, cannot in the absence of the Electricity Act, 2003 or the Delhi Reform Act 2000 specifically empowering it to do so, make Regulations with retrospective operation. Reference may be had in this regard to the following Judgments:
 - Shakti Tubes Limited Vs State of Bihar : (2009) 7 SCC 673 paras 24-25;
 - Binani Zinc Limited Vs Kerala State Electricity Board (2009) 11 SCC 244 para 36;
 - Kusumam Hotels Private Ltd Vs Kerala State Electricity Board & Ors: (2008) 13 SCC 213 paras 23,24, 36;
 - Meghalaya SEB vs Meghalaya SERC & Byrnihat Industries Association: 2010 ELR (APTEL) 0940, paras 14,35-38;
 - Nani Sha vs State of Arunachal Pradesh (2007) 15 SCC 406,



at page 413 (Para 13);

- Union of India vs Kartick Chandra Mondal (2010) 2 SCC 422, at page 426 (para 15);
- Anil Chandra v Radha Krishna Gaur (2009) 9 SCC 454, at page 461 (para 19);
- Keshavan Madhava Menon v. State of Bombay, 1951 SCR 228;
- Dayawati v Inderjit (1966) 3 SCR 275 (para 9);
- Subodh S Salaskar v Jayaprakash M Shah (2008) 13 SCC 689 at page 700;
- Workmen v Firestone Tyre & Rubber Co. of India (P) Limited., (1973) 1 SCC 813, at page 839;
- Ahmedabad Mfg. and Calico Printing Co Ltd., v S G Mehta, ITO, 1963 Supp (2) SCR 92;
- LIC v Escorts Ltd., (1986) 1 SCC 264, at page 317;
- Zile Singh v State of Haryana (2004) 8 SCC 1, at page 9 (Paras 13, 14 and 15);

3B.107 The Hon'ble Tribunal in Judgment dated 06.01.2014 (Appeal 222 of 2012) has also ruled as under:

*"32. It is settled law that an Act or Regulation has to provide expressly for retrospective application for such Act or provisions to be enforced in a retrospective manner. **The Act and the relevant Regulations do not contain any provision which empower the Petroleum Board to retrospectively apply the tariff order. Such retrospective application cannot be read into the Act under the garb of consumer's interests...**"(Emphasis added)*

3B.108 The Hon'ble Commission by retrospective regulation of Clause-5.11 which does not even provide the same has acted contrary to all the aforesaid Judgments.

iii. Consideration of 30% of working capital funded through depreciation during policy direction period equal to loan:

3B.109 The Hon'ble Commission in Tariff Order dated September 29, 2015 stated that Policy direction period was applicable only upto FY 2006-07. However, the Hon'ble Commission has ignored the following:

- a) The funding of working capital during policy direction period, i.e., Rs. 71.85 Crore was considered to be funded through depreciation and the same therefore does not reflect in equity or debt balance upto FY 2011-12. When the funding of Rs. 71.85 Crore is not a part of equity balance upto FY 2011-12 then how the same can be deducted from the opening equity.
- b) In case the same logic is to be applied then whether the 30% of Rs. 71.85 Crore is considered as a part of equity from FY 2007-08 to FY 2011-12 as per directions given by Hon'ble ATE in Appeal 52 of 2008.
- c) Whether the Petitioner has till now received any return or interest on depreciation utilised for funding of capex or working capital during Policy Direction period?

3B.110 Accordingly, the Petitioner has considered the funding of working capital from FY 2002-03 to FY 2006-07 through depreciation and has not claimed any interest or equity on the same. The working capital from FY 2007-08 to FY 2011-12 has been considered to be funded in debt-equity ratio of 70:30. The working capital from FY 2012-13 onwards has been considered to be funded through 100% debt. The financing of change in Working Capital from FY 08 to FY 17 has been shown below:

Table 3B 13: Financing of working capital

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Financing of working capital	257	15	150	75	88	-78	2	107	137	-43
B	Equity (30%)	77	4	45	23	26	0	0	0	0	0
C	Debt (70%)	180	10	105	53	62	-78	2	107	137	-43

3B.111 It may be noted that the Hon'ble Commission in the Tariff Order dated 28.03.2018 has allowed various expenses forming part of O&M expenses for the aforesaid period which would result in revision of working capital requirement for the year. Hence, it is requested that the Hon'ble

Commission while reviewing the Working Capital requirement for the respective year, consider the revised O&M expenses including the expenses allowed in the latest Tariff Order.

Details of consumer contribution:

3B.112 The average consumer contribution from FY 2002-03 to FY 2016-17 is tabulated below:

Table 3B 14: Consumer contribution

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Opening Balance	40	60	156	209	266	279	347	394	462	542
B	Additions during the year	20	96	53	57	13	69	47	67	81	67
C	Closing Balance	60	156	209	266	279	347	394	462	542	609
D	Average Consumer Contribution	50	108	182	237	272	313	371	428	502	576

Details of Grants:

3B.113 The average grants from FY 2002-03 to FY 2016-17 are tabulated below:

Table 3B 15: Grants

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Opening Balance	19	19	19	19	19	19	19	19	19	19
B	Additions during the year	0	0	0	0	0	0	0	0	0	0
C	Closing Balance	19	19	19	19	19	19	19	19	19	19
D	Average Grant balance	19	19	19	19	19	19	19	19	19	19

Depreciation:

3B.114 During Policy Direction Period, the depreciation was allowed only on opening GFA and not the additions during the year. The implementation of directions of Hon'ble ATE in Judgment dated October 6, 2009 (Appeal 36 of 2008) shall lead

to revision in GFA. Accordingly, the Petitioner has computed the revised depreciation based on revision in GFA from FY 2002-03 to FY 2006-07 as under:

Table 3B 16: Computation of depreciation from FY 2002-03 to FY 2006-07

(in Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Opening GFA	1533	1552	1658	1923	2689
2	Additions	19	106	266	779	316
a	REL Additions	0	0	3	61	69
b	EI Additions	0	0	169	586	100
c	Already allowed by DERC	19	106	93	132	147
3	Retirement	0	0	0	13	4
4	Closing GFA	1552	1658	1923	2689	3001
5	Rate of depreciation	6.69%	6.69%	6.69%	6.69%	6.69%
6	Depreciation	77	104	111	129	180
7	Depreciation allowed by DERC	77	104	111	117	125
8	Difference	0	0	0	12	55
9	Acc. Depreciation	460	564	675	803	983

3B.115 As regards the depreciation from FY 2007-08 to FY 2016-17, the Hon'ble Commission has been deriving the rates from the audited accounts of the Petitioner instead of considering the same as per the rates specified in DERC Tariff Regulations. Further, the average rate of Depreciation for FY 2016-17 based on the Audited Accounts of the Petitioner is tabulated below:

Table 3B 17: Comparison between Audited Accounts and Regulatory Books

S. No	Particulars	Audited Accounts	Regulatory books
1	Basis of rates	Schedule XIV (Companies Act, 1956)	DERC MYT Regulations, 2011
2	Asset depreciated upto	95% of original cost of asset	90% of original cost of asset
3	Life of asset	As per CERC Notification no. L-7/ 25 (5)/ 2003- CERC dated 26 March 2004 or independent valuer's certificate whichever is lower	DERC MYT Regulations, 2011

3B.116 Since the basis of rates for depreciation, life of assets and the value of assets on which depreciation is allowable is different as per the Audited Accounts and that allowable as per DERC MYT Regulations, 2011, the depreciation during FY 2012-13 ought to be allowed as per the rates specified in DERC MYT

Regulations, 2011. Further, the Hon'ble Supreme Court in Judgment 2007 (3) SCC 33 has held as under:

"the reduction in the rate of depreciation is violative of the legitimate expectation of the distribution company to get lawful and reasonable recovery of expenditure."

3B.117 Accordingly, the Petitioner has calculated the depreciation after excluding consumer contribution from the Gross Fixed Assets in accordance with DERC MYT Regulations, 2011. The Petitioner is now submitting the total depreciation from FY 2002-03 to FY 2016-17 as under:

Table 3B 18: Depreciation from FY 2002-03 to FY 2016-17

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Average GFA	3127	3478	3848	4169	4374	4555	4852	5153	5480	5839
B	Average Consumer Contribution and Grants	68	126	201	256	291	332	389	447	521	594
C	Average assets net of consumer contribution	3059	3352	3647	3913	4083	4223	4463	4707	4960	5245
D	Average depreciation as above	3.61%	3.65%	3.66%	3.66%	3.67%	3.67%	3.68%	3.69%	3.70%	3.72%
E	Depreciation	110	122	133	143	150	155	164	174	184	195

3B.118 The cumulative depreciation on fixed assets from FY 2002-03 to FY 2016-17 is tabulated below:

Table 3B 19: Cumulative Depreciation on fixed assets during FY 2016-17

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Opening balance of cumulative depreciation	983	1094	1216	1349	1493	1642	1797	1962	2135	2319
B	Additions during FY 2013-14	110	122	133	143	150	155	164	174	184	195

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
C	Closing balance of cumulative depreciation	1094	1216	1349	1493	1642	1797	1962	2135	2319	2514

3B.119 The detailed computation of asset class-wise depreciation has been provided in the formats.

3B.120 As regards utilisation of depreciation, the Hon'ble Commission in Tariff Order dated July 31, 2013 ruled as under:

"3.169 The proposed utilisation of depreciation i.e., 70% of the total depreciation towards repayment of loan and increase in equity to the extent of 30% of the Depreciation is not in accordance with the MYT Regulations, 2007. Further Regulations 5.12 and 5.19 of MYT Regulations indicate clearly that the depreciation has to utilized for repayment of loans. The Commission is of the view that there is no justification in the Petitioner's proposal of utilizing 70% of depreciation towards repayment of loan and the balance towards equity capital. The Commission has therefore considered the entire depreciation towards repayment of loan."

3B.121 Accordingly, the depreciation has been utilised for repayment of loan during respective financial years.

Working Capital

3B.122 The Working Capital from FY 2007-08 to FY 2016-17 has been calculated in accordance with Clause-5.14 and Clause-5.15 of DERC MYT Regulations, 2011.

3B.123 Accordingly, the Working Capital Calculation from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 20: Working Capital Requirement

(in Rs. Cr.)											
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	O&M Expenses	298	345	504	439	462					
A	O&M Expenses-1 Month	25	28	42	37	38					

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
2	Receivables	3011	3069	4352	5236	6109	6393	6573	7599	8147	8150
A	Receivables-2 Months	502	512	725	873	1018	1066	1095	1266	1358	1358
3	Less: PP Cost	2380	2364	3289	4086	4802	5843	6174	6942	6389	6913
A	PP Cost- 1 Month	198	197	274	341	400	487	514	578	532	576
4	Total WC Requirement	328	343	493	569	657	579	581	688	825	782
5	Working capital allowed	72	328	343	493	569	657	579	581	688	825
6	Difference	257	15	150	75	88	-78	2	107	137	-43

3B.124 The Working capital as shown above has been considered for calculation of Regulated Rate Base from FY 2007-08 to FY 2016-17.

Debt and Equity

3B.125 The Hon'ble Commission in its Tariff Order dated September 29, 2015 limited the average equity to 30% of the Regulated Rate Base instead of considering average equity during the year. Such treatment is contrary to Transfer Scheme, DERC MYT Regulations, 2007 and DERC MYT Regulations, 2011. As per the Transfer Scheme, the debt-equity mix of the assets transferred to the Petitioner was as under:

Table 3B 21: Debt-Equity ratio as per Transfer Scheme

S. No	Particulars	Amount (Rs. Cr.)	Percentage
1	GFA	1533	
2	Accumulated Depreciation	383	25%
3	Equity	460	30%
4	Debt	690	45%

3B.126 As per the Judgment of Hon'ble Supreme Court dated February 15, 2007 in Civil Appeal No. 2733/06, transfer scheme is binding on all including the Hon'ble Commission during Policy direction period. Therefore the funding of the fixed assets covered under transfer scheme cannot be altered.

3B.127 It is further submitted that the Hon'ble Commission shifted from the approach of funding capital expenditure to the approach of funding capitalisation with notification of MYT Regulations, 2007 on May 30, 2007 which was made applicable from March 1, 2008 to FY 2011-12. Regulation 5.10 of MYT Regulations, 2007 states as under:

"5.10 The WACC for each year of the Control Period shall be computed at the start of the Control Period in the following manner:

$$WACC = \left[\frac{D/E}{1+D/E} \right] * r_d + \left[\frac{1}{1+D/E} \right] * r_e$$

Where,

*D/E is the Debt to Equity Ratio and for the purpose of determination of tariff, **debt-equity ratio as on the Date of Commercial Operation in case of new distribution line or substation or capacity expanded shall be 70:30.** Where equity employed is in excess of 30%, 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 interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the Licensee for the respective years and shall be further limited to the prescribed rate of return on equity in the Regulations. Where actual equity employed is less than 30%, the actual equity and debt shall be considered. r_d is the Cost of Debt and shall be determined at the beginning of the Control Period after considering Licensee's proposals, present cost of debt already contracted by the Licensee, and other relevant factors (risk free returns, risk premium, prime lending rate etc.); r_e is the Return on Equity and shall be determined at the beginning of the Control Period after considering CERC norms, Licensee's proposals, previous years' D/E mix and other relevant factors. The cost of equity for the Wheeling Business shall be considered at 14% post tax."*

(Emphasis supplied)

3B.128 As evident from aforesaid Regulation, the Hon'ble Commission shall adopt debt-equity ratio of 70:30 in case of new distribution assets. The said clause does not apply for the assets transferred under privatization and the assets added upto February 29, 2008.

3B.129 Also Regulation 5.11 of MYT Regulations, 2011 states as under:

"5.11 The WACC for each year of the Control Period shall be computed

at the start of the Control Period in the following manner:

$$WACC = \left[\frac{D/E}{1+D/E} \right] * r_d + \left[\frac{1}{1+D/E} \right] * r_e$$

Where,

D/E is the Debt to Equity Ratio and for the purpose of determination of tariff, debt-equity ratio for the asset capitalized shall be 70:30. Where equity employed is in excess of 30%, 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 interest rate on the amount of equity in excess of 30% treated as notional loan shall be the weighted average rate of the loans of the Licensee for the respective years and shall be further limited to the prescribed rate of return on equity in the Regulations. 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;

Provided further that the Debt to Equity Ratio for the assets covered under Transfer Scheme, dated July 1, 2002 shall be considered as per the debt and equity in the transfer scheme;

..." (Emphasis supplied)

3B.130 The aforesaid Regulation clearly states that the debt to equity ratio for the assets covered under transfer scheme shall be considered as per the debt and equity in the transfer scheme. Therefore, when the funding of the assets covered under transfer scheme is required to be maintained as per the Transfer Scheme, 2001, i.e., debt-equity of 45% to 30%.

3B.131 Further, the Hon'ble ATE vide Judgment dated November 28, 2014 (Appeal No. 61 of 2012) has ruled as under:

"102. In the light of above discussions we find force in the contentions of the Appellant and direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant. The issue is decided in favour of the Appellant."

3B.132 The Petitioner has considered one-tenth of the outstanding balance of loan as repayment during the year. The same has been deducted from the loan balance for calculation of average debt during the year. The average debt from

FY 2002-03 to FY 2016-17 is tabulated below:

Table 3B 22: Average Debt Balance from FY 2002-03 to FY 2016-17

(in Rs. Cr.)

S. No	Financial Years	Opening	Capex	Working Capital	Repayment	Closing	Average
1	FY 2002-03	690	10		0.00	700	695
2	FY 2003-04	700	19		0.12	718	709
3	FY 2004-05	718	572		0.12	1290	1004
4	FY 2005-06	1290	288		30	1549	1419
5	FY 2006-07	1549	4		6	1547	1548
6	FY 2007-08	1547	163	180	155	1735	1641
7	FY 2008-09	1735	247	10	173	1818	1777
8	FY 2009-10	1818	168	105	182	1909	1864
9	FY 2010-11	1909	204	53	191	1975	1942
10	FY 2011-12	1975	33	62	197	1872	1924
11	FY 2012-13	1872	163	-78	187	1770	1821
12	FY 2013-14	1770	173	2	177	1768	1769
13	FY 2014-15	1768	169	107	177	1867	1818
14	FY 2015-16	1867	186	137	187	2004	1936
15	FY 2016-17	2004	213	-43	200	1974	1989

3B.133 The average equity from FY 2002-03 to FY 2016-17 is tabulated below:

Table 3B 23: Average Equity Balance from FY 2002-03 to FY 2016-17

(in Rs. Cr.)

S. No	Financial Years	Opening	Capex	Working Capital	Closing	Average
1	FY 2002-03	460	4		464	462
2	FY 2003-04	464	0		464	464
3	FY 2004-05	464	245		709	586
4	FY 2005-06	709	124		832	771
5	FY 2006-07	832	2		834	833
6	FY 2007-08	834	70	77	981	908
7	FY 2008-09	981	106	4	1091	1036
8	FY 2009-10	1091	72	45	1208	1150
9	FY 2010-11	1208	88	23	1318	1263
10	FY 2011-12	1318	14	26	1359	1339
11	FY 2012-13	1358	70		1429	1394
12	FY 2013-14	1428	74		1503	1466
13	FY 2014-15	1502	72		1575	1539
14	FY 2015-16	1575	80		1655	1615
15	FY 2016-17	1654	91		1746	1700

3B.134 The Petitioner has considered the aforesaid debt and equity balance for the purpose of computation of RoCE.

Advance against depreciation

3B.135 Clause-5.18 of DERC MYT Regulations, 2007 and Clause-5.21 of DERC MYT Regulations, 2011 provides for the provision of Advance against depreciation (AAD) during FY 2016-17. In accordance with the aforesaid set of computations, there is no AAD. However the Petitioner requests the Hon'ble Commission to allow AAD if any as per the assumptions considered in Tariff Order.

Regulated Rate Base (RRB)

3B.136 Based on the above discussions, the Regulated Rate Base (RRB) during FY 2016-17 is tabulated below:

Table 3B 24: Regulated Rate Base

(in Rs. Cr.)												
S. No	Particulars	Opening	FY 08	FY 09	FY10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	OCFA	3001										
2	Working Capital	72										
3	Accumulated Dep.	983										
4	Accumulated dep. on de-cap	5										
5	Accumulated CC	58										
6	Opening RRB		2036	2417	2665	2922	3148	3180	3183	3269	3464	3706
7	Change in RRB		122	230	106	149	-102	77	83	67	82	110
8	Investments capitalised		252	448	293	349	61	301	294	308	346	372
9	Depreciation		110	122	133	143	150	155	164	174	184	195
10	Acc. Dep. On de-cap assets		3	4	1	2	46	4	0	21	23	21
11	Consumer contribution		20	96	53	57	13	69	47	67	81	67
12	Change in Working Capital		257	15	150	75	88	-78	2	107	137	-43
13	Closing RRB	2036	2417	2666	2922	3148	3180	3183	3269	3464	3706	3794
14	RRB for the year		2355	2549	2869	3073	3208	3143	3227	3420	3654	3728



Weighted Average Cost of Capital (WACC)Rate of Interest from FY 2007-08 to FY 2011-12:

3B.137 As discussed in para-3.B.32 to 3.B.43, the trigger point for truing-up the interest rates of loans from FY 2007-08 was deviation in PLR of schedule commercial banks by more than +/-1%. Since the trigger point for truing-up of loans from FY 2007-08 to FY 2011-12 has already been achieved, the Petitioner has considered the actual rate of interest for the purpose of computation of RoCE from FY 2007-08 to FY 2011-12.

Rate of Interest from FY 2012-13 to FY 2016-17:

3B.138 The Petitioner vide various letters has already submitted the actual rates of interest from FY 2007-08 to FY 2016-17. The Petitioner requests the Hon'ble Commission to consider the actual rate of interest for capex loans from FY 2007-08 to FY 2016-17 which is as under:

Table 3B 25: Actual rates of Interest

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Rate of Interest	10.34%	11.12%	11.52%	12.30%	14.16%	14.47%	14.15%	14.25%	14%	13.56%

3B.139 Accordingly the weighted average cost of capital from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 26: Weighted Average Cost of Capital (WACC)

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Average Debt	1641	1777	1864	1942	1924	1821	1769	1818	1936	1989
B	Average Equity	908	1036	1150	1263	1339	1394	1466	1539	1615	1700
C	Total	2549	2813	3013	3205	3262	3215	3235	3357	3550	3689
D	Cost of Debt	10.34%	11.12%	11.52%	12.30%	14.16%	14.47%	14.15%	14.25%	14.00%	13.56%
E	Return on Equity	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
F	Weighted Average Cost of Capital (WACC)	12.36%	12.92%	13.23%	13.76%	14.91%	15.13%	14.99%	15.05%	14.91%	14.68%

Return on Capital Employed (RoCE)

3B.140 Based on the aforesaid discussion, the RoCE from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 27: RoCE from FY 2007-08 to FY 2016-17

(in Rs. Cr.)											
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Weighted Average Cost of Capital (WACC)	12.36%	12.92%	13.23%	13.76%	14.92%	15.13%	14.99%	15.05%	14.91%	14.68%
B	RRB (i)	2355	2549	2869	3073	3208	3143	3227	3420	3654	3728
C	RoCE	291	329	380	423	478	476	484	515	545	548

3B.141 The Petitioner requests the Hon'ble Commission to allow RoCE based on above computations.

Income-tax:

3B.142 The Hon'ble Commission in respective truing-up Orders has allowed Income-tax for respective years from FY 2007-08 to FY 2016-17 based on lower of actual income-tax paid or income-tax as per ROE approach. The Petitioner has challenged the same before Hon'ble ATE in Appeal 266 of 2013, Appeal 235 of 2014, Appeal 297 of 2015, Appeal 69 and 72 of 2015 and Appeal 193 of 2018. The same is pending adjudication before Hon'ble ATE.

3B.143 Without pre-judice to the pending appeals filed before Hon'ble ATE, it is submitted that since the RoCE shall increase after implementation of various directions of Hon'ble ATE as discussed above, the income-tax for years wherever allowed on ROE basis shall also increase.

3B.144 Accordingly the Petitioner has computed and claimed the difference between

income-tax approved by the Hon'ble Commission and that as per the entitlement after implementation of Hon'ble ATE Directions from FY 2007-08 to FY 2016-17 as under:

Table 3B 28: Income Tax Approved vis-à-vis allowable from FY 2007-08 to FY 2016-17

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Average Equity	908	1036	1150	1263	1339	1394	1466	1539	1615	1700
2	Average Debt	1641	1777	1864	1942	1924	1821	1769	1818	1936	1989
3	Equity %	35.61%	36.84%	38.15%	39.41%	41.03%	43.35%	45.31%	45.84%	45.48%	46.09%
4	RRB	2355	2549	2869	3073	3208	3143	3227	3420	3654	3728
5	Equity	839	939	1095	1211	1316	1362	1462	1568	1662	1718
6	ROE	134	150	175	194	211	218	234	251	266	275
7	Income-tax rate	11.33%	11.33%	17%	19.93%	20.01%	20.01%	20.01%	21.34%	20.96%	21.55%
8	Income-tax	17	19	36	48	53	55	59	68	71	76
9	Actual tax paid	0	0	0	37	30	15	5	31	14	20
10	Income-tax allowable	0	0	0	37	30	15	5	31	14	20
11	Income-tax allowed by DERC				15	26	15	5	31	14	20
12	Difference				22	4	0	0	0	0	0

3B.145 Without pre-judice to the Appeal pending before Hon'ble ATE, the Petitioner requests the Hon'ble Commission to allow the impact on account of the increase in Income-tax based on above computations.

R&M Expenses from FY 2007-08 to FY 2016-17:

3B.146 As regards truing-up of R&M Expenses, the Hon'ble Commission in Tariff Order dated February 23, 2008 ruled as under:

"4.151 Any variations on account of R&M Expenses shall not be trued up and any surplus or deficit on account of over or under achievement shall be to the account of the Petitioner. The Commission clarifies that though the value of GFA is subjected to truing up at the end of the Control Period, the Commission, however, shall not true-up R&M Expenses as a consequence of the same."

3B.147 However, the Hon'ble Commission in Tariff Order dated July 31, 2013 trued-up R&M Expenses based on the provisional GFA approved from FY 2007-08 to FY 2011-12 for respective years. The said treatment was challenged by the Petitioner before Hon'ble ATE in Appeal 266 of 2013. Similarly TPDDL, another Distribution Licensee supplying electricity in Delhi also challenged the same issued before Hon'ble ATE in Appeal 271 of 2013. While Petitioner's appeal 266 of 2013 is pending adjudication before Hon'ble ATE, Judgment has been pronounced in TPDDL's Appeal 271 of 2013 on July 20, 2016. In the said Judgment, Hon'ble ATE has rejected the contentions of TPDDL and upheld the treatment given by the Hon'ble Commission in Tariff Order dated July 31, 2013.

3B.148 The Petitioner in its Petition for Truing-up of FY 2016-17 and ARR and Tariff for FY 2018-19 distinguished its case with that of TPDDL. However, the Hon'ble Commission without dealing with the contentions of the Petitioner has stated as under:

"3.311 The Petitioner is cherry picking the issues in interpretation of Hon'ble APTEL judgments in its favour. On some of the issues against the other Distribution Licensee, in that case the Petitioner argued that with the DISCOMs are operating in different conditions, therefore same judgement need not be applied.

3.312 However, the Commission is adopting similar treatment for all the Distribution Licensee operating in the area of GoNCTD and same tariff regulations are applicable to all the Distribution Licensees."

3B.149 Without pre-judice to the contentions in Appeal 266 of 2013, the Petitioner is now claiming R&M Expenses by applying approved K factor in Tariff Order dated February 23, 2008 and September 29, 2015 (Impact on account of revision in K factor claimed at Issue No. 15) based on revised GFA estimated after the implementation of Hon'ble ATE directions with respect to REL, EIC and provisionally approved lower capitalisation from FY 2007-08 to FY 2016-17 as under:

Table 3B 29: Revised R&M expenses from FY 2007-08 to FY 2016-17

(in Rs. Cr.)

S. No	Particulars	FY 08*	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Opening GFA	3001	3254	3702	3995	4343	4404	4705	4999	5307	5654
2	K factor	3.55%	3.55%	3.55%	3.55%	3.55%	2.62%#	2.62%	2.62%	2.62%	2.62%
3	R&M Expenses	9	115	131	142	154	115	123	131	139	148
4	Revised R&M Expenses	6	78	102	113	123	94	102	109	117	127
5	Difference	3	37	29	29	31	21	21	22	22	21
6	Efficiency factor	0%	2%	3%							
7	Difference	3	36	28	29	31	21	21	22	22	21

*Claimed for one month, i.e., March 2008

K factor to undergo a change in terms of affidavit filed by Hon'ble Commission in Appeal 297 of 2015

3B.150 Without pre-judice to the Appeal pending before Hon'ble ATE, the Petitioner requests the Hon'ble Commission to allow the impact based on revision in GFA.

3B.151 The total impact on account of capitalisation related issues as discussed above along with carrying cost is tabulated below:

Table 3B 30: Impact of capitalisation

(in Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Opening	0	2	10	30	78	196	430	758	1124	1582	2108	2688	3330	4082	4935	5898
2	Additions	2	8	19	45	110	194	252	251	289	270	245	221	231	232	225	0
3	Closing	2	10	29	76	189	390	681	1008	1413	1852	2353	2910	3561	4314	5160	5898
4	Average	1	6	20	53	134	293	555	883	1268	1717	2230	2799	3445	4198	5047	5898
5	Carrying cost	9%	9%	9%	9%	9%	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	0	0	1	3	7	40	76	116	170	256	335	420	521	621	739	826
7	Grand Closing	2	10	30	78	196	430	758	1124	1582	2108	2688	3330	4082	4935	5898	6724

3B.152 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact on account of capitalisation related issues in ARR of the Petitioner.

Issue-7: Truing-up of FY 2007-08 (11 Months) as per Regulation-12.1:ISSUE IN BRIEF:

3B.153 This issue pertains to the non-implementation of the Judgment of the Hon'ble ATE with respect to the truing up for the 11 month period for FY 2007-08.

LIST OF DATES:

S.No	Date	Event
1.	30.05.2007	Regulation-12.1 of the MYT Regulations, 2007 states as under: <i>"12.1 Performance review and adjustment of variations of the Distribution Licensees for year FY 2006-07 and period between 1st April 2007 and commencement of MYT tariff order shall be done based on the actual/audited information and prudence checks by the Commission and shall be considered during the Control Period." (Emphasis added)</i>
2.	28.05.2009	The Hon'ble Commission at para 3.57 to para 3.62 in its Tariff Order 28.05.2009 trued-up the revenue gap for FY 2007-08. However, the Hon'ble Commission did not allow the actual Expenses including depreciation for first 11 months of FY 2007-08 based on Regulation-12.1 of the MYT Regulations, 2007.

S.No	Date	Event
3.	12.07.2011	<p>The aforesaid issue of disallowance of actual expenses including depreciation for first 11 months, contrary to Regulation-12.1 of the MYT Regulations, 2007, was challenged before this Hon'ble APTEL in Appeal 142 of 2009. This Hon'ble Tribunal in Judgment dated 12.07.2011 directed the Hon'ble Commission as under:</p> <p><i>"13.8. We do not agree with the findings of the State Commission as these are in contravention of the Regulations. According to Regulations, the Control Period commences from the date of the MYT order and all the targets set for the controllable parameters shall be applicable for the control period according to Regulation 4.7. The targets set for the control period cannot be made applicable retrospectively from 1.4.2007 as the commencement of MYT order was only from 1.3.2008. The Regulations 5.41 and 5.42 referred to by the learned senior counsel for the State Commission pertain to the control period only and not the period prior to that. Further Regulation 12.1 clearly provides for true up of the period between 1.4.2007, date of commencement of the MYT order during the control period. Thus the controllable parameters for the period 1.4.2007 to 28.2.2008 were required to be trued up during the control period as per the Regulations. This issue is, therefore, decided in favour of the Appellant and the State Commission is directed to true up the financials for the period 1.4.2007 to 28.2.2008 at the earliest and allow the costs with carrying cost."</i> <i>(Emphasis added)</i></p>
4.	26.08.2011	The Hon'ble Commission did not implement the directions of Hon'ble APTEL in Tariff Order dated 26.08.2011 and remained silent on this issue.
5.	13.07.2012	The Hon'ble Commission did not implement the directions of Hon'ble APTEL in Tariff Order dated 13.07.2012 and remained silent on this issue.

S.No	Date	Event
6.	31.07.2013	<p>The Hon'ble Commission in its Tariff Order dated 31.07.2013 stated as under:</p> <p><i>"3.24 The Commission is Truing up for FY 2011-12 and determining ARR for FY 2013-14 in accordance with the MYT Regulations, 2007 & 2011 respectively. The truing up of 11 months of the FY 2007-08 requires proper scrutiny and examination of the issues involved. The Commission is therefore of the view that for truing up of 11 months of FY 2007-08, prudence check has to be carried out and the impact of the same will be given once the prudence check is carried out."</i></p>
7.	2013-2014	<p>The Hon'ble Commission directed the Petitioner to submit the audited statement pertaining to first 11 months in different formats at different points of time. The Petitioner submitted the same as per the directions of the Hon'ble Commission.</p>
8.	23.07.2014	<p>However, the Hon'ble Commission in Tariff Order dated 23.07.2014 stated as under:</p> <p><i>"3.107 As per the Policy Direction Period, the return on equity and interest on loan is linked to the change in the equity and debt based on the capital expenditure made by the Petitioner. Whereas, as per the MYT Regulations, 2007, the return on capital employed is based on the capitalization of the assets of the Petitioner."</i></p> <p><i>3.108 The Petitioner has not provided details of the capital investment made during FY 2007-08 (11 months) on the basis of which the return on equity and debt is also required to be reviewed in line with the Policy Direction Period."</i></p> <p><i>3.109 In view of the above, the Commission had provided final opportunity to the Petitioner to make submissions for the purpose of true up of 11 months (01.04.2007 - 29.02.2008) by March 31, 2014. The Petitioner submitted the audited month wise P&L statement only where in no information was submitted pertaining to capital investment." (Emphasis added)</i></p>

S.No	Date	Event
9.	19.08.2014	The Petitioner vide letter number RA/ 2014-15/ 01/ A/ 337 dated 19.08.2014 requested the Hon'ble Commission to specify the format in which the information is required by the Hon'ble Commission to undertake truing-up of first 11 months of FY 2007-08 as the Petitioner has already submitted all the information pertaining to FY 2007-08 including month-wise financial audited statements to the Hon'ble Commission.
10.	3.09.2014	The Hon'ble Commission, vide letter dated 3.09.2014 informed the Petitioner that the audited financial statements as per Companies Act, 1956, including balance sheet, cash flow statements, profit and loss accounts, schedules and all other relevant notes to accounts etc.
11.	3.11.2014	The Petitioner, vide letter number RA/ 2014-15/01/A/522 dated 3.11.2014 submitted the Audited Statements for 11 months in the requisite format.
12.	28.11.2014	<p>This Hon'ble APTEL, in its Appeal 61 Judgment, once again directed the Hon'ble Commission as under:-</p> <p><i>"23. The eighth issue is related to Truing up the financial for the period 1.4.2007 to 28.2.2008. The Appellants have submitted that the Delhi Commission has not implemented the directions of the Tribunal in judgment reported as 2011 ELR (APTEL) 1196 in Appeal No. 142 & 147 of 2009, wherein this Tribunal directed the Delhi Commission to true up the financials from 01.04.2007 to 28.02.2008.</i></p> <p><i>24. The Commission in its reply has submitted that the Commission required audited accounts and the Appellant only on 25.06.2013 has submitted those accounts, hence the same will be considered and necessary true-up will be made.</i></p> <p><i>25. In the light of categorical submission that required true up would be made, the Commission is directed to carry out the same in its next tariff exercise and allow the differential amount, if any, along with carrying costs."</i></p>

S.No	Date	Event
13.	2.03.2015	<p>This Hon'ble APTEL, once again, in its Appeal 177 Judgment, held as under:-</p> <p><i>"12. The ninth issue is regarding refusal to consider claims for truing up for the period 01.04.2007 to 28.02.2008.</i></p> <p><i>12.1 According to the Appellants, the State Commission has not implemented the decision of this Tribunal's judgment dated 12.07.2011 in Appeal no. 142 of 2009 directing the State Commission to true up the controllable parameters for the period 01.04.2007 to 28.02.2008 as the targets set up for the control period cannot be made applicable retrospectively from 01.04.2007 and as the commencing of the MYT order was only from 01.03.2008.</i></p> <p><i>12.2 According to Learned Counsel for the State Commission, the Commission required the audited accounts for the purpose of true-up and the same have been submitted by the Appellants only on 16.04.2013. The same will be considered and necessary true up will be made.</i></p> <p><i>12.3 Shri Amit Kapur, Learned Counsel for the Appellants submitted that the Commission has not considered the said issue in its latest tariff order dated 31.07.2013.</i></p> <p><i>12.4 This issue has also been dealt with by this Tribunal in its judgment dated 28.11.2014 in Appeal nos. 61 and 62 of 2012 wherein on the basis of the submissions made by Learned Counsel for the State Commission that the required truing up would be made, this Tribunal directed the State Commission to carry out the same in its next tariff exercise and allow the differential amount, if any, along with carrying cost. Accordingly, the issue is also decided with the same directions." (emphasis supplied)</i></p>

DETAILED SUBMISSIONS:

3B.154 The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) held ruled as under:

"25. In the light of categorical submission that required true up would be made, the Commission is directed to carry out the same in its next tariff exercise and allow the differential amount, if any, along with

carrying costs.”

3B.155 The Hon’ble Commission in Tariff Order dated July 23, 2014 stated as under:

“3.107 As per the Policy Direction Period, the return on equity and interest on loan is linked to the change in the equity and debt based on the capital expenditure made by the Petitioner. Whereas, as per the MYT Regulations, 2007, the return on capital employed is based on the capitalization of the assets of the Petitioner.

3.108 The Petitioner has not provided details of the capital investment made during FY 2007-08 (11 months) on the basis of which the return on equity and debt is also required to be reviewed in line with the Policy Direction Period.”

3B.156 The Petitioner vide letter dated November 3, 2014 submitted the audited accounts for first 11 months of FY 2007-08.

3B.157 The Hon’ble Commission in Tariff Order dated September 29, 2015 allowed the depreciation during first 11 months of FY 2007-08 based on the depreciation rate derived from audited statement of first 11 months of FY 2007-08. The relevant excerpts are reproduced below:

“3.63 The Petitioner has claimed the depreciation at the rate of 6.69% instead of 3.60% as provisionally approved by the Commission for 11 months. However, the Commission has considered the actual rate of Depreciation based on the Audited financial statements for FY 2007-08 in accordance with Regulation 12.1 of MYT Regulations 2007. The additional allowance on account of revision in the rate of depreciation is as follows:

Table 3B 31: Provisionally approved Depreciation for FY 2007-08 (11 Months)

Sl. No.	Particulars	Amount	Remarks
A	Depreciation as per audited financial statements for FY 2007-08	155.58	Audited financial statements
B	Opening GFA for FY 2007-08	2962.63	
C	Rate of Depreciation (%)	5.25	A/B
D	Rate of depreciation (%) as per MYT Regulations, 2007	3.60	
E	Average Rate of depreciation (%) for FY 2007-08 considering 11 months as per audited statements and 1 month as per MYT Regulations, 2007	5.11	(C*11/12)+(D/12)

3B.158 Since the Hon'ble Commission changed its approach in Tariff Order dated September 29, 2015, the Petitioner claimed the rate of depreciation as 5.25% while claiming the impact in the 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.

3B.159 In Tariff Order dated August 31, 2017 while allowing the impact on account of ROE and Interest on loan, the Hon'ble Commission held as under:

"3.75 The Commission had allowed Return on Equity and Interest on Loan on Net Capital Employed during FY 2007-08 in its Tariff Order dtd. 29/09/2015 in the form of RoCE. As per the Policy direction, the Petitioner is also eligible for Interest on Loan and Return on Equity for the funding requirement of Work in Progress (CAPEX) during FY 2007-08. Accordingly, the Commission has now allowed Interest on Loan and Return on Equity for funding requirement of Work in Progress (CAPEX) during FY 2007-08. The impact is indicated in Table 101: Impact as approved by the Commission on account of implementation Hon'ble APTEL Judgments (Rs.Cr.)."

3B.160 The Petitioner in Petition for True-up of FY 2016-17 and ARR and Tariff for FY 2018-19, stated that as per Hon'ble Commission's own statement in Tariff Order dated September 29, 2015, the impact of Truing-up of FY 2007-08 (first 11 months) is to be allowed as per Policy Direction Principles, therefore the rate of depreciation is also required to be considered as adopted during Policy Direction Principle, i.e., 6.69% instead of 5.25% derived from audited statements of FY 2007-08 (11 Months).

3B.161 However, the Hon'ble Commission in Tariff Order dated 28.03.2018 stated as under:

"3.58 The Commission has already clarified this issue in Tariff Order dtd. 29/09/2015 in para nos. 3.60 to 3.64 and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon'ble APTEL in Appeal No. 297/2015."

3B.162 As regards above, it is submitted that

- a) The approach of the Hon'ble Commission regarding allowance of depreciation has resulted in different approaches being adopted for the same issue. On one hand, the Hon'ble Commission has derived the rate on the basis of audited accounts, i.e., 5.25% as against the depreciation rate of 6.69% adopted in Tariff Order dated February 23, 2008 and on the other hand, the Hon'ble Commission has derived the opening GFA approved in Tariff Order dated February 23, 2008.
- b) The Hon'ble Commission, while determining the opening GFA for first 11 months of FY 2007-08, has reduced from the GFA, the average consumer contribution. In other words, the Hon'ble Commission has, from the GFA, reduced that portion of the GFA, which was ascribable to the consumer contributions capitalised. This principle of disallowance is only to be found in the MYT Regulations, 2007, which admittedly, does not apply for the aforesaid 11 month period. The Hon'ble Commission cannot, in law, apply those parts of the Regulations which they would like to apply for a period which is not covered in the Regulation at all.
- c) Without prejudice to the above, the Hon'ble Commission has also not implemented the Judgments of the Hon'ble ATE by refusing to include the assets capitalized without the EICs and those procured from REL.

3B.163 Accordingly the depreciation has been computed by applying rate of 6.69% adopted during Policy Direction Period on actual Opening GFA arrived after implementation of Hon'ble ATE directions (Refer **Table-3B 6** of the Petition) as under:

Table 3B 32: Depreciation during first 11 months of FY 2007-08

S. No	Particulars	Amount (Rs. Cr.)
1	Opening GFA	3001
2	Rate of depreciation	6.69%
3	Depreciation for first 11 months	184
4	Depreciation allowed by DERC in Order dt. Sep 29, 2015	94
5	Difference to be allowed now	90

3B.164 The depreciation allowed by the Hon'ble Commission during first 11 months of FY 2007-08 is tabulated below:

Table 3B 33: Depreciation for first 11 months of FY 08 as per Order dt 29.09.15

(All in Rs. Cr.)

S. No	Particulars	11 Months	1 Month	Total
1	Opening GFA	2012	2012	2012
2	Additions to asset during the year	205	205	205
3	De-capitalisation during the year	8	8	8
4	Net assets capitalised	197	197	197
5	Closing GFA	2209	2209	2209
6	Average GFA	2111	2111	2111
7	Less: Average Consumer Contribution	161	161	161
8	Average GFA net of CC	1950	1950	1950
9	Rate of depreciation	5.25%	3.60%	5.11%
10	Depreciation	94	6	100

3B.165 Further, it is submitted that the Hon'ble Commission despite revising the Employee and A&G Expenses during FY 2007-08 has still considered the employee and A&G Expenses from FY 2008-09 to FY 2010-11 on older base employee expenses of FY 2007-08 which is no longer in existence. Regulation-5.4 of MYT Regulations, 2007 provides the formula for computation of Employee and A&G Expenses during the control period which clearly specifies that for the purpose of computation of Employee and A&G Expenses of subsequent year, inflation factor based on CPI and WPI ought to be applied on Employee and A&G Expenses determined for the previous year. It is further submitted that as per the methodology adopted by the Hon'ble Commission, the employee expenses approved for FY 2008-09 are lesser by Rs. 25 Crore as compared to the employee expenses approved for FY 2007-08 which means a reduction of 15% instead of inflation factor of 4.66%. Such a treatment is contrary to the above Regulations.

3B.166 Accordingly, in the respectful submission of the Petitioner, the Hon'ble Commission ought to have applied the inflation factor of 4.66% as determined for the control period on the revised employee and A&G Expenses of FY 2007-08 on y-o-y basis.

3B.167 It is further submitted that the definition of "Base Year" and "Control Period" is

clearly specified in MYT Regulations, 2007 which states as under:

“2.1 In these Regulations, unless the context otherwise requires-

...

(d) “Base Year” means the Financial Year immediately preceding first year of the Control Period and used for purposes of these Regulations;

...

9.. “Control Period” means a multi-year period fixed by the Commission, from the date of issuing Multi Year Tariff order till 31st March 2011;

...” (Emphasis added)

3B.168 A plain reading of the aforesaid definitions clearly provides that the Control Period starts from the date of issuance of Multi Year Order, i.e., February 23, 2008 and base year is the financial year immediately preceding first year of the control period, i.e., FY 2007-08. Since the Hon’ble Commission has revised the employee expenses of FY 2007-08, i.e., base year, the employee expenses ought to be revised for the period FY 2008-09 to FY 2011-12.

PRAYER(S):

3B.169 Accordingly, the Hon’ble Commission may allow:

- A) Depreciation @ 6.69% as per Policy Direction Period instead of actual rate of depreciation derived from the audited accounts.
- B) Additional Employee and A&G Expenses from FY 2008-09 to FY 2011-12 by applying inflation of 4.6% over the increase in O&M Expenses approved for FY 2007-08 as tabulated below:

Table 3B 34: Increase in O&M Expenses from FY 2008-09 to FY 2011-12

(in Rs. Cr.)

S. No	Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
A	Employee Expenses					
1	Employee Expenses for base year	12.91				
2	Inflation factor (%)		1.0466	1.0466	1.0466	1.0466
3	Incremental O&M Expenses		13.51	14.14	14.80	15.49
B	A&G Expenses					
S. No	Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
1	A&G Expenses for base year	1.55				
2	Inflation factor (%)		1.0466	1.0466	1.0466	1.0466
3	Incremental O&M Expenses		1.62	1.70	1.78	1.86

3B.170 The impact on account of truing-up of first 11 months of FY 2007-08 along with carrying cost is tabulated below:

Table 3B 35: Impact along with carrying cost for first 11 months of FY 2007-08

(Rs. Crore)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Opening Balance	0	96	126	159	198	246	283	326	375	431	494
2	Additions	90	15	16	17	17						
3	Closing Balance	90	112	142	176	216	246	283	326	375	431	494
4	Average	45	104	134	167	207	246	283	326	375	431	494
5	Carrying cost rates	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	6	14	18	22	31	37	43	49	56	63	69
7	Grand closing balance	96	126	159	198	246	283	326	375	431	494	563

3B.171 The Petitioner requests the Hon'ble Commission to consider the aforesaid impact on account the issue of Truing-up of FY 2007-08 (First 11 months) in ARR.

Issue-8: Revision in distribution loss from FY 2007-08 to FY 2010-11:ISSUE IN BRIEF:

3B.172 This issue pertains to the non-implementation of the Judgments of the Hon'ble ATE wherein the Hon'ble Commission was directed to reconsider the issue of revision of distribution loss and AT&C loss trajectory for FY 2007-08 to FY 2010-11, in a time-bound manner.

LIST OF DATES:

S.No	Date	Event
1.	30.05.2007	Regulation 4.8 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 (" MYT Regulations, 2007 ") sets the target of loss reduction at 17% at the end of the Control Period. As regards the year on year target, or the loss reduction trajectory, Regulation 4.8(ii) clearly specifies that such loss reduction trajectory shall be determined by the Hon'ble Commission in its MYT Order for FY 2007-08.
2.	23.02.2008	<p>The Hon'ble Commission by its Order of the said date, at para 4.32, Table 50 had directed the Petitioner to reduce the AT&C loss to 17% at the end of the MYT period which was for FY 2007-08 to FY 2010-11. The said order could not have been complied since it was passed nearly one year into the MYT period itself.</p> <p>It is however undoubtedly true that the figure of 17% of AT&C loss for the end of the control period had been determined in the MYT Regulations itself.</p> <p>At no point of time has the Petitioner sought a change of this number as the closing number of AT&C losses at that end of the control period.</p> <p>The said MYT control period had been extended for a further year to FY 2011-12 by DERC Order dated May 10, 2011.</p> <p>The said MYT order was carried in Appeal before this Hon'ble Tribunal in Appeal No.36 of 2008.</p>

S.No	Date	Event
3.	6.10.2009	<p>The Hon'ble Tribunal, in its Judgment in Appeal No. 36 of 2008 ("Appeal 36 Judgment") was <i>inter alia</i> pleased to hold as under:-</p> <p><i>"Not much discussion is necessary on this issue. The MYT Regulations are binding on the Commission as well as on the appellant. What the Commission has done is within the scope of the MYT Regulations. The appellant can have grievance only if the target set by the Commission were not within the parameters of the MYT Regulations. The appellant does not dispute that the targets set are possible within the MYT Regulations and are as per the MYT Regulations. The order of the Commission is legal and valid when compared with the Regulations.</i></p> <p><i>There is however, no bar on the Commission reconsidering the target that has been set and amend the relevant Regulation, if necessary. The target for MYT period needs to be set on the basis of losses at the beginning of the MYT period and not on the basis of loss level on the date of privatization when the policy target period began. The consequences of failure or success in reaching the loss reduction target have already been borne by the licensee. Hence reference to the initial level of loss at the time of privatization is not necessary. The Commission may itself consider the plea of any amendment in the target set in this regard in case the appellant makes out a case. Therefore, we direct that the appellant may make an appropriate representation to the Commission in this regard within month hereof and that if a representation is so made the Commission shall dispose it of in two months".</i></p>

S.No	Date	Event
4.	20.11.2009	<p>A Petition was filed before the Hon'ble Commission <i>inter alia</i> seeking implementation of the directions of this Hon'ble Tribunal in the Appeal 36 Judgment. One of the said issues was on reconsidering the distribution loss target trajectory for the first MYT period.</p> <p>The said petition was numbered in the year 2014 as Petition No. 13-14 of 2014.</p>
5.	17.07.2014	The Hon'ble Commission dismissed the aforesaid petition. In the respectful submission of the Petitioner, the Hon'ble Commission incorrectly recorded therein that the issues raised in the said petition have already been addressed in the past tariff orders of the Hon'ble Commission.
6.	05.09.2014	The Petitioner was constrained to file an Appeal No.231 of 2014 against the order dated July 17, 2014. The said Appeals are pending before the Hon'ble Tribunal.



S.No	Date	Event
7.	28.11.2014	<p>The Hon'ble Tribunal was inter alia pleased to pass Judgment in Appeal No.61 2012 ("Appeal 61 Judgment") in respect of the Hon'ble Commission's Tariff Order dated August 26, 2011. The issue of reconsidering the distribution loss target trajectory for the first MYT control period was raised in the said appeal before the Hon'ble Tribunal.</p> <p>In paras 26 to 31 of the said Judgment this Hon'ble Tribunal was <i>inter alia</i> pleased to consider the aforesaid factual background as also the submissions of the Hon'ble Commission that:</p> <ul style="list-style-type: none"> (a) The loss target could not be revised without amending the MYT Regulations; and (b) Since other licensees have over achieved their respective targets the targets should not be reviewed. <p>After considering both the aforesaid arguments of the Hon'ble Commission, the Hon'ble Tribunal was <i>inter alia</i> pleased to direct the Hon'ble Commission to reconsider the matter within 3 months from the date of issuance of the judgment and pass a reasoned order.</p>
8.	02.03.2015	<p>The Hon'ble Tribunal was pleased to pass judgment in Appeal No.177-178 of 2012 ("Appeal 177 Judgment"). In para 13 of the said Judgment, once again the Hon'ble Tribunal was inter alia pleased to direct the Hon'ble Commission to implement the judgment of the Hon'ble Tribunal in the Appeal 36 Judgment and the Appeal 61 Judgment.</p>

S.No	Date	Event
9.	20.04.2015	<p>The Hon'ble Commission passed an order the Petition No.13-14/2014, which already stood dismissed <i>in limine</i> vide order dated July 17, 2014.</p> <p>The Hon'ble Commission proceeded to pass the said order in a disposed of petition without hearing the Petitioner and purported to reject the prayer of the Petitioner for implementation of the Appeal 36 Judgment, which was already rejected in order dated July 17, 2014.</p>
10.	May 26, 2015	The abovementioned order dated April 20, 2015 was challenged by the Petitioner in Appeal No. 155 of 2015.
11.	29.09.2015	<p>The Petitioner has in the ARR Petitions has been consistently seeking for the implementation of the directions of the Hon'ble Tribunal in the Appeal 61 Judgment (and the Appeal 177 Judgment), wherein the Hon'ble Commission was directed to reconsider the captioned issue within 3 months and pass a reasoned order.</p> <p>In the Tariff Order dated 29.09.2015, however, the Hon'ble Commission has relied upon its Order dated April 20, 2015 wherein the Hon'ble Commission has <i>inter alia</i> held that a revision of the distribution loss and AT&C loss targets of the Petitioner is not warranted [Refer: paras 3.68 and 3.69 of the Tariff Order]. The Petitioner has preferred an appeal against the said Order, before the Hon'ble Tribunal (Appeal no. 155 of 2015). The proceedings are presently pending before the Hon'ble Tribunal.</p>

S.No	Date	Event
12.	31.08.2017 & 28.03.2018	The Hon'ble Commission in its Tariff Orders issued subsequently stated that it has already clarified the issue has reiterated the same stand as contained in the Tariff Order of 29.09.2015. The Hon'ble Commission noted that its further consideration of the issue will be subject to the outcome of the appeals pending before this Hon'ble Tribunal.

DETAILED SUBMISSIONS:

3B.173 The Hon'ble ATE in Judgment dated October 6, 2009 (Appeal 36 of 2008) has ruled as under:

"32) There is however, no bar on the Commission considering the target that has been set and amend the relevant Regulation, if necessary. The target for MYT period needs to be set on the basis of losses at the beginning of the MYT Period and not on the basis of loss level on the date of privatisation when the policy target period began. The consequences of failure or success in reaching the loss reduction target have already been done by the licensee. Hence reference to the initial level of loss at the time of privatization is not necessary. The Commission may itself consider the plea of any amendment in the target set in this regard in case the appellant makes out a case. Therefore, we direct that the appellant may make an appropriate representation to the Commission in this regard within one month hereof and that if a representation is so made the Commission shall dispose it of in two months."

3B.174 The Petitioner vide letter dated November 20, 2009 submitted the representation within one day of the date of receipt of certified copy of the Judgment. The same was listed for admission before the Hon'ble Commission only on July 15, 2014. The Hon'ble Commission vide Order dated July 17, 2014 rejected the Petition stating that the Petitioner has already availed opportunity to present its case on various issues which have been addressed in past Tariff Orders. However, the Hon'ble Commission did not provide any opportunity to represent on the issue of revision in distribution loss. Infact, the Hon'ble



Commission did not deal with the issue of revision in distribution loss in any of the tariff orders.

3B.175 The Petitioner challenged the aforesaid issue in Appeal 230 of 214 before Hon'ble ATE. During the course of proceedings before Hon'ble ATE, the Hon'ble Commission suo-moto without giving any opportunity to the Petitioner to present its case, reviewed its earlier order dated July 17, 2014 and passed another order on April 20, 2015 wherein the prayer to revise the distribution loss was rejected.

3B.176 It is respectfully submitted that the Hon'ble Commission in Order dated April 20, 2015 did not implement the direction given by Hon'ble ATE in its real intended scope. The Petitioner has challenged the same in Appeal No. 155 of 2015. Without pre-judice to the contentions of the Petitioner in the said Appeal, it is submitted that the direction given by Hon'ble ATE in Judgment dated October 6, 2009 was to:

- a) Consider the plea for necessary amendment in distribution loss based on representation of DISCOMs;
- b) Amend the Regulations if required.

3B.177 The Petitioner in its Petition for True-up of FY 2016-17 and ARR and Tariff for FY 2018-19 requested the Hon'ble Commission to implement the directions of Hon'ble Commission. However, the Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.69 The Commission has already clarified this issue in Tariff Order dtd. 31/08/2017, and needs no further deliberation, as follows:

"3.86 The Commission in its Tariff Order dtd. 29/09/2015 has already dealt this issue in para no. 3.66 and 3.67 wherein it is specifically indicated that the Commission has reviewed the distribution loss for 1st MYT Control period (FY 2007-08 to FY 2010-11) as per the direction of Hon'ble APTEL in Appeal No. 62 of 2012, in its Order dated 20.04.2015. Further, the Petitioner has preferred an appeal on this issue in Appeal No. 156 of 2015 against the Commission's order dated 20.04.2015.

3.87 In view of the above Order dated 20.04.2015 passed by the Commission in compliance of the Hon'ble APTEL direction and appeal filed by the Petitioner, the Commission will consider the issue based on the final



judgement of Hon'ble APTEL as the matter is still sub-judice."

3B.178 As regards above, it is submitted that the Hon'ble Commission's Order dated April 20, 2015 was based upon the finding that other two distribution licensee TPDDL and BYPL had achieved their loss targets. The Petitioner reiterates that the same fact has no consequence simply because a licensee with a higher proportion of industrial and non-domestic consumers may have achieved its target is no reason to assume that the Petitioner with a higher level of domestic consumer should also suffer. Reliance is placed on the table below:

Table 3B 36: Comparison of number of consumers in BRPL, BYPL and TPDDL

S. No.	Particulars	2007-08			2008-09		
		BRPL	BYPL	TPDDL	BRPL	BYPL	TPDDL
1	Domestic	9,66,932	7,08,241	7,49,987	11,71,226	7,67,216	8,33,572
2	Non-domestic	1,78,927	2,35,844	134,415	1,98,078	2,49,044	1,55,606
3	Industrial	14,911	23,607	34,621	14,138	21,146	34,886
4	Public Lighting	1	1	40	1	1	40
5	Irrigation & Agriculture	5,056	95	3,849	4,483	76	5,025
6	Railway Traction	1	0	1	1	0	1
7	DMRC	2	2	1	2	1	2
8	Others	5,942	7,252		6,113	7,338	
9	DJB						
10	TOTAL	11,71,772	9,75,042	9,22,914	13,94,042	10,44,821	10,29,132

S. No.	Particulars	2009-10			2010-11		
		BRPL	BYPL	TPDDL	BRPL	BYPL	TPDDL
1	Domestic	12,90,682	8,13,558	9,17,316	13,93,006	8,69,320	9,88,879
2	Non-domestic	2,16,344	2,63,902	1,87,321	2,34,646	2,84,445	1,85,282
3	Industrial	9,960	20,285	33,278	13,023	20,187	34,339
4	Public Lighting	1	0	43	1	0	391
5	Irrigation & Agriculture	4,434	69	5,620	4,164	61	5,469
6	Railway Traction	1	0	1	1	0	1
7	DMRC	3	1	3	5	1	3
8	Others	6,319	7,472		6,395	7,525	
9	DJB						51
10	TOTAL	15,27,744	11,05,287	11,43,582	16,51,241	11,81,539	12,14,415

3B.179 In fact, in the case of TPDDL, even though the actual loss achieved by the TPDDL is a lower number the Hon'ble Commission has in the case of TPDDL continued to fix a higher target of achievement thereby giving TPDDL a larger possibility of efficiency gain, as demonstrated in the table below:

Table 3B 37: AT&C loss of BRPL, BYPL and TPDDL

S. No	Financial Year	BRPL	BYPL	TPDDL
1	FY 2006-07	35.63%	42.30%	27.30%
2	FY 2007-08	25.95%	34.11%	21.24%
3	FY 2008-09	22.88%	29.99%	19.75%
4	FY 2009-10	19.83%	25.89%	18.27%
5	FY 2010-11	16.58%	21.61%	16.58%

3B.180 As explained above, while projecting the AT&C loss targets for FY 2007-08, Hon'ble Commission passed its MYT order on 23.02.2008 i.e. 11 months into FY 2007-08. By that order, the Hon'ble Commission determined a loss reduction target from the closing level of FY 2006-07. Since that order was passed 11 months into FY 2007-08, the distribution loss could not have been reduced by 9.68% in the remaining one month of FY 2007-08. Hence, all that the Petitioner is praying for is a flattening out of the loss reduction trajectory over the control period.

3B.181 It may be noted that the MYT Order dated February 23, 2008 was passed one month before the expiry of the first year of the MYT period in the MYT Regulations, 2007. Mindful of that and recognizing the fact that the Petitioner is in an assured return business, the Hon'ble Tribunal had directed the Hon'ble Commission to re-fix the loss trajectory in order to give the Petitioner an incentive for performance. It is submitted that this incentive did not exist in terms of the MYT Order trajectory as it informed the Petitioner of the loss levels it had to achieve only 37 days before the end of the year. Hence, the challenge to such a fixation of AT&C and distribution loss, was answered in favour of the Petitioner by making a specific direction to the Hon'ble Commission to re-fix the AT&C / distribution loss levels. It is respectfully

submitted that the Hon'ble Commission had to do so keeping in mind the principles spelt out in the Act, particularly Section 61 thereof, as well as the National Electricity Policy and the National Tariff Policy. These factors were relevant factors that necessarily ought to have been taken into account by the Hon'ble Commission whilst dealing with the re-fixation of the AT&C / distribution loss trajectory in terms of the Hon'ble Tribunal's directions.

3B.182 Further, the Petitioner's contention was not to change the AT&C Loss target for FY 2010-11 but to revise the inter-se AT&C Loss target from FY 2007-08 to FY 2009-10 based on actual distribution loss during FY 2006-07. It is further submitted that the distribution loss target set for FY 2007-08 is unrealistic which is evident from the following statement of the Hon'ble Commission in Tariff Order dated February 23, 2008:

*"3.138 In the MYT petition, the Petitioner had claimed total power purchase of 9122 MU, 5872 MU as unit billed and units realized as 6393 MU. It has shown **distribution losses of 35.63%**, collection efficiency of 108.87% and AT&C loss level of 29.92%.*

...

4.32 Further, the Commission has assumed collection efficiency of 99.00%, 99.25% 99.50% and 99.50% for current dues for FY08, FY09, FY10 and FY11 respectively and derived distribution losses of 25.95%, 22.88%, 19.83% and 16.58% for the FY08, FY09, FY10 and FY11 respectively. The AT&C loss reduction and distribution loss reduction trajectory approved by the Commission are summarised in the table below:

Table 50: Commission Approved AT&C and Distribution Loss Reduction Trajectory

Particular	FY08	FY09	FY10	FY11
AT & C loss target	26.69%	23.46%	20.23%	17.00%
A T & C loss Reduction over previous year	3.23%	3.23%	3.23%	3.23%
Distribution loss target	25.95%	22.88%	19.83%	16.58%
Collection Efficiency	99.00%	99.25%	99.50%	99.50%

"

3B.183 As evident from above, the Hon'ble Commission has set distribution loss target of 25.95% in one month, i.e., March 2008 as against actual distribution loss of 35.63% achieved by the Petitioner. The Hon'ble Commission in Order dated April 20, 2015 has not dealt with the representation of DISCOM.

3B.184 The Loss targets approved by the Hon'ble Commission vis-à-vis proposed by the Petitioner from FY 2007-08 to FY 2010-11 as sought in the aforesaid proposal are tabulated below:

Table 3B 38: Proposal for revision in Distribution Loss

S. No	Particulars	FY 08	FY 09	FY 10	FY 11
A	As per MYT Order dated Feb 23, 2008				
A	AT&C loss Reduction Target	26.69%	23.46%	20.23%	17.00%
B	Distribution Loss	25.95%	22.88%	19.83%	16.58%
C	Collection Efficiency	99.00%	99.25%	99.50%	99.50%
B	Revised Proposal				
A	AT&C loss Reduction Target	29.67%	26.66%	21.74%	17.00%
B	Distribution Loss	30.87%	26.11%	21.34%	16.58%
C	Collection Efficiency	101.73%	99.25%	99.50%	99.50%

3B.185 As evident from the above, the Petitioner is not praying to change the AT&C loss Target of FY 2010-11 but to rationalise the yearly target from FY 2007-08 to FY 2009-10 based on distribution loss so to have realistic and achievable AT&C Loss Targets.

3B.186 The financial impact on the Petitioner on the aforesaid issue, due to non-implementation of Judgment of this Hon'ble Tribunal is tabulated below:

Table 3B 39: Financial Impact due to revision in targets

(in Rs. Cr.)

As per MYT targets	BRPL			
	FY 08	FY 09	FY 10	FY 11
Energy Input at DISCOM Periphery(MU)	9,272	8931	9,701	10,461
Units Realised (MU)	6,684	6,896	7,708	8,493
ABR (Rs. / unit)	4.51	4.64	4.64	4.73
Collection (excluding E. Tax)	3,015	3198	3,574	4,021
AT & C loss achieved	27.91%	22.78%	20.08%	18.82%
AT & C Incentive level as per MYT Order	26.69%	23.46%	20.23%	17.00%
Over Achievement / (Under achievement)	-0.57%	0.68%	0.15%	-1.82%
Overachievement / underachievement	(23.89)	28.15	6.75	(89.83)
BRPL's share	(23.89)	14.07	3.37	(44.92)
Total benefit on account of overachievement	(51.36)			

As per MYT targets	BRPL			
	FY 08	FY 09	FY 10	FY 11
As per proposal	BRPL			
	FY 08	FY 09	FY 10	FY 11
Energy Input at DISCOM Periphery(MU)	9,272	8,931	9,701	10,461
Units Realised (MU)	6,684	6,896	7,708	8,493
ABR (Rs. / unit)	4.51	4.64	4.64	4.73
Collection (excluding E. Tax)	3,015	3,198	3,574	4,021
AT & C loss achieved	27.91%	22.78%	20.08%	18.82%
AT & C Incentive level as per proposal	29.67%	26.66%	21.74%	17.00%
Over Achievement / (Under achievement)	1.76%	3.88%	1.66%	-1.82%
Total benefit on account of overachievement	73.71	160.65	74.66	(89.83)
Incentive for DISCOMs	36.85	80.33	37.33	(44.92)
Total benefit on account of overachievement	109.60			

Impact of truing-up of FY 2010-11 separately claimed in another issue

\$ FY 2009-10 "As per MYT Targets" numbers considered based on ATE Judgment

Table 3B 40: Financial Impact including carrying cost

(Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	65	145	200	227	260	299	344	396	455	522
2	Additions	61	66	34	0	0						
3	Cl. Balance	61	131	179	200	227	260	299	344	396	455	522
4	Average	30	98	162	200	227	260	299	344	396	455	522
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	13.83%
6	Carrying cost	4	13	21	27	34	39	45	52	59	67	72
7	Grand Cl. Balance	65	145	200	227	260	299	344	396	455	522	594

PRAYER(S):

3B.187 The Petitioner requests the Hon'ble Commission to approve the aforesaid impact on account of revision in AT&C Loss trajectory.

Issue-9: Computation of AT&C Loss for FY 2009-10:ISSUE IN BRIEF:

3B.188 This issue pertains to the non-implementation of the Judgments of the Hon'ble ATE wherein the Hon'ble Commission was directed to re-compute the AT&C losses for FY 2009-10 using actual kWh figures recorded in the meters, instead of computing kWh based on kVAh and power factor.

LIST OF DATES:

S.No	Date	Event
1.	26.08.2011	<p>In the Tariff Order, the Hon'ble Commission had, in para 4.8 thereof, trued-up the actual revenue on kWh basis, but nevertheless went ahead and disallowed sales by 44.41 MUs on the ground that the average power factor computed from kVAh and kWh figures shown by the Petitioner in Form 2.1(a) for industrial and commercial consumers, where kVAh billing is applicable, was abnormally high.</p> <p>The said disallowance was, in the submission of the Petitioner, incorrect, as the Hon'ble Commission used the actual power factor for FY 2010-11 to disallow the metered data in kWh for FY 2009-10. The energy meters directly record kWh figures, cannot be altered in the billing system. There is no manual intervention since the Petitioner does not read meters manually. The meter readings from all consumers of the Petitioner are directly downloaded from the hand-held devices and energy bills raised thereon. Both kVAh and kWh figures are recorded in the meters. Accordingly, the kWh figures do not change due to change in power factor or any other external factors. On the other hand, kVAh depends upon the power factor.</p>
2.	28.11.2014	The aforesaid findings in the above Order dated 26.08.2011 were set aside by this Hon'ble Tribunal vide its Appeal 61 Judgment.



S.No	Date	Event
3.	29.09.2015	<p>The Hon'ble Commission, in the Tariff Order dated 29.09.2015, stated as follows [Refer: para 3.104]:</p> <p><i>"3.104 The Commission has indicated the power factor to be applied in the respective Tariff orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation. The power factor derived from the data provided by the Petitioner for FY 2009-10 was not in line with either the power factor considered by the Commission for projection of revenue or actual power factor for the past period. It is observed that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or kWh together with power factor is required. In view of this, the Commission has filed Clarificatory Application before Hon'ble APTEL and the view on impact of AT&C Loss for FY 2009-10 will be taken, as deemed fit and appropriate, after receipt of the judgment of Hon'ble APTEL in the said Clarificatory Application."</i></p>
4.	21.07.2017	A meeting was held with the officials of the Hon'ble Commission regarding prudence check for claim on account of the Hon'ble Tribunal's Judgments.
5.	25.07.2017	The Petitioner by its letter no. RA/2017-18/01/A/207 had provided the details sought by the Hon'ble Commission on the said issue.

S.No	Date	Event
6.	31.08.2017	<p>In its Tariff Order dated 31.08.2017, the Hon'ble Commission has simply placed reliance on the Tariff Order dated 29.09.2015 wherein it had held that it has indicated the power factor to be applied in the respective Tariff Orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation.</p> <p>The Hon'ble Commission has also held that the power factor derived from the data provided by the Petitioner for FY 2009-10 was not in line with either the power factor considered by the Hon'ble Commission for projection of revenue or actual power factor for the past period. The Hon'ble Commission appears to have misunderstood application of the power factor. In fact, the power factor for consumers differs and varies according to the consumption profile and the profile of the equipment's used by the consumers. The Hon'ble Commission failed to understand the fact that the power factor cannot be the same as considered by the Hon'ble Commission for projection of revenue for the past period. Thus, in the submission of the Petitioner, the dispensation provided by the Hon'ble Commission is incorrect.</p> <p>The Hon'ble Commission has also held that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or kWh together with power factor is required. This finding is on the face of it, not in line with the Judgment of the Hon'ble Tribunal in Appeal No.61 of 2012 where it was held that the Hon'ble Commission has erred in computing kWh based on kVAh and power factor.</p>
7.	31.10.2017	The Hon'ble Tribunal vide its judgment dated 31.10.2017 has dismissed the said Clarificatory Application of the Hon'ble Commission.
8.	28.03.2018	However, in its tariff order dated 28.03.2018 (after the Clarificatory petition was dismissed), at Para No. 3.162-3.163, the Hon'ble Commission changed its stance and stated that the issue does not merit consideration at this point of time as the issue is <i>sub-judice</i> before Hon'ble Supreme Court of India.



DETAILED SUBMISSIONS:

3B.189 The Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) has directed the Hon'ble Commission as under:

"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 (kVARh) 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."

3B.190 The Hon'ble Commission in Tariff Order dated September 29, 2015 ruled as under:

"3.104 The Commission has indicated the power factor to be applied in the respective Tariff orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation. The power factor derived from the data provided by the Petitioner for FY 2009-10 was not in line with either the power factor considered by the Commission for projection of revenue or actual power factor for the past period. It is observed that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or



kWh together with power factor is required. In view of this, the Commission has filed Clarificatory Application before Hon'ble APTEL and the view on impact of AT&C Loss for FY 2009-10 will be taken, as deemed fit and appropriate, after receipt of the judgment of Hon'ble APTEL in the said Clarificatory Application."

3B.191 The Hon'ble Commission in Tariff Order dated August 31, 2017 ruled as under:

"3.167 The Commission will consider the issue after the final Judgment of Hon'ble APTEL as the matter is still sub-judice in the Clarificatory Application filed by the Commission."

3B.192 The Hon'ble Tribunal vide Judgment dated October 31, 2017 dismissed the clarificatory application filed by the Hon'ble Commission.

3B.193 However, the Hon'ble Commission in Tariff Order dated March 28, 2018 stated as under:

"3.162 The Commission has analysed the petitioner submission as well as the direction of Hon'ble APTEL in appeal no 61 & 62 of 2012. Hon'ble APTEL has also clarified this issue in its judgment dtd. 31/10/2017 for Clarificatory application that the issue is sub judice before Hon'ble Supreme Court of India as follows:

"v) Disallowance due to wrong valuation of sales in kWh figures for FY 2009-10. (Pending in Civil Appeal Nos. 8660-61 of 2015 filed against Judgement dated 28/11/2014 in Appeal Nos. 61 and 62 of 2012)"

3.163 In view of the above, the Commission is of the view that this issue does not merit consideration at this point of time. "

3B.194 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble ATE in Appeal No. 61/62 of 2012 and therefore, there is no legal embargo upon the Hon'ble Commission to implement the same, on the other hand, this Commission is legally bound to implement the same in the absence of any stay of the same.

3B.195 It is further submitted that the Hon'ble Tribunal in Judgment dated November

28, 2014 (Appeal 61 of 2012) has clearly held that kWh is the basic parameter based on which the other factors are derived in the meters irrespective of the billing of the consumer. The Hon'ble Commission in Para-4.8 of the Tariff Order has stated that the energy sales in kWh was verified by the Hon'ble Commission during prudence check exercise.

PRAYER(S):

3B.196 Therefore, the Petitioner requests the Hon'ble Commission to implement the direction of Hon'ble ATE as per Judgment dated November 28, 2014. The computation of AT&C Loss for FY 2009-10 is tabulated below:

Table 3B 41: AT&C Loss for FY 2009-10

S. No	Particulars	Units	Now Approved
A	Units consumed at BRPL Periphery	MU	9700.62
B	Units billed	MU	7796.94
C	Amount billed	Rs. Cr.	3594.46
D	Distribution Loss	%	19.62%
E	Amount collected	Rs. Cr.	3573.98
F	Collection efficiency	%	99.43%
G	Units realised	MU	7752.52
H	AT&C Loss level	%	20.08%

3B.197 The Hon'ble Commission determined the AT&C Loss Target for FY 2009-10 as 20.23%. Since the actual AT&C Loss during FY 2009-10 is 20.08%, the Petitioner is entitled for an incentive as per DERC MYT Regulations, 2007. The over-achievement on account of AT&C Loss for FY 2009-10 is tabulated below:

Table 3B 42: Over-achievement of AT&C Loss during FY 2009-10

Particulars	UoM	MYT Order	Actuals	Reference
AT&C Loss	%	20.23%	20.08%	A
Over achievement/ (Under achievement)	%	0.15%		B
Energy Input	MU	9700.62	9700.62	C
Units realised	MU	7738	7753	D=C*(1-A)
Average Billing Rate	Rs./ kWh	4.64	4.64	E
Amount realised	Rs. Cr.	3567	3574	
Over-achievement	Rs. Cr.		7	

Particulars	UoM	MYT Order	Actuals	Reference
Proposed to be transferred to consumers	Rs. Cr.		3.37	
Proposed to be retained	Rs. Cr.		3.37	
Less: E. Tax	Rs. Cr.		152	
Less: LPSC	Rs. Cr.		15	
Total revenue	Rs. Cr.		3405	

3B.198 The impact on account of re-computation of AT&C Loss of FY 2009-10 is tabulated below:

Table 3B 43: Re-computation of AT&C Loss during FY 2009-10

(Rs. Cr.)

S. No	Particulars	FY 2009-10
1	Revenue submitted by Petitioner	3408
2	Revenue considered in Tariff Order	3405
3	Net Impact	3

3B.199 The total impact including carrying cost is tabulated below:

Table 3B 44: Impact due to revision of AT&C Loss during FY 2009-10

(Rs. Cr.)

S. No	Particulars	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	4	4	5	6	6	7	8	9
2	Additions	3	0	0						
3	Cl. Balance	3	4	4	5	6	6	7	8	9
4	Average	2	4	4	5	6	6	7	8	9
5	Rate of interest	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	0.22	0.48	0.61	0.70	0.81	0.94	1.06	1.20	1.31
7	Grand Cl. Balance	4	4	5	6	6	7	8	9	11

3B.200 The Petitioner requests the Hon'ble Commission to consider the impact on account of the same.

Issue-10: Revision in AT&C Loss Target of FY 2011-12ISSUE IN BRIEF:

3B.201 This issue pertains to the non-implementation of the directions of the Hon'ble ATE wherein the Hon'ble Commission was directed to re-fix the AT&C Loss targets for FY 2011-12 to 16% by relying on the promise held out by the Hon'ble Commission vide its letter dated March 8, 2011.

LIST OF DATES:

S.No	Date	Event
1.	30.05.2007	The first MYT period was from FY 2007-08 to 2010-11. The MYT Regulations, 2007 <i>inter alia</i> contemplated (in Regulation 4.8) that the AT&C loss level at the end of the current period for the Petitioner shall be at 17%.
2.	08.03.2011	<p>Prior to the Order of 10.05.2011 (set out below), by letter dated 8.03.2011 the Hon'ble Commission informed the Petitioner that the AT&C loss target for 2011-12 would be as under:-</p> <p><i>"The AT&C loss target for FY 2011-12 will be the lower of the following two figures.</i></p> <p><i>i. Actual AT&C loss for 2010-11 &</i></p> <p><i>ii. Reduction at 1% over the AT&C target for FY 2010-11".</i></p> <p>Since the AT&C loss targets for FY 2010-11 was 17%, the AT&C loss target for FY 2011-12 in terms of the said letter dated 08.03.2011 was to be 16% i.e. (i.e. 17%-1%).</p>
3.	10.05.2011	By Order dated 10.05.2011, the Hon'ble Commission extended the MYT Regulations, 2007 as well as the Control Period upto FY 2011-12. The said order, however, purported to suggest that the AT&C loss targets for FY 2011-12 for the Petitioner would be 15%.

S.No	Date	Event
4.	26.08.2011	<p>In the Tariff Order for the ARR and Tariff for FY 2011-12, the Hon'ble Commission determined the targeted loss level for FY 2011-12 at 15%. The Hon'ble Commission in its said Tariff Order was <i>inter alia</i> pleased to give the following reasoning for fixing the loss level for FY 2011-12 as under:-</p> <p><i>"5.44 The Commission vide Order dated 10th May, 2011 has fixed the AT&C loss reduction target of BYPL as 18% for FY 2011-12. The Commission while fixing the targets has taken into consideration the general trend of the trajectory for target loss reduction during the Control Period (FY 2007-08 to 2010-11) as well as the actual performance claimed by the Petitioner for FY 2010-11. The Commission was of the opinion that it is in the public interest to consider the earlier trajectory and fix the target at a level that is lower than the actual achievement during FY 2010-11."</i></p> <p>It is worth note that the reasoning adopted by the Hon'ble Commission in its Order dated 26.08.2011 was identical to the reasoning given in its order dated 10.05.2011 for fixing the lower loss level of 15%.</p>
5.	28.11.2014	<p>The Order dated 26.08.2011 was carried in Appeal before the Hon'ble Tribunal in Appeal No.61-62/2012. By its judgment in Appeal 61 of 2012 ("Appeal 61 Judgment") the Hon'ble Tribunal was at para 72 <i>inter alia</i> pleased to direct the Hon'ble Commission to re-fix the AT&C loss level for FY 2011-12 as per its letter dated 08.03.2011 and gave consequential relief to the Petitioner.</p>
6.	18.12.2014	<p>In the Tariff Petition leading up to the Tariff Order dated 29.09.2015, the Petitioner had <i>inter alia</i> sought implementation of the Appeal 61 Judgment and the Appeal 177 Judgment of the Hon'ble Tribunal.</p>
7.	02.03.2015	<p>In the subsequent judgment in Appeal No. 177 of 2012 ("Appeal 177 Judgment"), the Hon'ble Tribunal, in para 30.12 was <i>inter alia</i> pleased to record the fact that the AT&C loss target for FY 2011-12 has to be refixed to 16% for the Petitioner as per the decision of the Hon'ble Tribunal in Appeal No.61-62/2012.</p>



S.No	Date	Event
8.	29.09.2015	In the Tariff Order dated 29.09.2015, the Hon'ble Commission has stated that the issue of AT&C Loss for FY 2011-12 has been discussed in the Appeal 14 Judgment and the Appeal 61 Judgment and the Hon'ble Commission has already given effect to the Appeal 14 Judgment. Further, the Hon'ble Commission has relied on Order dated May 2, 2011 and has stated that the AT&C Loss target for FY 2011-12 was set after considering the stakeholder's comments. The Hon'ble Commission has also stated that it has filed a Clarificatory Application before the Hon'ble Tribunal and the impact will be allowed once the same is decided by this Hon'ble Tribunal.
9.	31.08.2017	The Hon'ble Commission in its tariff order dated 31.08.2017 has merely referred to its finding in the Tariff Order dated 29.09.2015.
10.	31.10.2017	It is noteworthy to mention here that the Hon'ble Tribunal vide its judgment dated 31.10.2017 has dismissed the said Clarificatory Application of the Hon'ble Commission.
11.	28.03.2018	The Hon'ble Commission vide its tariff order dated 28.03.2018 stated that the matter is <i>sub judice</i> before Hon'ble Supreme Court of India and the same will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court.

DETAILED SUBMISSIONS:

3B.202 The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

"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."

3B.203 The Hon'ble Commission vide letter dated March 08, 2011 fixed the AT&C Loss Target for FY 2011-12 as under:

*"The AT&C loss target for FY 2011-12 will be the lower of the following two figures.
i. Actual AT&C loss for 2010-11: &*

ii. Reduction at 1% over the AT&C target for FY 2010-11"

3B.204 However, the Hon'ble Commission in Tariff Order dated September 29, 2015 has stated that a Clarificatory petition has been filed on the said issue which is pending adjudication before Hon'ble ATE. Similar stand has been taken by the Hon'ble Commission in Tariff Order dated August 31, 2017. The Hon'ble ATE vide Judgment dated October 31, 2017 has dismissed clarificatory application filed by the Hon'ble Commission.

3B.205 The Petitioner in Petition for True-up of FY 2016-17 and ARR and Tariff for FY 2018-19 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.97 This matter is sub judice before Hon'ble Supreme Court of India and the same has also been clarified by Hon'ble APTEL vide it's Order dated 31/10/2017 in the Clarificatory Appeal. Therefore, the view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court of India in the pending Appeal (8660-61 of 2015). "

3B.206 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble ATE in Appeal No. 61/62 of 2012 and therefore, there is no legal embargo upon the Hon'ble Commission to implement the same. In fact, the Hon'ble Commission is legally bound to implement the same in the absence of any stay of the same.

3B.207 It is further submitted that the Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) remanded the matter of AT&C Loss of FY 2010-11 back to the Hon'ble Commission to examine as to whether the capex schemes submitted for AT&C Loss reduction during FY 2010-11 were not approved without any fault of the Petitioner and provide consequential relief if it is found that the Petitioner is not at fault. The directions of Hon'ble ATE regarding FY 2010-11 and FY 2011-12 in Judgment dated March 2, 2015 (Appeal 177 of 2012) and November 28, 2014 (Appeal 61 of 2012) gives an understanding as under:



- a) AT&C Loss for FY 2010-11 to be revised to 18.82% in case it is found that the Petitioner has not been able to achieve AT&C Loss reduction due to non-approval of capex schemes by the Commission.
- b) AT&C Loss for FY 2011-12 to be re-determined in terms of letter dated March 8, 2011 which states that the loss level for FY 2011-12 shall be lower of actual AT&C Loss for FY 2010-11 or the AT&C Loss target for FY 2010-11 minus 1%.

Therefore, the AT&C loss target for FY 2011-12 becomes 17.82%, i.e., 18.82% minus 1%.

3B.208 The Petitioner filed Petition No. 50 of 2015 for re-determination of AT&C Loss of FY 2010-11. However, the Hon'ble Commission vide Order dated May 18, 2018 has rejected the contention of the Petitioner with respect to AT&C Loss of FY 2010-11. The Petitioner has filed Appeal before Hon'ble ATE against the said Order which is pending adjudication.

3B.209 Without pre-judice to the Appeal filed against Order dated May 18, 2018, the Petitioner has computed and claimed the impact on account of difference between original and revised AT&C Loss Target of FY 2011-12 in line with the directions of Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 of 2012) only as under:

Table 3B 45: Impact due to revision in AT&C Loss Target for FY 2011-12

(in Rs. Cr.)

S. No	Particulars	MYT Order	Actuals
1	AT&C Loss	16.00%	18.11%
2	Over achievement/ (Under achievement)	-2.11%	
3	Energy Input	10910	10910
4	Units realized	9164	8934
5	Average Billing Rate	5.15	5.15
6	Amount realized	4720	4601
7	Under-achievement		119
8	Considered in TO dt. July 31, 2013		168
9	Impact		49

PRAYER(S):

3B.210 It is requested that the above amount ought to be allowed along with carrying cost as under:

Table 3B 46: Impact for FY 2011-12 along with carrying cost

(Rs. Cr.)

S. No	Particulars	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	53	61	70	80	92	105
2	Additions	49						
3	Cl. Balance	49	53	61	70	80	92	105
4	Average	24	53	61	70	80	92	105
5	Rate of interest	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	4	8	9	11	12	13	15
7	Grand Cl. Balance	53	61	70	80	92	105	120

3B.211 Accordingly, the Petitioner requests the Hon'ble Commission to allow the impact on account of revision in AT&C Loss of FY 2011-12.

Spaw



Issue-11: Non-revision of AT&C Loss for FY 2012-13 and FY 2013-14:ISSUE IN BRIEF:

3B.212 The Petitioner had challenged the issue of non-revision of AT&C losses for FY 2012-13 to FY 2014-15 before the Hon'ble ATE in Appeal No. 177 of 2012, Appeal No. 266 of 2013 and Appeal No. 235 of 2014. The Hon'ble ATE had, in its Judgment dated March 2, 2015 in Appeal No. 177 of 2012 ("Appeal 177 Judgment"), read with its directions in its judgment in Appeal No. 61 of 2012, upheld the contentions of the Petitioner. This issue therefore pertains to the non-implementation of the said Judgments.

LIST OF DATES:

S.No	Date	Event
1.	13.07.2012	The second MYT period was from FY 2012-13 to 2015-16. The MYT Regulations, 2007 provided that closing of first control period shall be the opening of next control period. The MYT Regulations, 2011 states that <i>"the target AT&C Loss levels to be achieved by each Distribution Licensee during each year of the Control Period shall be determined by the Commission based upon benchmarking, past trends, business plan submitted by Distribution Licensee and any other factor considered relevant by the Commission."</i> The Hon'ble Commission in Tariff Order dated 13.07.2012 set the AT&C Loss trajectory for second control period.
2.	02.03.2015	The said finding was challenged in Appeal 177 of 2012. The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 177 of 2012) at Para-30.12 re-fixed the AT&C Loss target from FY 2012-13 to FY 2014-15.
3.	29.09.2015	In the Tariff Order dated September 29, 2015, the Hon'ble Commission has stated that the issue of AT&C Loss for FY 2011-12 has been discussed in the Appeal 14 Judgment and the Appeal 61 Judgment and the Hon'ble Commission has already given effect to the Appeal 14 Judgment. The Hon'ble Commission has also stated that it has filed a Clarificatory Application before the Hon'ble Tribunal and the impact will be allowed once the same is decided by this Hon'ble Tribunal.

S.No	Date	Event
4.	31.08.2017	The Hon'ble Commission in its tariff order dated August 31, 2017 has merely referred to its finding in the Tariff Order dated September 29, 2015.
5.	31.10.2017	It is noteworthy to mention here that the Hon'ble Tribunal vide its judgment dated 31.10.2017 has dismissed the said Clarificatory Application of the Hon'ble Commission.
6.	28.03.2018	The Hon'ble Commission vide its tariff order dated 28.03.2018 stated that the matter is <i>sub judice</i> before Hon'ble Supreme Court of India and the same will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court.

DETAILED SUBMISSIONS:

3B.213 The Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 and 178 of 2012) has ruled as under:

"30.12 The State Commission has proposed AT&C loss reduction 1.27% below the target fixed for 2011-12(15%). Now the AT&C loss target for FY 2011-12 has to be refixed to 16% for BRPL as per the decision of this Tribunal in Appeal no. 62 of 2012. The State Commission has fixed AT&C loss target for 2014-15 as 12.5% which would mean a loss reduction of 3.5% in the control period of 3 years which seems reasonable and can be distributed to 1.05% reduction in 2012-13, 1.2% in 2013-14 and 1.25% in 2014-15 over the target of previous year i.e. AT&C loss target of 14.99%, 13.75% and 12.5% respectively. Lower target for 2012-13 has been fixed as the impugned order was passed on 13.07.2012, about 3½ months after the commencement of FY 2012-13. In this way, the target for FY 2014-15 will remain the same as decided by the Commission in the impugned order. Considering the performance in the past and the actual AT&C loss level, the above loss reduction trajectory will be reasonable. According decided.

30.13...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."

3B.214 The Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

“3.104 This matter is sub judice before Hon’ble Supreme Court of India and the same has also been clarified by Hon’ble APTEL vide its order dated 31/10/2017 for AT&C Loss target of FY 2011-12 in the Clarificatory appeal. Further, it is noted that the directions of Hon’ble APTEL to revise the AT&C Loss target were linked with proposed AT&C Loss target of FY 2011-12. Therefore, the view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon’ble Supreme Court of India in the pending appeal.”

- 3B.215 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon’ble ATE in Appeal No. 61/62 of 2012 and therefore, there is no legal embargo upon the Hon’ble Commission to implement the same, on the other hand, this Commission is legally bound to implement the same in the absence of any stay of the same.
- 3B.216 Without pre-judice to the contentions raised by the Petitioner in Appeal filed against Order dated May 18, 2018, the Petitioner has computed the impact on account of the aforesaid issue as per Para-30.12 of Hon’ble ATE Judgment dated March 2, 2015 (Appeal 177 of 2012) by considering AT&C Loss target for FY 2012-13 and FY 2013-14 as 14.95% and 13.75% respectively.
- 3B.217 The impact on account of revision in AT&C loss target from FY 2012-13 and FY 2013-14 is tabulated below:

Table 3B 47: Impact due to revision of AT&C Loss Target from FY 13 to FY 14

(in Rs. Cr.)

S. No	Particulars	FY 2012-13		FY 2013-14	
		ATE	DERC	ATE	DERC
1	AT&C Loss	14.95%	14.16%	13.75%	13.33%
2	Energy Input	11233	11233	11509	11509
3	Units realised	9553	9642	9926	9975
4	Average Billing Rate	6.27	6.27	6.89	6.89
5	Amount realised	5993	6049	6844	6877
6	Difference		56		33

- 3B.218 The aforesaid impact along with carrying cost is tabulated below:

Table 3B 48: Impact along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	60	105	120	138	159
2	Additions	56	33				
3	Cl. Balance	56	93	105	120	138	159
4	Average	28	77	105	120	138	159
5	Rate of interest	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	4	11	16	18	20	22
7	Grand Cl. Balance	60	105	120	138	159	181

PRAYER(S):

3B.219 Accordingly, the Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.



Issue-12: Increase in employee expenses corresponding to increase in consumer base:

ISSUE IN BRIEF:

3B.220 The claim of the Petitioner essentially is that the normative level of employee expenses for the period FY 2007-08 to FY2011-12 must be fixed taking into account the increase in the number of consumers in the Appellant's licensed area as has also been upheld by the Hon'ble ATE in Appeal No. 36 of 2008.

LIST OF DATES:

S.No	Date	Event
1.	6.10.2009	<p>This claim was also made with respect to the ARR for the first control period under the MYT Regulations, 2007 for FY 2007-08 to FY2011-12.</p> <p>This was considered by this Hon'ble Tribunal in its Appeal 36 Judgment. In para 73 of its Appeal 36 Judgment wherein at para 75 of the Appeal 36 Judgment, the Hon'ble Tribunal was <i>inter alia</i> pleased to direct the Hon'ble Commission to true up the employees expenses to the extent of increase in employees costs by increase in the consumer base.</p>
2.	26.08.2011	<p>In its Order, while undertaking the true up for FY 2008-09 and 2009-10 and determination of ARR, the Hon'ble Commission at para 3.102 to para 3.109, undertook the exercise of comparing the increase in the cost of the employees of the Petitioner with the increase in consumer base and found on facts that there was, in fact, no such co-relative increase. Hence, there was no challenge in that regard by the Petitioner in Appeal No.61-62/2012.</p>

S.No	Date	Event
3.	13.07.2012	<p>However, in the MYT order for the second control period i.e. FY2012-13 onwards, the Hon'ble Commission at para 4.176 to para 4.186 initiated a benchmarking exercise for the employee expenses, taking into account the increased consumer base as well as increase in sales and stated that the impact would be given once the benchmarking exercise is completed.</p> <p>The said MYT Order in fact took into account the increase in employees expense co-related with the increase in consumer base for all the 3 DISCOMs and found that the increase in employees expense of the Petitioner herein on this count was the most reasonable. While undertaking this exercise the Hon'ble Commission analyzed the actual numbers for the entire period from FY 2006-07 to FY 2011-12 for all the 3 DISCOMs.</p>
4.	31.07.2013	<p>Despite the fact that the Hon'ble Commission undertook the benchmarking exercise in this regard in the subsequent MYT order, while passing the Tariff Order dated 31.07.2013 for the FY2013-14 the Hon'ble Commission stated that it would allow such increase after completing the benchmarking exercise. The relevant extracts of the said order are set out herein below:-</p> <p><i><u>"3.112 As regard true up of the employees expenses to the extent of increased cost by increase in consumer base and salary hike comparable to sixth pay Commission's recommendations for employees other than erstwhile DVB employees, the Commission has initiated a benchmarking exercise for employee expenses taking into account the increased consumer base as well as increase in sales. This would also take into account the salary hike of employees other than the erstwhile DVB employees. The impact will be given once the benchmarking exercise is completed."</u></i></p> <p>(emphasis supplied)</p>

S.No	Date	Event
5.	23.07.2014	In the proceedings leading upto the Tariff Order dated 23.07.2014 for FY 2014-15 (subject matter of Appeal No.235-236/2014), the Petitioner gave full and complete details of the increase in employees expense co-related with the increase in consumer base. However, the Hon'ble Commission did not carry out the benchmarking exercise, required to be carried out in terms of the Tariff Order dated 31.07.2013.
6.	29.09.2015	In its Tariff Order dated 29.09.2015, the Hon'ble Commission only referred to its earlier order dated 26.08.2011 and proceeded on the basis that since this portion of the order dated 26.08.2011 was not challenged in Appeal No. 61 and 62 of 2012, it has attained finality.
7.	31.08.2017 and 28.03.2018	The Hon'ble Commission, in the tariff orders, passed after aforesaid Tariff Order, has only stated that the matter does not merit consideration as it has already clarified the issue in the Tariff Order of 29.09.2015.

DETAILED SUBMISSIONS:

3B.221 In the Petitioner's licensed area of supply, consumer base has increased by 59 % in FY 12 as compared to FY 2006-07 (FY 07: 10.9 Lakhs, FY 12; 17.33 Lakhs) and units billed have grown by 51 % in FY 2011-12 as compared to FY 2006-07 (Units billed 2007: 5872 MU, 2012: 8844 MU). The Petitioner is obligated, under the extant regulatory framework, to maintain standards in supply of electricity and to retain AT & C loss levels effectively. As per the Hon'ble ATE order, the Hon'ble Commission is required to factor in the increase in employee cost required due to increase in consumer base.

3B.222 The Hon'ble ATE in Judgment dated October 6, 2009 (Appeal No. 36 of 2008) has held that the Delhi Commission should true up employee expense to the extent of increase caused by increase in consumer base. The relevant extracts are reproduced below:

"74) Having gone through the impugned order we do find that the



Commission has not considered the issue of possible increase in the number of employees consequent on increase in the consumer base. Nor has the Commission ruled on the Petitioner's proposal to increase the salaries etc. The Commission has nonetheless assured to true up the employees expenses subject to prudence check. The Commission shall also take care of the related carrying cost. This should satisfy the Petitioner.

75) ... We thus conclude the issue of employees' expenses by saying that the: The Commission shall allow the expenses incurred towards the retirement benefit of SVRS optees pending decision of the Actuarial Arbitration Tribunal and shall true up the employee expenses to the extent of increase caused by increase in the consumer base..... "

3B.223 The Hon'ble Commission in Tariff Order dated July 31, 2013 stated as under:

"3.112 As regard true up of the employees expenses to the extent of increased cost by increase in consumer base and salary hike comparable to sixth pay Commission's recommendations for employees other than erstwhile DVB employees, the Commission has initiated a benchmarking exercise for employee expenses taking into account the increased consumer base as well as increase in sales. This would also take into account the salary hike of employees other than the erstwhile DVB employees. The impact will be given once the benchmarking exercise is completed."

3B.224 The aforesaid benchmarking exercise has not found place in any of the tariff orders issued after July 31, 2013.

3B.225 The Hon'ble Commission in Tariff Order dated August 31, 2017 added the impact claimed by the Petitioner in the Petition filed for Truing-up of FY 2014-15, Review of FY 2015-16, Multi-Year ARR from FY 2016-17 to FY 2020-21 and Tariff for FY 2016-17 to the normative allowed O&M Expenses and compared the same with actual O&M Expenses incurred during respective years during first control period. The Hon'ble Commission further stated that the normative O&M Expenses claimed are higher than the actual O&M Expenses and hence the impact has not been considered. The Hon'ble Commission in Tariff Order dated March 28, 2018 has maintained the same stand as in Tariff Order dated August 31, 2017.



3B.226 As regards the aforesaid, it is submitted that Regulation 4.16(b)(i) of the MYT Regulations, 2007, which read as under:

“4.16 The true up across various controllable and uncontrollable parameters shall be conducted as per principle stated below:.

(a) Variation in revenue / expenditure on account of uncontrollable sales and power purchase shall be trued up every year;

(b) For controllable parameters,

(i) 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 ARR; and

(ii) Depreciation and RoCE shall be trued up at the end of Control Period”

3B.227 Hence, the Regulations clearly contemplate that the difference between the norm and the actual, when the actual is less, is to ensure to the benefit of the Petitioner. By not re-working the norm, as was mandated by the judgments of the Hon’ble Tribunal, the Hon’ble Commission has, in the Order dated August 31, 2017 negated the benefit which the Petitioner was entitled to under Regulation 4.16 (b)(i) of the MYT Regulations, 2007. This is contrary to the doctrine of relation-back. In terms of the said principle, the position of law as declared by the judgments of this Hon’ble Tribunal would “relate-back” to the date when the cause of action originally accrued to the Petitioner, i.e. to say when the original MYT Order dated February 23, 2008 was passed. It is on that legal principle that the Hon’ble Commission was required to re-work the norm as it originally ought to have been on February 23, 2008. The refusal of the Hon’ble Commission to do so on the grounds of subsequent events is a negation of the said principle.

3B.228 Further, it is submitted that the above observation of the Hon’ble Commission in Tariff Order dated August 31, 2017 is directly contrary to its own statement made before Hon’ble ATE in Review No. 7 of 2015. Same has been captured in Judgment dated May 15, 2015 as under:

“6.According to Shri Pradeep Misra, Learned Counsel for Delhi Commission, all facts stated by the Appellant under this issue were already before this Tribunal and after considering all such facts a conscious decision has been taken by the Tribunal. Hence the review is

*impermissible. Para 167 of the judgment dated 28.11.2013 in Appeal no. 14 of 2012 wherein it was decided that employees expenses are controllable item under the MYT Regulations is fully applicable. Further, from the data submitted by the Review Petitioners it is clear that the number of non-executive employees are decreasing whereas the number of executive employees are increasing year after year. **The Review Petitioners/Appellants being aware that employees of non-FRSR employees are controllable they have to adjust the expenses so that the same remain within the norms.**"*

(Emphasis added)

- 3B.229 As evident from the aforesaid, the Hon'ble Commission itself stated that the Petitioner is required to adjust the expenses so that the same remains within the norms. Presently, the actual O&M Expenses of the Petitioner are higher than the normative O&M Expenses allowed by the Hon'ble Commission. However the normative O&M Expenses are required to be revised based on the various directions of Hon'ble which may exceed the actual O&M Expenses. Revision in normative O&M Expenses in excess of actual O&M Expenses on account of the implementation of directions of Hon'ble ATE cannot be a reason for denial of requisite relief for the Petitioner.
- 3B.230 Further, the Hon'ble Commission did not also provide the computation in support of the benchmarking exercise as stated in Tariff Order dated July 31, 2013. The rejection of proposal of the Petitioner does not mean that the Hon'ble Commission ought not to implement the directions of Hon'ble Tribunal.
- 3B.231 The Hon'ble Commission in its Tariff Order dated 31.07.2013 for FY 2013-14, undertook that it would allow such increase after completing the benchmarking exercise, as explained above. Accordingly, the Petitioner gave full and complete details of the increase in employee expense which co-related with the increase in consumer base. Therefore, in the respectful submission of the Petitioner, the Hon'ble Commission ought not to have, in its Tariff Order dated 29.09.2015, simply relied upon its Order dated 26.08.2011 to disallow the true up of the employees expenses to the extent of increase in employees



costs by increase in the consumer base.

- 3B.232** Despite the earlier benchmarking exercise already carried out by the Hon'ble Commission in the MYT order dated 13.07.2012 and despite the fact that all the details for increase in employees cost co-relative to the increase in consumer base were furnished to the Hon'ble Commission, its Tariff Order dated 29.09.2015 holds that the issue has attained finality as the issue had been addressed in the Tariff Order dated 26.08.2011. In the respectful submission of the Petitioner, this is contrary to the directions of Hon'ble Tribunal as contained in the Appeal 36 Judgment. It is respectfully submitted that the directions contained in the Appeal 36 Judgment in the Petitioner's own case is binding on the Hon'ble Commission and have necessarily to be implemented.
- 3B.233** The only contention of the Hon'ble Commission in its Reply to Appeal No. 290/297 of 2015 was to rely on the judgment of this Hon'ble Tribunal dated 28.11.2013 in Appeal No. 14 of 2012. It is submitted that this ground did not find mention in the Tariff Order dated 29.09.2015 and was raised for the first time in the Reply to justify disallowance. The Hon'ble Commission was using reasoning and contentions not contained in its Tariff Order dated 29.09.2015 to substantiate the denial of legitimate entitlements as already adjudicated upon by the Hon'ble Tribunal. It is no longer res integra that tariff orders, like any other quasi-judicial determination, have to be sustained on the reasoning contained therein and cannot be improved upon through affidavits/ reply.
- 3B.234** Without prejudice, it may be noted that the said judgment in Appeal No.14 of 2012 has been passed in the case of another DISCOM, namely TPDDL, whereas, the Petitioner has a judgment specifically on this issue, being the Appeal 36 Judgment. In the said judgment, the Hon'ble Commission's counsel had conceded that the Hon'ble Commission would allow an increase in employee costs based on increase in consumer base, which has been carried out till date, despite the fact that the Hon'ble Commission has not challenged the judgment on this issue. Thus, when there is a direct judgment on the facts of the present



case, which is also admitted to by the Hon'ble Commission and the same has not been set aside, reliance on any judgment passed in the case of another DISCOM is completely irrelevant and unsustainable, in terms of Order 47, Rule 1 (explanation) of the Code of Civil Procedure, 1908.

3B.235 Without prejudice to the above contentions, the judgment in Appeal No. 14 of 2012 is also distinguishable on facts as the Petitioner has a very different consumer mix, geographical license area and history of creation of larger regulatory assets and non-allowance of CAPEX than TPDDL. The same has repeatedly been noted by the Hon'ble Tribunal in various judgments, including those which the Hon'ble Commission has not implemented till date (such as Appeal No. 61 and 62 of 2012).

3B.236 In the respectful submission of the Petitioner, the Hon'ble Commission could not proceed on the premise that employee cost would reduce upon the introduction of newer technologies and techniques. The Hon'ble Commission would have to analyse on facts that the Capex which the Hon'ble Commission permitted the Discom to undertake did or would in fact reduce the need for man-power. In the absence of such factual determination, the Hon'ble Commission cannot presume that increase in Capex would automatically reduce employee cost.

3B.237 In fact, the Hon'ble Commission itself considered a consumer base based analysis in its subsequent order of 31.07.2013, where it undertook this benchmarking. Therefore, the subsequent grounds of denial, are in the respectful submission of the Petitioner, incorrect and merit reconsideration.

3B.238 In respect of the Hon'ble Commission's finding that that the additional claim of the Petitioner for the subsequent years of the first MYT period is more than its audited accounts and highly inflated, it is submitted that if the Hon'ble Commission had implemented the earlier judgments of this Hon'ble Tribunal in Appeal No. 36 of 2008 and Appeal No. 142 of 2009, the situation today of the actual expenses being allegedly less than the revised normative claim would



not have arisen.

- 3B.239 Since in those years, the Hon'ble Commission had not implemented the judgments of Hon'ble Tribunal and revised the norms correspondingly, the Petitioner was obviously forced to restrain its expenditures to the limit of the incorrect norm being insisted upon by the Hon'ble Commission at that time.
- 3B.240 Today, the Petitioner is being deprived of the norm which it was legitimately entitled to have, on the ground that the Petitioner in obedience to the orders of the Hon'ble Commission, deprived itself of the expenses which it could have incurred and legitimately recovered.
- 3B.241 If the Hon'ble Commission had, at the correct time, fixed the norm as it ought to have, even if the Petitioner had not spent the allowable amount, it would still have gained by reason of the efficiency gain, which it was legitimately entitled to.
- 3B.242 It is submitted that the refusal to revise the norms on the ground that the actuals are allegedly less, is contrary to the entire concept of a normative tariff determination. In a normative tariff determination, the only consideration is whether the norm has been correctly set or not. The actual expenditure, whether more or less than the norm, is immaterial. This is supported by various judgments of Hon'ble Tribunal including in its judgment dated judgment dated 30.05.2014 in Appeal No. 147, 148 and 150 of 2013, wherein Hon'ble Tribunal held:

"25. Let us examine the findings of the Tribunal in Appeal no. 190 of 2011.

"39. It cannot be disputed that the norms with regard to Operation & Maintenance Expenses is covered under Regulation 98.6 of the MYT Regulations of the State Commission. In terms of this Regulation 98.6, the determination of the O&M expenses for 3 years ending 31st March, 2010 subject to prudence check and escalated at the rate of 4% to arrive at the O&M expenses for the year 2011-12. The O&M expenses for the further period after 2011-12 are to be escalated at the rate of 5.72%. 40. The determination of O & M expenses under the Regulations of the State Commission is on normative basis. The



very concept of allowing the O & M on normative basis is that the actual expenses is of no relevance thereafter and any variation on the normative O & M expenses is to the account of the Petitioner unless there is a specific consequence for such variation provided for in the Regulations itself. 41. The State Commission has determined the O&M expenses strictly in terms of Regulation 98.6. It is not the case of the Petitioner that the normative O&M calculated by the State Commission is not in accordance with Regulation 98.6. So, the main controversy revolves around the normative O&M expenses. 44. The reading of the above findings by the State Commission would make it clear that while determining Operation and Maintenance Expenses under Regulation 98.6, the State Commission failed to consider one time pay revision expenses and major overhaul expenses for computing normative O&M expenses for the 2nd control period.

45. In fact, the State Commission has accepted that increase in employee's cost due pay revision is uncontrollable. On this ground, the State Commission had allowed Rs 65.19 Cr towards employees' cost including pay revision costs of Rs 10.59 Cr for FY 2009-10. However, for the purpose of computing normative cost for 2nd Control period, Commission has considered Rs 54.6 Cr (65.19 - 10.59) as actual employees costs for FY 2009-10. This approach may not be correct. 46. With reference to one time major overhauling costs, the Petitioner had indicated in its petition that it had deferred the major overhaul, which was scheduled for FY 2009-10 to FY 2010-11. Therefore, the actual R&M expenditure during FY 2009-10 was reduced by Rs 6.74 Cr on account of deferment of major overhaul. The State Commission had approved the reduced actual R&M expenditure. 47. The above aspect would clearly establish that major overhaul was part of approved O&M expenditure for FY 2009-10. But for its deferment to FY 2010-11, the Petitioner would have spent this amount on major overhaul and claimed as part of actual R&M expenditure for FY 2009-10. In that event, the State Commission would have considered the same for arriving the normative O&M expenses for the 2nd control period for the 2 to FY 2015-16.

48. This aspect is required to be considered by the State Commission and pass the necessary orders in the light of the above observations. On this issue, we remand the matter to the State Commission for fresh consideration. This point is answered accordingly."

26. Thus, the Tribunal has held that the O&M expenses have been allowed on normative basis and the variation in O&M expenses have to be on account of the Petitioner unless there is a specific consequence for such variation provided for in the Regulations. However, the Tribunal held that same uncontrollable expenditure

which the State Commission failed to consider for computing the normative O&M expenses were required to be reconsidered.”

3B.243 Further, in terms of the aforesaid judgment, the MYT Regulations, 2007 of the Hon’ble Commission had specified a clear and categorical consequence of the normative tariff determination. This is referred to in Regulation 4.16(b)(i) of the MYT Regulations, 2007, which read as under:

“4.16 The true up across various controllable and uncontrollable parameters shall be conducted as per principle stated below:

(a) Variation in revenue / expenditure on account of uncontrollable sales and power purchase shall be trued up every year;

(b) For controllable parameters,

(i) 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 ARR; and

(ii) Depreciation and RoCE shall be trued up at the end of Control Period”

3B.244 Hence, the Regulations clearly contemplate that the difference between the norm and the actual, when the actual is less, is to ensure to the benefit of the Petitioner. By not re-working the norm, as was mandated by the judgments of this Hon’ble Tribunal, the Hon’ble Commission has, in the Order dated 31.8.2017 negated the benefit which the Petitioner was entitled to under Regulation 4.16 (b)(i) of the MYT Regulations, 2007. This is contrary to the doctrine of relation-back. In terms of the said principle, the position of law as declared by the judgments of this Hon’ble Tribunal would “relate-back” to the date when the cause of action originally accrued to the Petitioner, i.e. to say when the original MYT Order dated 23.02.2008 was passed. It is on that legal principle that the Hon’ble Commission was required to re-work the norm as it originally ought to have been on 23.02.2008. The refusal of the Hon’ble Commission to do so on the grounds of subsequent events is a negation of the said principle.

3B.245 Without prejudice to the above, it is submitted that even if it were assumed for the purpose of argument that the actuals were less than the revised norm (as claimed by the Petitioner), and even if it were assumed on a demurrer that the earlier judgments of this Hon’ble Tribunal had not directed a revision of the

norms, but had directed a true-up on actuals, even on that basis, the Petitioner would be entitled to its actual expenditure.

3B.246 It is further submitted that the Petitioner has added considerable number of employees during the MYT Control period to cater to the needs of the business growth as shown in the figure below:

Figure 1: Additional recruitment to meet business growth



3B.247 As per the DERC MYT Regulations, sales is an uncontrollable factor because the licensee has a universal obligation to provide electricity to any consumer. Therefore, to meet with the business growth, the licensee is forced to employ additional manpower. Under these circumstances, the Hon'ble Tribunal had directed the Hon'ble Commission to true up the employees expenses to the extent of increased cost by increase in consumer base. The Hon'ble Commission has already trued up the consumer base of the Petitioner for the First MYT Control Period but is yet to implement the judgment of the Hon'ble ATE. The impact of increase in consumer base on the employee cost is estimated below:

Table 3B 49: Increase in employee expenses from FY 08 to FY 12

(Rs. Cr.)							
S. No	Particulars	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
1	Employee Expenses in the base year	181					
2	No. of Consumers served during base year	1090691					
3	Employee Expenses per consumer in the base year	1659					
4	Escalation Factor		4.66%	4.66%	4.66%	4.66%	4.66%
5	Increase in employee expenses over first MYT Control Period after applying escalation factor		1736	1817	1902	1990	2083
6	Actual number of consumers served during first Control Period		1171772	1394040	1527743	1651241	1733007
7	Increase in number of consumers served y-o-y basis		81081	222268	133703	123498	81766
8	Increase in employee Expenses based on number of consumers		14	40	25	25	17

Table 3B 50: Impact of increase in employee expenses along with carrying cost

(Rs. Cr.)												
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	15	60	95	134	173	198	228	263	302	346
2	Additions	14	40	25	25	17	0	0	0	0	0	0
3	Cl. Balance	14	55	86	120	151	173	198	228	263	302	346
4	Average	7	35	73	108	143	173	198	228	263	302	346
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	1	5	10	14	21	26	30	35	39	44	48
7	Grand Cl. Balance	15	60	95	134	173	198	228	263	302	346	394

Note To the extent of increase in consumer base

PRAYER(S):

3B.248 In view of the aforesaid, the Hon'ble Commission is required to expeditiously implement the Hon'ble ATE judgment and to true-up the employee expenses to the extent of increased cost by increase in consumer base along with carrying costs.

Issue-13: Efficiency factor for FY 2010-11:ISSUE IN BRIEF:

3B.249 This issue pertains to the non-implementation of the Judgments of the Hon'ble ATE in Appeal No. 177 of 2012, whereby the Hon'ble Commission was directed to reconsider the efficiency factor of 4% for FY 2010-11.

LIST OF DATES:

S.No	Date	Event
1.	02.03.2015	This issue relates to the incorrect imposition of efficiency factor while determining the O&M expenses for true-up of FY 2010-11. The Hon'ble Tribunal in its judgment dated March 2, 2015 in Appeal No.177 of 2012("Appeal 177 Judgment"), in para 44 thereof has directed the Hon'ble Commission to reconsider the efficiency factor of 4% for FY 2010-11.
2.	28.04.2015	The Petitioner vide its letter dated April 28, 2015 <i>inter alia</i> requested the Hon'ble Commission to implement the said Appeal 177 Judgment in the Tariff proceedings which culminated in the Tariff Order dated 29.09.2015. However, the said letter does not find mention in Table 1.1 of the said Tariff Order.
3.	31.08.2017	The Hon'ble Commission in the tariff order dated 31.08.2017 has observed that the issue does not merit consideration as the Petitioner has not challenged the issue of Efficiency Factor in its Appeal against MYT Order dated 23.02.2008 and even this Hon'ble Tribunal has upheld the methodology for Efficiency Factor in case of TPDDL in its judgment in Appeal No. 14 of 2012.
4.	28.03.2018	The Hon'ble Commission, in its tariff order dated 28.03.2018 stated that it has not reconsidered the issue as the same has already been clarified in the tariff order dated 31.08.2017.

DETAILED SUBMISSIONS:

3B.250 The Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) has directed the Hon'ble Commission as under:

"44. The 36th issue is arbitrary imposition of efficiency factor for determination of O&M Expenses for true-up of FY 2010-11

44.1 This issue has been considered by this Tribunal in Appeal No. 61 of 2012 and decided in favour of the Appellant. The relevant extracts of the Judgment are referred below:

...

201 So, on strength of the Judgment in Appeal No. 14 of 2012 applies squarely into the facts of the present case. The issue is decided in favour of the Appellants."

44.2 Accordingly, this issue is decided in favour of the Appellant."

3B.251 The Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.152 The Commission has already clarified this issue in tariff order dated 31/08/2017 as follows:

"3.157 The Commission has observed that the Hon'ble tribunal in its judgments in Appeal No. 52/2008 has not find any merit in the contention raised by the TPDDL regarding introduction efficiency factor of 2%, 3% and 4% for FY 2009, FY 2010 and FY 2011 respectively as follows: "67. (ix) The last issue is erroneous computation of the Efficiency Factor. Admittedly, the Appellant had not proposed any Efficiency Factor in its MYT Petition in accordance with the MYT Regulations. The State Commission has compared the O&M expenses of the Appellant with similar urban distribution companies in other states and found the expenses of the Appellant on higher side. Accordingly, the State Commission has decided to introduce efficiency factor of 2%, 3% and 4% for FY 2009, FY 2010 and FY 2011 respectively. Therefore, we do not find any merit in the

contention raised by the Appellant. Therefore, the State Commission finding on this issue is justified.” 3.158 Further, the Petitioner has relied upon the judgment of Hon’ble APTEL in Appeal No. 177/2012 which has been pronounced on the basis of Appeal No. 14/2012. It is pertinent to state that TPDDL (Appellant in Appeal No. 14/2012) had prayed before Hon’ble APTEL against the Efficiency Factor for FY 2011-12 and not FY 2010-11 in issue no. 23. However, the Petitioner has misrepresented the facts before the Commission that Hon’ble APTEL has decided the issue for Efficiency Factor of FY 2010-11. The relevant extract of the said judgement is as follows: “198. On this issue, the learned Counsel for the Appellant submits as under: ... (c) However, in the impugned order the Delhi Commission has merely extended the efficiency factor of 4% that was applicable for O & M expenses of the Appellant for the period FY 2010-11 to apply to FY 2011-12 and has also extended the MYT Order while extending the operation of the MYT Regulations to the period FY 2011-12. This has resulted in gross under- allowance of O & M costs for FY 2011-12....”

3.159 It is clarified that the Efficiency Factor had been introduced by the Commission for 1st MYT Control Period (FY 08-FY11) in its MYT Order dtd. 23/02/2008 for all the Distribution Licensees. The Petitioner has not challenged the issue of Efficiency Factor in its Appeal against MYT Order dtd. 23/02/2008 and even Hon’ble APTEL has upheld the methodology for Efficiency Factor in case of other Distribution Licensee as indicated above. Therefore, this issue does not merit consideration.”

3.153 In view of the above the Commission has not re-considered this issue. “

3B.252 It is submitted that the Hon’ble ATE in Judgment dated March 2, 2015 (Appeal

177 of 2012) has set aside the efficiency factor for FY 2010-11. Further, the Hon'ble ATE in Judgment dated October 31, 2017 has dismissed the Clarificatory Application filed by the Hon'ble Commission. There is no stay on the implementation on Judgment dated March 2, 2015 (Appeal 177 of 2012). The impact on account of efficiency factor for FY 2010-11 is tabulated below:

Table 3B 51: Impact on account of efficiency factor for FY 2010-11

S. No	Particulars	FY 2010-11
1	Employee Expenses	391
2	Eff. Fact. %	4%
3	Eff. Factor	16

3B.253 The impact on account of the said issue along with carrying cost is tabulated below:

Table 3B 52: Impact of efficiency factor during FY 2010-11 along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	17	19	22	25	29	34	38
2	Additions	16	0	0	0	0	0	0	0
3	Cl. Balance	16	17	19	22	25	29	34	38
4	Average	8	17	19	22	25	29	34	38
5	Rate of interest	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	1	2	3	3	4	4	5	5
7	Grand Cl. Balance	17	19	22	25	29	34	38	44

PRAYER(S):

3B.254 Therefore the Petitioner requests the Hon'ble Commission to allow the impact in the ARR.

Issue-14: Incorrect revision of R&M expenses by revising K factor:ISSUE IN BRIEF:

3B.255 This issue pertains to the non-implementation of the Judgments of the Hon'ble ATE in Appeal No.177 of 2012 and Appeal No. 171 of 2012, in terms of which the Hon'ble Commission was directed to recalculate the "K" factor for the control period based on "K" factor for FY 2007-08 to FY 2011-12 as the Hon'ble Commission considered average of "K" factor from FY 2008-09 to FY 2011-12. However, in the respectful submission of the Petitioner, the Hon'ble Commission has completely changed the methodology and has derived new "K" factor based on re-determined R&M Expenses for FY 2011-12 contrary to the directions of this Hon'ble Tribunal.

LIST OF DATES:

S.No	Date	Event
1.	01.04.2012	<p>Clause-5.5 of MYT Regulations 2011 states as under:</p> <p><i>"5.5 O&M expenses permissible towards ARR for each year of the Control Period shall be determined using the formula detailed below:</i></p> <p><i>(a) $O\&M_n = (R\&M_n + EMP_n + A\&G_n) * (1 - X_n)$</i></p> <p><i>Where,</i></p> <p><i>(i) $R\&M_n = K * GFAn-1$;</i></p> <p><i>...</i></p> <p><i>(vii) $R\&M_n$ – Repair and Maintenance Costs of the Licensee for the nth year.</i></p> <p><i>Where,</i></p> <p><i>„K“ is a constant (could be expressed in %). Value of K for each year of the Control Period shall be determined by the Commission in the MYT Tariff order based on Licensee's filing, benchmarking, approved cost by the Commission in past and any other factor considered appropriate by the Commission;</i></p> <p><i>..."</i></p>

S.No	Date	Event
2.	13.07.2012	<p>The Hon'ble Commission determined O&M Expenses for the second control period in Tariff Order dated July 13, 2012, para 4.219 thereof. The Hon'ble Commission while determining "K" factor for the purpose of computation of R&M Expenses for the second control period in Tariff Order dated July 13, 2012 excluded the "K" factor of FY 2007-08 and considered average of "K" factors from FY 2008-09 to FY 2011-12.</p> <p>An Appeal was filed by all DISCOMs including the Petitioner on the said issue namely Appeal 177 of 2012 in case of Petitioner, Appeal 178 of 2012 in case of BYPL and Appeal 171 of 2012 in case of TPDDL.</p>
3.	10.02.2015	<p>The Hon'ble Tribunal in Judgment dated February 10, 2015 directed the Hon'ble Commission as under:</p> <p><i>"11.4... The tariff order might have been passed on 23.02.2008, but the opening GFA and R&M expenses have been decided for the whole FY 2007- 08. There is no reason for not relying on these figures. Therefore the 'K' factor for the control period has to be recalculated on the basis of 'K' factor for the FY 2007-08 to 2011-12."</i></p>
4.	02.03.2015	<p>In the case of the Petitioner, the Hon'ble ATE, in its Judgment in Appeal No. 177 of 2012 in para 36 thereof held as under:</p> <p><i>"...Therefore, the Commission should take into account the K factor for 2007-08 also and redertermine the K factor and the R&M expenses for the Control Period. Accordingly, directed."</i></p>

S.No	Date	Event
5.	29.09.2015	In the Tariff Order dated 29.09.2015, at para 3.164 to 3.167 & Table 3.43, the Hon'ble Commission has re-determined R&M Expenses for FY 2011-12 for the purpose of projection of R&M Expenses from FY 2012-13 to FY 2014-15. For the purpose of the determination of R&M Expenses, the Hon'ble Commission has compared the Actual R&M Expenses of FY2011-12 as per audited Financial statement of FY 2011-12 with the Actual R&M Expenses of FY2007-08 escalated by proportionate increase in five years Sales Growth, Increase in CPI and WPI indices and performance on account of reduction in AT&C Loss levels. The Hon'ble Commission has then derived "K" Factor by dividing the R&M Expenses so re-determined for FY 2011-12 by Opening GFA for FY 2011-12 approved in the said Tariff Order. This "K" Factor has been applied on approved GFA from FY 2012-13 to FY 2014-15.
6.	31.08.2017	In the tariff order dated 31.08.2017, (Para 3.207 thereof), the Hon'ble Commission has held that it has given detailed reasoning and the factors which have been considered for determination of R&M expenses.

S.No	Date	Event
7.	28.03.2018	<p>Again, in the tariff order dated 28.03.2018, the Hon'ble Commission merely reiterated its stand in the tariff order dated 31.08.2017. The relevant extract is reproduced as below:</p> <p><i>"3.225 The Commission has given the detailed reasoning and the factors which have been considered for determination of R&M expenses in Tariff Order dated 29/09/2015 and the same has challenged by the Petitioner in Appeal No. 297/2015 before Hon'ble APTEL and is sub judice. Further, R&M expenses are linked with the value of Opening GFA of the Petitioner which is subject to true up after physical verification of the asset since FY 2004-05 onwards. Therefore a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said Appeal and true up of asset based on physical verification report of the consultant appointed by the Commission."</i></p>

DETAILED SUBMISSIONS:

3B.256 The Hon'ble ATE in Judgment dated March 2, 2012 (Appeal 177 of 2012) has ruled as under:

"36.5 We find that the State Commission had decided to fix the 'K' factor as the average K factor based on the actual R&M expenses of the last five years. We do not find any infirmity in the methodology except that the Commission has not followed the principle of computing the 'K' factor based on the actual for the last 5 years by ignoring the K factor for FY 2007-08. By this method the R&M expenses of FY 2012-13 have been determined more or less at the same level as 2011-12 which does not even cover the normal inflation factor. Therefore, the Commission should take into account the K factor for 2007-08 also and redetermine the K factor and the

R&M expenses for the Control Period. Accordingly, directed."

(Emphasis supplied)

3B.257 As evident from the aforesaid, the Hon'ble ATE remanded the matter back to the Hon'ble Commission to re-determine the "K" factor by considering past 5 years data. Same was a limited remand. However, the Hon'ble Commission in Tariff Order dated September 29, 2015 revised the entire methodology and allowed "K" factor of 2.62% instead of 2.70% which was to be allowed as per Hon'ble ATE directions.

3B.258 Aggrieved from the above, the Petitioner challenged the same before Hon'ble ATE in Appeal No. 297 of 2015. Same is pending adjudication before Hon'ble ATE. In reply to the Appeal 297 of 2015, the Hon'ble Commission stated as under:

"ISSUE NO. 25

Incorrect revision of R&M Expenses by revising "K" Factor

25.1 That the Commission will reconsider this issue in view of the submission made by the Appellant in the appeal. The impact, if any, on account of revision of R&M Expenses by revising "K" factor will be considered in the subsequent tariff order."

3B.259 However, despite the above statement, the Hon'ble Commission in Tariff Order dated August 31, 2017 ruled as under:

"3.207 The Commission has given the detailed reasoning and the factors which have been considered for determination of R&M expenses in Tariff Order dated 29/09/2015 and the same has been challenged by the Petitioner in Appeal No. 297/2015 before Hon'ble APTEL. As the matter is sub judice, therefore a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said Appeal."

3B.260 The Petitioner claimed the R&M Expenses during second control period in



Petition for True-up of FY 2014-15 and ARR and Tariff of FY 2016-17. However, the Hon'ble Commission in Tariff Order dated March 28, 2018 stated as under:

“3.225 The Commission has given the detailed reasoning and the factors which have been considered for determination of R&M expenses in Tariff Order dated 29/09/2015 and the same has challenged by the Petitioner in Appeal No. 297/2015 before Hon'ble APTEL and is sub judice. Further, R&M expenses are linked with the value of Opening GFA of the Petitioner which is subject to true up after physical verification of the asset since FY 2004-05 onwards. Therefore a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said Appeal and true up of asset based on physical verification report of the consultant appointed by the Commission.”

3B.261 As regards above, it is submitted that the Hon'ble Commission in various Tariff Orders has already allowed lower capitalisation on provisional basis. Now R&M Expenses have been linked by applying 'K' factor on Opening GFA. The 'K' factor so determined by the Hon'ble Commission in Tariff Order dated September 29, 2015 is also incorrect which has also been conceded by the Hon'ble Commission in its own affidavit filed before Hon'ble Tribunal in Appeal 297 of 2015. However, the Hon'ble Commission has till date not corrected the same and the error is being continued in subsequent years resulting in denial of legitimate expenses borne by the Petitioner. The Petitioner requests the Hon'ble Commission to correct the error as per its own affidavit filed before Hon'ble Tribunal and provide consequential relief to the Petitioner.

3B.262 As per the said direction, the “K” factor for the Petitioner is tabulated below:

Table 3B 53: Revised “K” factor as per Judgment in Appeal 177 of 2012

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	Average
1	Opening GFA	2030	2558	3099	3649	4099	
2	Total R&M Expenses	69.4	71.8	63.4	90.5	113.4	
3	K Factor	3.42%	2.81%	2.05%	2.48%	2.77%	2.70%

- 3B.263 As evident from above, the Hon'ble Commission in Tariff Order dated 13.07.2012 considered average of "K" factors from FY 2008-09 to FY 2011-12 as 2.53% whereas as per the directions of Hon'ble Tribunal, after factoring FY 2007-08 as per the methodology adopted by the Hon'ble Commission in Tariff Order dated 13.07.2012, revised "K" factor is 2.70%.
- 3B.264 However, the Hon'ble Commission has completely changed the methodology and has derived new "K" factor as 2.62% based on re-determined R&M Expenses for FY 2011-12 instead of 2.70% as per the directions of the Hon'ble Tribunal.
- 3B.265 The remand by the Hon'ble Tribunal in Judgment dated March 2, 2015 (Appeal 177 of 2012) was a limited remand. It only envisaged that the Hon'ble Commission was to re-calculate the "K" Factor for the Control Period on the basis of the "K" factor for all the years of the Control Period.
- 3B.266 The Petitioner has computed the R&M Expenses based on "K" factor as per the direction of the Hon'ble ATE and GFA considered by the Hon'ble Commission in Tariff Order dated July 13, 2012 as under:

Table 3B 54: Difference in R&M Expenses due to revised "K" factor

(in Rs. Cr.)

S. No	Particulars	FY 13	FY 14	FY 15	FY 16	FY 17
1	Opening GFA	4404	4705	4999	5307	5654
2	K Factor	2.70%	2.70%	2.70%	2.70%	2.70%
3	Revised R&M Expenses	119	127	135	143	153
4	R&M Expenses computed at Para-3B.149	115	123	131	139	148
5	Difference	4	4	4	4	5

- 3B.267 The aforesaid impact along with carrying cost is tabulated below:

Table 3B 55: Impact of difference in R&M Expenses along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	4	9	15	22	30
2	Additions	4	4	4	4	5	0
3	Cl. Balance	4	8	13	19	26	30
4	Average	2	6	11	17	24	30
5	Rate of interest	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	0.28	0.89	1.64	2.49	3.50	4.17
7	Grand Cl. Balance	4	9	15	22	30	34

PRAYER(S):

3B.268 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.



Issue-15: Lower rates of carrying cost:ISSUE IN BRIEF:

3B.269 This issue pertains to the non-implementation of directions of Hon'ble Tribunal in Judgment dated July 30, 2010 (Appeal 153 of 2009), July 12, 2011 (Appeal 142 of 2009), November 28, 2014 (Appeal 61 of 2012) and March 2, 2015 (Appeal 177 of 2012) by not allowing carrying cost in the debt: equity ratio of 70:30 and instead adopting a new formula in respect of the same.

LIST OF DATES:

S.No	Date	Event
1.	28.05.2009	Clause-8.2.2 of the National Tariff Policy provides for the provision of allowing carrying cost on regulatory assets. The Hon'ble Commission in its Tariff Order dated May 28, 2009, in para 4.135 thereof, allowed carrying cost @ 9% on the regulatory assets recognised upto FY 2007-08. The Petitioner challenged the same before the Hon'ble Tribunal in Appeal 142 of 2009.
2.	30.07.2010	The Hon'ble Tribunal in its Judgment dated July 30, 2010 in Appeal 153 of 2009, NDPL Vs. DERC (" Appeal 153 Judgment "), in para 51 thereof directed the Hon'ble Commission as under: <i>"51....Therefore, the State Commission is hereby directed to reconsider the rate of carrying cost at the prevailing market rate and the carrying cost also to be allowed in the debt/ equity of 70:30."</i>
3.	12.07.2011	The Hon'ble Tribunal in Judgment dated July 12, 2011 in Appeal No. 142 of 2009, in para 11.1 thereof directed the Hon'ble Commission to determine the rates of carrying cost in terms of the directions given in Judgment dated July 30, 2010

S.No	Date	Event
4.	26.08.2011	<p>The Hon'ble Commission, in its Tariff Order dated August 26, 2011 (in para 3.152- 3.153 thereof) did not implement the directions of Hon'ble Tribunal and stated as under:</p> <p><i>"3.152 The Hon'ble ATE in its Order dated July 30, 2010 on appeal no 153 of 2009 filed by NDPL has observed as follows:</i></p> <p><i>"the fixation of 9% carrying cost, in our view, is not appropriate. Therefore, the State Commission is hereby directed to reconsider the rate of carrying cost at the prevailing market rate and the carrying cost also to be allowed in the debt/ equity of 70:30"</i></p> <p><i>3.153 The Commission has decided to go in appeal against the Hon'ble ATE Order on allowing carrying cost in the debt/ equity of 70:30. The Commission therefore has not implemented the Judgement of the Hon'ble ATE in this regard."</i></p>
5.	01.04.2012	<p>Clause-5.40 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 ("MYT Regulations, 2011") states as under:</p> <p><i>"5.40 Truing-up shall be carried out in accordance with Regulation 4.21, for each year based on the actual/audited information and prudence check by the Commission;</i></p> <p><i>Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the guidelines provided in clause 8.2.2 of the National Tariff Policy."</i></p>

S.No	Date	Event
6.	13.07.2012	The Hon'ble Commission in its Tariff Order remained silent on the issue of allowance of carrying cost in debt-equity ratio of 70:30 and did not implement the directions of the Hon'ble Tribunal.
7.	21.08.2012	Meanwhile, the Hon'ble Supreme Court dismissed the Civil Appeal filed in case of TPDDL in the Appeal 153 Judgment by the Hon'ble Commission due to the delay in filing the Appeal.
8.	31.07.2013	<p>The Hon'ble Commission in Tariff Order, at para 3.206-3.210 thereof allowed the rates of carrying cost in debt-equity ratio of 70:30 for the period, FY 2007-08 to FY 2011-12 on a provisional basis subject to the approval of the loans. However, the Hon'ble Commission considered the rate of return on equity as 14% instead of 16% while computing the rates of carrying cost and return on debt as weighted average rates of non-capex loans instead of SBI PLR.</p> <p>The Petitioner has challenged the aforesaid treatment in Appeal No. 265-266 of 2013 which is pending adjudication before Hon'ble Tribunal.</p>
9.	23.07.2014	<p>The Hon'ble Commission in its Tariff Order, in para 4.171 thereof allowed the rates of carrying cost in debt-equity ratio of 70:30 during FY 2013-14 on a provisional basis subject to the approval of the loans. However, the Hon'ble Commission considered the rate of interest on debt as approved in 2nd MYT Order dated July 13, 2012 on a provisional basis subject to true-up of loans and capitalisation instead of SBI PLR.</p> <p>The Petitioner has challenged the aforesaid treatment in Appeal No. 235 of 2014 which is pending adjudication before Hon'ble Tribunal.</p>

S.No	Date	Event
10.	28.11.2014	<p>Aggrieved by the aforesaid treatment in the tariff order dated August 26, 2011, the Petitioner challenged the same in Appeal 61 of 2012. The Hon'ble Tribunal in Judgment dated November 28, 2014 ruled as under:</p> <p><i>"7. The first issue is related to Interest on Working Capital and Regulatory Assets. According to the Appellant the Delhi Commission has not implemented the directions of this Tribunal in judgment reported as 2010 ELR (APTEL) 0891 in Appeal No. 153 of 2009 related to debt/ equity ratio of 70:30 for financing of the working capital during first control period comprising of FY 2007-08 to FY 2011-12. <u>On the 70% debt portion, the carrying cost has to be allowed at the prevalent market rate considering SBI PLR and on 30% equity portion, the rate of return on equity as specified by the Delhi Commission in the MYT Regulation, 2007 has to be allowed.</u></i></p> <p style="text-align: center;">---</p> <p><i><u>We are not inclined to involve ourselves in to fact finding and direct the Commission to implement our directions in letter and spirit."</u></i></p> <p style="text-align: right;">(Emphasis supplied)</p>
11.	2.03.2015	<p>Aggrieved by the treatment in its Tariff Order dated July 13, 2012, the Petitioner challenged the same in Appeal 177 of 2012. The Hon'ble Tribunal in Judgment dated March 2, 2015 ("Appeal 177 Judgment") ruled as under:</p> <p><i>"5.8 However, the State Commission has not computed the carrying cost considering 70% as debt and 30% as equity to be allowed the prevailing Return on Equity rate as per the decision of the Tribunal.</i></p> <p><i>5.9 Therefore, we direct the State Commission to compute the carrying cost considering 70% to be allowed as debt at 11.66% and the balance 30% to be allowed at the prevailing ROE rate for the relevant year for which the carrying cost is being computed."</i></p>

S.No	Date	Event
12.	29.09.2015	<p>The Petitioner, in its ARR which culminated into the Tariff Order dated 29.09.2015, requested the Hon'ble Commission to consider the rates of carrying cost in debt-equity ratio of 70:30 by considering return on equity as 16% on 30% portion and rate of SBI PLR for respective years on 70% portion as per the direction given by Hon'ble Tribunal in various Judgments.</p> <p>In the said Tariff Order, the Hon'ble Commission has applied the formulae of net-worth proposed for computation of WACC for the purpose of RoCE in Tariff Order dated July 31, 2013 to derive the equity available during respective years. The Hon'ble Commission has utilized the so derived equity for the respective years in the following priority:</p> <ol style="list-style-type: none"> 30% of Capitalisation If left after funding of capitalization then, 30% of working capital If left after funding of capitalization and working capital, then 30% of Regulatory Assets. <p>At Table-3.53 and Table-5.1 of the said Tariff Order, the Hon'ble Commission has reduced the carrying cost for the period from FY 2007-08 to FY 2013-14, by reducing the equity base so derived from the formula instead of implementing the directions of Hon'ble Tribunal in various Judgments.</p>
13.	31.08.2017	<p>The Hon'ble Commission further in its tariff order dated 31.08.2017 has not allowed the claim on two primary grounds namely:</p> <ol style="list-style-type: none"> By referring to the actual equity infused, and for which it relies upon the same principles that it had held in the earlier tariff order of 29.09.2015; Restricts the claim for the RoE on the equity component of funding to 14%, for which it relies upon the judgment of this Hon'ble Tribunal in Appeal 271 of 2013.



S.No	Date	Event
14.	28.03.2018	In its tariff order dated 28.03.2018, the Hon'ble Commission has merely reiterated its findings in its tariff order dated 31.08.2017.

DETAILED SUBMISSIONS:

3B.270 The Hon'ble ATE in Judgment dated July 30, 2010 (Appeal 153 of 2009) has ruled as under:

*"51. It cannot be disputed that the State Commission shall be guided by the principles that reward efficiency in performance as provided under section 61(e) of the Electricity Act, 2003. Similarly, the said section provide that State Commission shall be guided by the National Electricity Policy and Tariff Policy. Therefore, the State Commission should have allowed the carrying cost at the prevailing market lending rate for the carrying cost so that the efficiency of the distribution company is not affected. The State Commission is required to take the truing up exercise to fill up the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. This Tribunal in various judgments rendered by it held in Appeal No. 36 of 2008 in the judgment dated 06.10.2009 reported in 2009 ELR (APTEL) 880 has held that "the true up exercise is to be done to mitigate the difference between the projection and actuals and true up mechanism should not be used as a shelter to deter the recovery of legitimate expenses/revenue gap by over-projecting revenue for the next tariff." Therefore, the fixation of 9% carrying cost, in our view, is not appropriate. **Therefore, the State Commission is hereby directed to reconsider the rate of carrying cost at the prevailing market rate and the carrying cost also to be allowed in the debt/ equity of 70:30.***

...

58. ...

*(iv) The next issue is relating to the inadequate lower rate of 9% for the allowance of the carrying cost. The carrying cost is allowed based on the financial principle that whenever the recovery of the 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 expense. Therefore the recovery of such 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. "

(Emphasis added)

3B.271 It is respectfully submitted that the Hon'ble Commission in Tariff Order dated September 29, 2015 applied a formula, which in the Petitioner's submission, is erroneous for computing equity and consequently, allowed very lower rates of carrying cost from FY 2007-08 to FY 2013-14 without even verifying as to whether the capitalisation allowed to the DISCOMs is matching with the funding or not. The Petitioner in its Petition for True-up of FY 2016-17 and ARR and Tariff for FY 2018-19 has detailed the reasons as to why and how net-worth formula applied by the Hon'ble Commission was incorrect which is also recorded at Para-3.382 to Para-3.386 of the Tariff Order dated March 28, 2018. However, the Hon'ble Commission has not dealt with the submission and stated as under:

"3.387 The Commission direct the Petitioner to submit the detail of Net worth based on audited financial statement, statement of de-capitalisation, utilisation of depreciation, means of finance for each year Capitalisation & working capital etc since inception in order to assess the actual equity. Further, the Commission has also appointed consultant for physical verification of asset since FY 2004-05 onwards which has an impact on the total financing required for regulated business. Therefore, the Commission will finalise the means of finance based on each year final value of capitalisation including the dispute related to utilisation of consumer contribution during policy direction period."

3B.272 As evident from aforesaid, the Hon'ble Commission did not deal with the submissions of the Petitioner and the aforesaid error has still not been corrected while computing carrying cost for FY 2016-17. It is respectfully stated that the actual net-worth as per the books is not relevant as the Hon'ble Commission itself has refused to implement various directions of Hon'ble ATE in Judgments dated October 6, 2009 (Appeal 36 of 2008), July 12, 2011 (Appeal



142 of 2009), November 28, 2014 (Appeal 61 of 2012) and March 2, 2015 (Appeal 177 of 2012) without any stay, thereby eroding the net-worth of the Petitioner. It is further submitted that the Hon'ble Commission has itself admitted on judicial records for being responsible for the creation of the huge accumulated regulatory assets due to insufficient retail tariff. The Hon'ble Commission has in fact, on affidavit before the Hon'ble Supreme Court admitted in writing that it has not implemented the Hon'ble Tribunal's judgments as such implementation would have led to a recovery of at least Rs.4500 crores as on March 31, 2013. It is a well-settled principle that acts of Court shall not prejudice anyone.

3B.273 It is further submitted that the Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 171 of 2012) has directed the Hon'ble Commission to allow actual rates of working capital during second control period as under:

"13. The eleventh issue is regarding erroneous computation of working capital interest rates.

...

*13.4 We find that the State Commission has considered interest rate for working capital as 11.62% and interest rate for capital at 11.25% for the control period 2012-13 to 2014-15. The Appellant has produced a letter from SBI dated 02.01.2012 showing working capital facilities sanctioned at an interest rate of 3.25% above base rate which works out to 13.25% p.a. with monthly interests. This letter was furnished to the State Commission by letter dated 21.05.2012. This has not been considered by the State Commission while deciding the rate of interest on working capital. In the of the State Commission before us they have not denied receipt of this letter but have not given any explanation why the this letter was not considered by them while deciding the interest on working capital. **There is also no explanation in the impugned order regarding fixing interest rate at 11.25% on working capital. We, therefore, direct 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.**"*



(Emphasis supplied)

3B.274 However, the Hon'ble Commission has utilised net-worth formula to compute actual equity for the purpose of debt-equity ratio but has considered normative rates of debt instead of actual rates of working capital thereby resulting in a mix approach contrary to the industry practices as well as direction of Hon'ble Tribunal in Judgment dated March 2, 2015 (Appeal 171 of 2012).

3B.275 Without prejudice to the contentions raised in Appeal, the Petitioner would like to once again request the Hon'ble Commission to correct the lower rates of carrying cost allowed by employing erroneous net-worth formulae without providing for any debt and equity schedule. The Petitioner has applied the debt-equity ratio of 70:30 considering ROE as 16% and rate of interest as SBI PLR while computing the impact.

3B.276 Accordingly the rates of carrying cost are tabulated below:

Table 3B 56: Rate of carrying cost

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Rate of Interest	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%	14.58%	14.75%	14.29%	14.05%
2	Return on Equity	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%
3	WACC	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%

3B.277 The carrying cost on already recognised Regulatory Assets upto FY 2013-14 is tabulated below:

Table 3B 57: Impact due to difference in rates of carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
A	Opening Balance	382	601	540	1517	2935	5139	5788	5784	6094	5569
B	Adjustments: Contingency Reserve				29						
C	Additions	156	-135	851	1169	1645	184	-304	55	-1083	-387



S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
D	Adjustment from surcharge						299	507	580	619	649
E	Closing	538	466	1391	2657	4580	5024	4976	5259	4392	4533
F	Average	460	534	965	2073	3757	5081	5382	5521	5243	5051
G	Carrying cost	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%
H	Carrying cost	63	73	127	277	559	764	808	835	776	739
I	Grand Closing balance	601	540	1517	2935	5139	5788	5784	6094	5168	5272
J	Additional true-up past impact									402	776
K	Total balance									5569	6049

3B.278 There is difference of Rs. 1791 Crore above closing balance, i.e, Rs. 6049 Crore when compared with Regulatory Assets recognised up to FY 2013-14, i.e., Rs. 4258 Crore.

3B.279 The impact along with carrying cost during FY 2017-18 is tabulated below:

Table 3B 58: Impact of Difference in carrying cost rate upto FY 2017-18

(in Rs. Cr.)

S. No	Particulars	FY 18
1	Opening Balance	1791
2	Additions	
3	Closing Balance	1791
4	Average	1791
5	Rate of carrying cost	14%
6	Carrying cost	251
7	Grand Closing Balance	2041

PRAYER(S):

3B.280 The Petitioner requests the Hon'ble Commission to allow the impact on account of the aforesaid issue in ARR of the Petitioner.

Issue-16: Financing cost of LPSC based on SBI PLR:ISSUE IN BRIEF:

3B.281 This issue pertains to the implementation of two principles laid down by this Hon'ble Tribunal for the funding of Late Payment Surcharge ("LPSC"), being that (A) the funding of LPSC must be in the ratio of 70:30 (Judgment in Appeal No. 153 of 2009, Para 51, referred to in para 10 of its Judgment in Appeal No. 142 of 2009 in case of the Petitioner); and (B) the funding of LPSC has to be on the prevailing market lending rates (Judgment in Appeal No. 177 of 2012, para 4.8) and erred in relying upon the judgment in Appeal No. 14 of 2012.

LIST OF DATES:

S.No	Date	Particulars
1.	30.07.2010	The claim of the Petitioner was for the funding of LPSC for the period 2007-08 to 2011-12 and 2012-13 in the ratio of 70:30 as if such funding were through working capital. This was based entirely on the judgment of this Hon'ble Tribunal in Appeal No.153/2009 Para 23-25.
2.	12.07.2011	The Hon'ble Tribunal has held in favour of the Petitioner in the Petitioner's own case in Appeal No.142/2009 (" Appeal 142 Judgment "), in para 10 thereof, referring to the Appeal 153 Judgment.
3.	02.03.2015	In the Judgment dated March 2, 2015 in Appeal No. 177 of 2012, in para 39 thereof (" Appeal 177 Judgment ") the Hon'ble Tribunal directed the Hon'ble Commission to determine the interest rate and amount of financing cost after verifying the cost of debt taken by the Petitioner and the market rate of debt.

4.	29.09.2015	<p>In the Tariff Order of even date, the Hon'ble Commission appears to have done the following:-</p> <p>a. It has rejected any revision in the interest rate for funding of LPSC on the ground that (a) the funding of LPSC is akin to the funding of working capital and (b) since the interest rate for working capital is to be trued-up only when the variation in the SBI PLR is more than +/-1%, and as the actual variation has not been more than 1%, there is no need to revise the rate of interest for funding of LPSC;</p> <p>b. It seemingly has computed the interest rate not on the 70:30 basis, but by computing the rate of interest as equal to the interest rate computed in the WACC. This is derived from Table 3.125, Sr. No. 1.c of the Tariff Order and by comparing the said figures with the figures of interest on funding of LPSC taken into account in the previous Tariff Orders.</p>
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5.	31.08.2017	<p>In the In its tariff order dated 31.08.2017, (Para Nos. 3.183 – 3.184), the Hon'ble Commission has held as under:</p> <p><i>"3.183 The Commission has already dealt this issue in its Tariff Order dtd. 29/09/2015 as follows:</i></p> <p><i>"3.44 Further, in view of the Hon'ble APTEL's direction in Appeal No. 36 of 2008 and Appeal No. 61 & 62 of 2012, the Commission has filed a Clarificatory Application before Hon'ble APTEL therefore a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said application."</i></p> <p><i>3.184 In view of the above the Commission has not reconsidered this issue in this Tariff Order as the issue is sub judice before Hon'ble APTEL."</i></p> <p>The Hon'ble Commission has effectively rejected any revision in the interest rate for funding of LPSC on the ground that (a) the funding of LPSC is akin to the funding of working capital and (b) since the interest rate for working capital is to be trued-up only when the variation in the SBI PLR is more than +/-1%, and as the actual variation has not been more than 1%, there is no need to revise the rate of interest for funding of LPSC. The Hon'ble Commission, in so far as it relies upon the Tariff Order has computed the interest rate not on the 70:30 basis, but by computing the rate of interest as equal to the interest rate computed in the WACC.</p>
6.	31.10.2017	<p>The Hon'ble Commission had filed a Clarificatory Application in Appeal 177 of 2012 seeking clarification/ review of ten tariff issues including the present one.</p> <p>On 31.10.2017, the Hon'ble Tribunal has dismissed the said Clarificatory Application.</p>
7.	28.03.2018	<p>The Hon'ble Commission vide its tariff order dated 28.03.2018 has stated that the matter is sub-judice before Hon'ble Supreme Court of India and any view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court in the pending Appeal.</p>



DETAILED SUBMISSIONS:

3B.282 The issue of financing cost of LPSC arose for the first time in Appeal 142 of 2009 which was filed with respect to Tariff Order dated May 28, 2009. The relevant extracts from Judgment dated July 12, 2011 (Appeal 142 of 2009) are reproduced below:

*“10. The fifth issue is regarding the Late Payment Surcharge.
10.1. The above issue had been covered in this Tribunal’s Judgment dated 30.7.2010 reported in 2010 ELR (APTEL) 0891 titled as NDPL vs. DERC. The relevant extracts of the Judgment are reproduced below:
“The normative working capital compensates the distribution company in delay for the 2 months credit period which is given to the consumers. The late payment surcharge is only if the delay is more than the normative credit period. For the period of delay beyond normative period, the distribution company has to be compensated with the cost of such additional financing. It is not the case of the Appellant that the late payment surcharge should not be treated as a non-tariff income. The Appellant is only praying that the financing cost is involved due to late payment and as such the Appellant is entitled to the compensation to incur such additional financing cost. Therefore, the financing cost of outstanding dues, i.e. the entire principal amount, should be allowed and it should not be limited to late payment surcharge amount alone. **Further, the interest rate which is fixed as 9% is not the prevalent market Lending Rate due to increase in Prime Lending Rate since 2004-05. Therefore, the State Commission is directed to rectify its computation of the financing cost relating to the late payment surcharge for the FY 2007-08 at the prevalent market lending rate during that period keeping in view the prevailing Prime Lending Rate**”.*

This issue is decided accordingly in terms of the above Judgment.”

(Emphasis supplied)

3B.283 Further the Hon’ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) has directed the Hon’ble Commission as under:

*“4.8 We find that the State Commission has **mechanically allowed interest rate of 9.5% as allowed while passing the MYT order on funding of working capital without verifying the prevailing cost of***

debt contracted by the licensee and other relevant factors. As directed in the judgment in appeal no. 153 of 2009, the financing cost for Late Payment amount has to be allowed at the prevalent market lending rates as per the Tariff Regulations. **According, the State Commission is directed to redetermine the interest rate and the amount of financing cost.**"

(Emphasis supplied)

3B.284 The Petitioner raised the issue of lower financing cost of LPSC allowed in various Tariff Orders in its Petition for truing-up of FY 2016-17 and ARR and Tariff for FY 2018-19. However the Hon'ble Commission did not deal with the submissions of the Petitioner and simply stated that the Judgment of Hon'ble APTEL does not specify SBI PLR. In this regard, the relevant direction given by Hon'ble ATE in Judgment dated July 12, 2011 (Appeal 142 of 2009) is once again reproduced as under:

*"...Further, the interest rate which is fixed as 9% is not the prevalent market Lending Rate due to increase in **Prime Lending Rate since 2004-05....Therefore, the State Commission is directed to rectify its computation of the financing cost relating to the late payment surcharge for the FY 2007-08 at the prevalent market lending rate during that period keeping in view the prevailing **Prime Lending Rate****"*

(Emphasis supplied)

3B.285 As regards aforesaid a comparison of Prime Lending Rate, rates allowed by the Hon'ble Commission and actual rate of borrowing from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 59: Borrowing rate comparison

S. No	Financial Year	Rates considered in Tariff Order	SBI PLR rates	Actual rates
1	FY 2007-08	9.50%	12.69%	11.03%
2	FY 2008-09	9.50%	12.79%	11.47%
3	FY 2009-10	9.50%	11.87%	11.31%
4	FY 2010-11	9.50%	12.26%	11.87%
5	FY 2011-12	13.10%	14.40%	13.11%
6	FY 2012-13	9.99%	14.61%	15.40%
7	FY 2013-14	10.24%	14.58%	15.19%
8	FY 2014-15	10.44%	14.75%	15.24%
9	FY 2015-16	10.47%	14.29%	14.29%
10	FY 2016-17	10.47%	14.05%	

3B.286 As evident from the above table, the rates considered by the Hon'ble Commission are far lower than SBI PLR rates and actual rates and thus, Hon'ble ATE direction is still pending to be implemented.

3B.287 Accordingly the Petitioner has computed the financing cost of LPSC based on SBI PLR as under:

Table 3B 60: Difference in financing cost of LPSC due to rate of interest

(in Rs. Cr.)								
S. No	Particulars	UoM	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
1	Delayed Payment Surcharge	Rs. Cr.	32	28	28	29	35	31
2	Rate of LPSC per month	%	1.5%	1.5%	1.5%	1.5%	1.5%	1.5%
3	Rate of LPSC for 12 Months	%	18%	18%	18%	18%	18%	18%
4	Principal Amount	Rs. Cr.	177	155	156	162	197	172
5	SBI PLR	%	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%
6	Financing Cost of LPSC	Rs. Cr.	22	20	19	20	28	25
7	Allowed by DERC	Rs. Cr.	19	14	15	17	25	17
8	Net Amount	Rs. Cr.	3	5	4	3	3	8

3B.288 The aforesaid difference has been considered along with carrying cost as under:

Table 3B 61: Impact along with carrying cost

(in Rs. Cr.)												
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	3	9	14	20	26	39	44	51	59	67
2	Additions	3	5	4	3	3	8	0	0	0	0	0
3	Cl. Balance	3	9	13	18	23	34	39	44	51	59	67
4	Average	2	6	11	16	21	30	39	44	51	59	67
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	0.21	0.82	1.47	2.14	3.17	4.53	5.80	6.73	7.58	8.60	9.44
7	Grand Cl. Balance	3	9	14	20	26	39	44	51	59	67	77

PRAYER(S):

3B.289 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.

Issue-17: Reversal of Self-consumption during FY 2012-13:ISSUE IN BRIEF:

3B.290 This issue pertains to the energy sales towards self-consumption of the Petitioner 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 ATE in Judgment dated March 2, 2015 (Appeal 177 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 centers, 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."

3B.291 However, the Hon'ble Commission has considered own consumption of the Petitioner on a normative basis rather than on the basis of actual consumption of metered data only. During FY 2014-15 and FY 2015-16, there was error of 148 MU and 50 MU in billing on account of own consumption. A reversal entry was passed in the same respective financial years and the actual own



consumption during FY 2013-14 and FY 2014-15 was 23 MU and 24 MU respectively.

3B.292 However, the Hon'ble Commission while truing-up sales in Tariff Order dated September 29, 2015 and August 31, 2017 considered 148 MU and 50 MU as sales on account of self-consumption during FY 2014-15 and FY 2015-16 respectively.

LIST OF DATES:

S.No	Date	Event
1.	-	The energy consumed by various offices of the Petitioner is termed as Own Consumption.
2.	FY 2013-14	In the year, FY 2013-14 the Petitioner had originally erroneously billed its own consumption at 177 MU. Since the bills had been wrongly raised, either on account of data entry error or other administrative/technical issues, the said bills were revised as per the actual metered data and after such adjustment total self-consumption has computed as 23 MU.
3.	09.02.2015	In the Appeal 195 Judgment, the Hon'ble Tribunal specifically stated that the self-consumption of the Petitioner has to be determined on the basis of actual consumption of metered data only and not on any normative basis.
4.	02.03.2015	Again in the Appeal 177 Judgment, at para 25, the Hon'ble Tribunal, relying on the Appeal 195 Judgment, had set aside the Hon'ble Commission's second MYT Order which provided for a normative self-consumption of 25% of the unit sold with a normative increase of 2% p.a.
5.	April – August, 2015	In response to the information and details sought by the Hon'ble Commission, the Petitioner furnished the required information through its various letters inter alia, dated April 9, 2015, May 18, 2015 and August 26, 2015.

DETAILED SUBMISSIONS:

3B.293 The aforesaid Order was passed against the observations of Hon'ble APTEL in Judgment dated February 9, 2015 in Appeal No. 195 of 2013 and March 2 2015 in Appeal No. 177 of 2012, wherein a similar dispensation of normative self-

consumption was set aside and the Hon'ble Tribunal held that self-consumption of the Licensee has to be determined on the basis of actual consumption of metered data only and not on any normative basis

3B.294 However, the Hon'ble Commission in Tariff Order dated September 29, 2015 stated as under:

"3.201 It is observed from the above table that the opening readings are much less than the closing reading as per the bill dated 12.06.2013 which shows that the meter readings are either suppressed or wrong. While adjusting the bill, the Petitioner adjusted the final readings to match the opening readings. Further it is noticed from the adjustment bill that meter readings of kWh and kVAh are same. The said CA number pertains to a Non Domestic LT Consumer which may have inductive/capacitive load leading to non unity power factor. Thus it can be seen that the original bill captures actual consumption, whereas adjusted bill is prepared manually by entering the meter reading. This shows that the own consumption bills are regularly being adjusted and it is also noted that out of 171.26 MU, 147.86 MU have been adjusted to match the normative consumption allowed by the Commission. Hence, the explanation provided by the Petitioner for adjustment of 147.86 MU in Form 2.1(a) against own consumption is not justified.

3.202 The Commission is of the view that such an act of suppression of facts by the petitioner will have adverse impact on tariff. Therefore as a penal action, the Commission has considered Sales against own consumption as 171.26 MU indicated in Form 2.1 (a) without considering negative adjustments of 147.86 MU.

3.203 In the 2nd MYT Order, the Commission vide directive 6.12 has directed all DISCOMs to meter self-consumption in their own premises and to raise the bills at appropriate tariff for actual consumption based on meter reading every month and the licensee may avail credit at zero tariff to the extent of the normative self-consumption approved by the Commission at the end of the financial year.

*3.204 The Commission, vide Para 2.79 of 2nd in its MYT Order had decided the base self-consumption as 0.25% of total sales for FY 2010-11, to be escalated at the rate of 2% per annum up to FY 2014-15. Accordingly, the Commission has arrived at the normative own consumption for the Petitioner as 22.30 MU (21.86*1.02) for FY 2013-14 by escalating the own consumption approved for FY 2012-13 at the rate of 2% per annum.*

3.205 It is noted that the own consumption over and above the normative consumption is 148.96 MU. As discussed above, the Commission decided to consider this excess own consumption of 148.96 MU at the Average Billing Rate of Rs. 10.45/kWh for FY 2013-



*14 of Non-Domestic category assuming all installations for non-domestic purpose as given in Form 2.1(a) submitted by the Petitioner and has disallowed the same in truing up for FY 2013-14. The additional amount to be considered as deemed revenue billed, thus computed as Rs.155.66 Crore (148.96*10.45/10) on account of own consumption.” (Emphasis added)*

3B.295 The Petitioner raised the following issues before the Hon’ble Commission:

- a. Each adjustment of the bill was necessitated inter alia, due to data entry error and the fact that such data entry was done without any pre or post audit of the consumption.
- b. The self-consumption of the Petitioner in the three years immediately preceding 2014-15 was never shown exceeding 27 MU. In point of fact for FY 2012-13, the Commission has trued up a self-consumption at 21.86 MU. Hence it is incomprehensible as to how the 27 MU had come down to 21.71 MU in 2 years.
- c. Even if it is assumed for the purpose of arguments that originally the bills of 171 MU were faulty by adopting the Commission’s own LDHF formula specified in the Supply Code, the self-consumption for the year in question comes to 33 MU only.
- d. In terms of own consumption bills for 171 MU being faulty in terms of clause 1.8 of the DERC Supply Code, 0.2% of total bills raised by the licensees are permitted to be faulty. The bills of own consumption of 171 MU constituted only 0.003% of the total bills issued by the Petitioner. Even on this count there is no question the Commission imposing a punitive measure.
- e. In Judgment dated February 9, 2015 in Appeal No. 195/2013, this Hon’ble Tribunal specifically stated that the self-consumption of the Petitioner has to be determined on the basis of actual consumption of metered data only and not on any normative basis.
- f. Again in Judgment dated March 2, 2015 in Appeal No. 177/2012 para 25, this Hon’ble Tribunal relying a Judgment in Appeal No.195/2013 had set aside the Commission’s second MYT Order which provided

for a normative self-consumption of 25% of the unit sold with a normative increase of 2% p.a.

3B.296 Despite the aforesaid submissions, in the Tariff Order dated September 29, 2015, the Commission held *inter alia* that:-

- a. The reasons given by the Petitioner for the adjustment of the bills was not acceptable and tantamount a suppression.
- b. The Petitioner submitted only one original bill and one adjusted bill for the month of June 2013 and did not submitted any other bills despite being required to do so.
- c. The adjustment had been made for the purpose of matching the normative consumption allowable by the Commission.
- d. The Hon'ble Commission, as a penal action, has considered the sale of 171.26 MU without considering the adjustment of 147.86 MU.

3B.297 A punitive measure in a tariff proceeding as was done in terms of the foregoing portion of the aforesaid order, was erroneous. The Hon'ble Commission committed a grave error in law in proceeding on the basis that it could take penal action in a tariff determination order. The well settled law of the Tribunal is that Tariff determination exercise could not be into a punitive exercise and the tariff could not be disallowed as a punishment. In this regard reference may be had to Judgment dated May 4, 2009 in Appeal No. 71 of 2007 titled MSEDCL versus MERC.

3B.298 Appeal against the aforesaid issue arising in the said Tariff Order dated September 29, 2015 is currently pending before Hon'ble ATE in Appeal No. 290 and 297 of 2015, Appeal No. 265 and 266 of 2013, Appeal No. 235 and 236 of 2014.

3B.299 The treatment by the Hon'ble Commission may be reconsidered on account of following reasons:

- (i) The Hon'ble Commission could not pass the Tariff Order dated September 29, 2015 in complete violation and in the teeth of two Judgments in Appeal No.195/2013 and Appeal No. 177/2012.
- (ii) The Hon'ble Commission committed a factual error in



proceeding on the basis that the Petitioner has submitted only one original bill for the month of June 2013. Factually, the entire data of all the original bills as well as the adjusted bills had been furnished to the Hon'ble Commission by the Petitioner vide letter dated May 18, 2014 in response to the Hon'ble Commission's e-mail dated May 13, 2015. Interestingly the Petitioner letter dated May 18, 2013 has admittedly being received by the Hon'ble Commission.

- (iii) The Hon'ble Commission's finding that the adjustments were made to match the normative consumption allowed by the Hon'ble Commission is factually incorrect and a mere conjunctive on the part of the Hon'ble Commission. This is clear from the fact that though the normative consumption as per the Hon'ble Commission was 22.3 MU, as per the Judgments of Hon'ble Tribunal dated February 9, 2015 (Appeal No. 195 of 2013) (para 13 thereof) and March 2, 2015 (Appeal No. 177 of 2012) (para 25 thereof) the consumption of the Petitioner was 23.4 MU. If the Petitioner wants to match its consumption to match the normative it could have done so by bringing the same within the normative. Further there is no question of the Hon'ble Commission to consider or allowing any normative consumption which has been specifically and squarely set aside by this Hon'ble Tribunal in Appeal No.195/2013 and Appeal No.177/2012. Since there is no question of the Hon'ble Commission allowing any normative self-consumption, the question of Petitioner having to match the normative could not and does not arise.
- (iv) The Hon'ble Commission committed a grave error in law in proceeding on the basis that it could take penal action in a tariff determination Order. The well settled law of this Hon'ble Tribunal is that the Tariff determination exercise could not be into a punitive exercise and the tariff could not be disallowed as a punishment. In this regard reference may be had to Judgment dated 04.05.2009 in Appeal No 71 of 2007 titled MSEDCL Vs MERC.
- (v) Without prejudice to the same even assuming that the Hon'ble Commission could consider a punitive measure as part of the tariff determination process the Hon'ble Commission completely violated the fundamental principles of natural justice since there was no notice to the Petitioner to explain as to why a punitive action could not to be made out. In the absence of any such opportunity, no punishment can be awarded against the Petitioner.
- (v) In the Order dated September 29, 2015, the Hon'ble Commission has sought to rely upon the normative number determined in its second MYT order for own consumption. The Hon'ble Commission appears to



have overlooked the Judgment of this Hon'ble Tribunal in Appeal No.177/2012, para 25 thereof where that portion of the second MYT order dealing with the normative of own consumption has been squarely set aside by this Hon'ble Tribunal. After the judgment of this Hon'ble Tribunal in Appeal No.177/2012 the portion of the second MYT order determining the norms of own consumption ceased to exist in law and could not be relied upon by the Hon'ble Commission and that too deliberate intention of awarding a penalty to the Petitioner.

- (vi) The Hon'ble Commission further erred in considering the so called "excess own consumption" over and above the normative number at average billing rate of the non-domestic category. If the Hon'ble Commission were to treat such own consumption as a normative sale, then the Hon'ble Commission was also required to consider the cost of such power procurement, distribution cost of the so-called excess consumption and treated as an additional costs in the ARR. The Hon'ble Commission has considered only the revenue and not estimated the costs in the ARR. This contention has also been raised before Hon'ble Tribunal in Appeal No.235-236/2014 which is pending before Hon'ble Tribunal.

3B.300 Further, the Hon'ble Commission in Tariff Order dated August 31, 2017 also adopted similar methodology and did not consider the actual adjustments of 50 MU on account of self-consumption while truing-up the sales of FY 2014-15.

3B.301 As per the aforesaid Judgment dated March 2, 2015 (Appeal 177 of 2012), the Hon'ble ATE has directed the Hon'ble Commission to allow the actual self-consumption on metered basis and not apply any formula for computation of self-consumption. Application of any formulae to arrive at the self-consumption at the establishments of the Petitioner was barred and would result in an erroneous conclusion besides being in the teeth of the said judgement passed by the APTEL. Accordingly, the actual self-consumption on metered basis was communicated to the Hon'ble Commission vide letter dated May 1, 2015.

3B.302 However, the actual self-consumption on metered basis was ignored by the Hon'ble Commission in Tariff Order dated September 29, 2015 as normative



formulae were applied and normative revenue at tariff rates approved for non-domestic category beyond normative self-consumption was factored in.

3B.303 Accordingly the revised revenue billed and revenue collection during FY 2013-14 and FY 2014-15 is tabulated as under:

Table 3B 62: Revenue billed and revenue collection during FY 2013-14 and FY 2014-15

(in Rs. Cr.)

Revenue billed			
S. No	Particulars	FY 2013-14	FY 2014-15
A	Revenue billed	7444	8322
B	Less: ED	309	349
C	Less: 8% Surcharge	514	580
D	Less: Revenue-enforcement	55	
E	Add: Revenue-enforcement	35	51
F	Total	6602	7455

Revenue Collection			
S. No	Particulars	FY 2013-14	FY 2014-15
A	Revenue collection	7425	8490
B	Less: ED	304	346
C	Less: 8% Surcharge	507	576
D	Less: LPSC	22	25
E	Less: Monthly rebate#		44
F	Net Amount	6592	7499

without pre-judice to rights and contentions raised in Appeal

3B.304 The revised AT&C Loss during FY 2013-14 and FY 2014-15 is tabulated below:

Table 3B 63: Revised AT&C Loss during FY 2013-14 and FY 2014-15

S. No	Particulars	UoM	FY 2013-14	FY 2014-15
A	Energy I/p	MU	11509	11824
B	Units Billed	MU	9652	10229
C	Amount Billed	Rs. Cr.	6602	7455
D	ABR	Rs./ U	6.84	7.29
E	Dist. Loss	%	16.13%	13.49%
F	Amount collected	Rs. Cr.	6592	7499
G	CE	%	99.85%	100.60%
H	Units realised	MU	9637	10290
I	AT&C Loss level	%	16.26%	12.97%

3B.305 The revised amount realized vis-à-vis that considered by the Hon'ble Commission in Tariff Order dated September 29, 2015 is tabulated below:

Table 3B 64: Revised revenue after considering sales on account of self-consumption

FY 2014-15:

S. No	Particulars	UoM	Revised AT&C Loss	Tariff Order
A	AT&C Loss	%	13.33	13.33
B	Energy Input	MU	11509	11509
C	Units realised	MU	9975	9975
D	ABR	Rs./ kWh	6.84	6.89
E	Amount realised	MU	6822	6877
F	Difference	Rs. Cr.		55

FY 2015-16:

S. No	Particulars	UoM	Revised AT&C Loss	Tariff Order
A	AT&C Loss	%	12.50	12.50
B	Energy Input	MU	11824	11824
C	Units realised	MU	10346	10229
D	ABR	Rs./ kWh	7.29	7.34
E	Amount realised	MU	7540	7499
F	Difference	Rs. Cr.		59

3B.306 The aforesaid impact along with carrying cost is tabulated below:

Table 3B 65: Impact on account of self-consumption along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	59	131	151	173
2	Additions	55	59	0	0	0
3	Cl. Balance	55	118	131	151	173
4	Average	27	88	131	151	173
5	Rate of interest	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	4.10	13.36	19.42	22.04	24.17
7	Grand Cl. Balance	59	131	151	173	197

3B.307 The Petitioner requests the Hon'ble Commission to allow the above impact in ARR.

Issue-18: Additional UI Charges above 49.5 Hz:ISSUE IN BRIEF:

3B.308 This claim pertains to the allowance of recovery of the Additional Unscheduled Interchange (“UI”) charges paid when the overdrawl is between 49.2 Hz and 49.5 Hz. The Hon’ble Commission, in the past, has failed to implement the directions of this Hon’ble Tribunal as contained in its judgment in Appeal No. 177 of 2012 on this issue.

LIST OF DATES:

S.No	Date	Event
1.	30.05.2007	<p>The MYT Regulations, 2007 provide as under:-</p> <p><i>“5.30 Distribution Licensee shall allowed to recover the cost of power it procures from sources approved by the Commission, viz. Intra-state and Inter-state Trading Licensees, Bilateral Purchases, Bulk Suppliers, State generators, Independent Power Producers, Central generating stations, non-conventional energy generators, generation business of the Distribution Licensee and others, for supply to consumers of Retail Supply Business;</i></p> <p><i>Provided that the Distribution Licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues through bilateral exchanges and Unscheduled Interchange (UI) transactions;</i></p> <p><i>[...]”</i></p>

S.No	Date	Event
2.	23.07.2009	<p>Press Release of the Forum of Electricity Regulators (hereinafter referred to as "FOR") recommendations provides as follows:-</p> <p><i>"3. After deliberation on the recommendation, the Forum of Regulators arrived at a consensus that the additional UI charges imposed on the utilities under the UI regulations of CERC for overdrawl during the period <u>when grid frequency is below 49.2 Hz.</u> should not be permitted in the annual revenue requirement of distribution utilities w.e.f. 1st August, 2009."</i> <i>(Emphasis supplied)</i></p>
3.	13.07.2012	<p>The Hon'ble Commission, in its Tariff Order, in para 3.104 and Table 13 thereof did not consider additional UI Charges in power purchase cost and held:</p> <p><i>"3.104 The Commission further observes that UI charges paid by the Petitioner also includes Penal UI charges of Rs 5.50 Cr. The Commission has, as a member of FOR, already decided that any Penal UI charges will not be allowed in the power purchase cost, therefore the Commission has not considered Penal UI charges in power purchase cost."</i></p>
4.	31.07.2013	<p>The Hon'ble Commission, in its Tariff Order, in para 3.88 and Table 19 thereof did not consider additional UI charges in power purchase cost and held:</p> <p><i>"3.88 On a query from the Commission the Petitioner submitted that the UI charges paid by the Petitioner also includes penal UI charges of Rs. 9.60 Crore. The Commission, as a member of FOR, has already decided that any penal UI charges will not be allowed in the power purchase cost. Therefore, the Commission has not considered penal UI charges in power purchase cost."</i></p>

S.No	Date	Event
5.	23.07.2014	<p>The Hon'ble Commission, in its Tariff Order dated 23.07.2014, in para 3.87 and Table 3.18 thereof, held as under:-</p> <p><i>"3.86 The Commission observed that UI charges claimed by the Petitioner also included penal/additional UI charges towards power availed.</i></p> <p><i>3.87 The Petitioner, vide its letter dated April 02, 2014 furnished that Rs. 10.70 Crore was the liability on account of additional UI charges during FY 2012-13. The Commission as a deterrent action has decided that any penal/additional UI charges will not be allowed in the power purchase cost. Similar approach has been adopted by the Commission in the past as well."</i></p>




S.No	Date	Event
6.	02.03.2015	<p>This Hon'ble Tribunal, in its judgment in Appeal 177 of 2012 ("Appeal 177 Judgment"), in Para 28.3 read with Para 28.1 held as under:</p> <p><i>"28. The 20th issue is regarding erroneous reduction of additional UI charges:</i></p> <p><i>"28.1 The Commission has not allowed penal UI charges of Rs. 5.50 crores in power purchase cost. <u>These penal UI charges are for overdrawal at frequency lower than 49.2 Hz.</u> According to the Appellant disallowance of penal UI charges is arbitrary and without any legal basis.</i></p> <p><i>28.2 This issue has been decided by this Tribunal in judgment Appeal no. 171 of 2012 in the matter of Tata Power Delhi Distribution Ltd. Vs. DERC. In this matter the Tribunal decided as under:</i></p> <p><i>"We do not want to give any relaxation in decision of the State Commission not allowing the penal UI charges, as we do not want to interfere in the matter relating to security of the grid in real time operation. The Appellant has to take necessary steps required to avert over-drawl under low frequency benchmark. Accordingly, this issue is decided against the Appellant." The findings in the above case will apply squarely to the present case.</i></p> <p><i>28.3 The Appellant has also submitted that only Rs. 2.66 crores would have been disallowed as the additional charges were imposed equivalent to such a mount when the frequency of the grid went between 49.2 Hz. <u>The Appellant had paid 2.84 crores for UI overdrawal at frequency between 49.2 to 49.5 Hz and only 2.66 crores was paid for overdawl below 49.2 Hz.</u> The Commission had sought information regarding additional UI charges without mentioning the purpose or any frequency band. Therefore, the Appellant submitted the total additional UI charges paid i.e. Rs. 5.50 crores.</i></p> <p><i>28.4 In view of above submissions of the Appellant, we direct the State Commission to reconsider the amount disallowed on account of UI charges to restrict it to the amount for overdrawals below the frequency at which</i></p>

S.No	Date	Event
		<p><i>penal charges for UI are leviable. Accordingly, decided."</i></p> <p>(Emphasis supplied)</p> <p>Therefore, in terms of the aforesaid judgment, the UI Charges of Rs. 2.66 Crores could have been disallowed, since these were the charges incurred when the system frequency was below 49.2 Hz. Whereas, the amount of Rs. 2.84 Crores was to have been allowed since these charges were incurred when the system frequency was between 49.5 Hz and 49.2 Hz. <u>Such charges were therefore, not penal in nature.</u></p>
7.	05.08.2015	The Hon'ble Commission directed the Petitioner to re-submit the UI Charges for FY 2010-11 duly certified by the Delhi State Load Despatch Centre ("SLDC").
8.	12.08.2015	<p>The Petitioner, vide its letter dated 12.08.2015, submitted the details of total additional UI amount below 49.5 Hz and up to 49.2 Hz totalling to Rs. 2.84 Cr. duly certified by the Delhi SLDC.</p> <p>The certificate of the SLDC placed before the Hon'ble Commission under cover of the said letter certifies the aforesaid numbers in the same proportion. Yet, the Hon'ble Commission has once again disallowed the entire amount by completely ignoring the Appeal 177 Judgment.</p>
9.	29.09.2015	The Hon'ble Commission, in the Tariff Order dated 29.09.2015, erroneously stated that SLDC has not differentiated between penal and additional charges on account of UI despite the fact that as per this Hon'ble Tribunal's Appeal 177 Judgment specific month-wise details of the additional UI amount below 49.5 and up to 49.2 Hz has been provided to the Hon'ble Commission vide the Petitioner's letter dated August 12, 2015 duly certified by the SLDC.

S.No	Date	Event
10.	26.04.2017	The Petitioner, vide its letter submitted the details of total additional UI amount is zero below 49.2 Hz. As the grid frequency never reached 49.2 Hz during FY 2014-15 and FY 2015-16. Yet, the Hon'ble Commission has once again disallowed the entire amount by completely ignoring the Appeal 177 Judgment.
11.	31.08.2017	In its tariff order dated 31.08.2017 (para 3.518& 3.519) the Hon'ble Commission stated that as a deterrent action has decided that any penal/ additional UI charges will not be allowed in the power purchase cost and has accordingly decided in line with past practices followed in earlier Tariff Orders to disallow the same.
12.	28.03.2018	The Hon'ble Commission, in its tariff order dated 28.03.2018 (para 3.235-3.236) stated that the matter does not merit consideration and that the Hon'ble Commission has already given the detailed reasoning regarding penal nature of payment towards additional UI Charges due to non-adherence of the scheduled drawl in its various Tariff Orders.

DETAILED SUBMISSIONS:

3B.309 The Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 of 2012) has ruled as under:

"28.4 In view of above submissions of the Appellant, we direct the State Commission to reconsider the amount disallowed on account of UI charges to restrict it to the amount for overdrawals below the frequency at which penal charges for UI are leviable. Accordingly, decided."

3B.310 As regards the issue of UI Charges, the Hon'ble Commission has given contradictory statement in Tariff Order dated September 29, 2015 which is as under:

"3.112 The Commission, in compliance to the Hon'ble APTEL's judgment in Appeal No. 177 of 2012, has vide its letter dated 05.08.2015 sought the details of additional UI charges paid by the

*Petitioner in FY 2010-11 duly certified by SLDC. The Petitioner vide its letter dated 12.08.2015 has submitted additional UI charges paid in FY 2010-11 as Rs. 5.50 Crore certified by SLDC, which is the same amount disallowed by the Commission in the Tariff Order dated 13.07.2012. It is pertinent to state that **SLDC has not differentiated between penal and additional charges on account of UI. All the additional UI charges are imposed on the Distribution Licensee to maintain the Grid discipline.** The Forum of Regulators in its Press Release dated 23.07.2009 had stated that additional UI charges imposed on various distribution utilities across the country for excessive over drawl from the Grid will not be allowed to be recovered from the consumers w.e.f 01.08.2009 as follows:*

"....

all the Chairpersons of State Electricity Regulatory Commissions as its members, has agreed that the additional Unscheduled Interchange (UI) charges imposed on distribution utilities for excessive over drawl from the grid would not be allowed to be recovered from consumers w.e.f. 1st August, 2009."

*3.113 In view of the above, **the Commission has not considered any impact on the same. (Emphasis added)***

- 3B.311 As evident from above, the Hon'ble Commission has disallowed entire UI Charges only because SLDC has not differentiated between penal and additional UI Charges.
- 3B.312 The Hon'ble Commission in Tariff Order dated August 31, 2017 has maintained the same stand as in Tariff Order dated September 29, 2015 and has not allowed the entitled relief to the Petitioner.
- 3B.313 In Tariff Order dated March 28, 2018, the Hon'ble Commission has relied on Judgment in Appeal 271 of 2013 instead of implementing the direction of Hon'ble Tribunal in Judgment dated March 2, 2015 (Appeal 177 of 2012).
- 3B.314 It is submitted that the Central Electricity Regulatory Commission (UI and related matters) Regulations, 2009 (hereinafter referred to as the "UI Regulations") as amended from time to time does not prescribe any UI rates as penal. However, the said Regulations prescribed draws and injection below



49.2 Hz as additional UI rate.

3B.315 The Hon'ble Commission has also relied upon the deliberation of the FOR to justify the disallowance. It is submitted that the Press Release of the FOR dated July 23, 2009 provides as follows:-

*"3. After deliberation on the recommendation, the Forum of Regulators arrived at a consensus that the additional UI charges imposed on the utilities under the UI regulations of CERC for overdrawl during the period **when grid frequency is below 49.2 Hz.** should not be permitted in the annual revenue requirement of distribution utilities w.e.f. 1st August, 2009."* (Emphasis supplied)

3B.316 It is clear from the above that the Hon'ble Commission has erred in relying upon the deliberations of the FOR as the FOR did not state that the additional UI charges for overdrawl during the period when grid frequency is between 49.5 and 49.2 Hz should not be permitted in the annual revenue requirement of distribution utilities.

3B.317 It is submitted that this Hon'ble Commission may be pleased to note the Judgment of the Supreme Court in Central Power Distribution Co (2007 8 SCC 197), wherein the Hon'ble Supreme Court has opined as under on the nature of UI Charges:-

"It is thus clear from the above that UI Charges are a commercial mechanism to maintain grid discipline....therefore there is no merit in the contention of the BSES DISCOMs that the UI Charges are by way of penalty"

3B.318 As such, there being, admittedly, no distinction between UI and Additional UI, to treat Additional UI would be acting contrary to the Supreme Court Judgment.

3B.319 It is further submitted that prior to February 2014, the SLDC was not scheduling power for the Discoms individually. Prior to that date, SLDC was scheduling power to Delhi as a whole. In the circumstances, there cannot be any question of any individual discom being response for overdrawl from its

system.

3B.320 In either case it is submitted that the Petitioner has, in fact, no control whatsoever over drawl of electricity from its system. The drawl by the discom from the Grid is nothing but the collective drawl from the discom by its consumers.

3B.321 It is also submitted that to treat Additional UI has a punitive measure would be contrary to the fundamental tenets of law that a punishment could only follow culpability. Unless culpability were first established, on a case to case basis, it is arbitrary to impose a punishment.

3B.322 It is further submitted that this Hon'ble Commission has mandated a load-shedding limit of 1% of sales. Hence, if the Discom complies with the said directive and arranges sufficient power to keep within the 1% directive, per necessity, there will always be some UI and depending upon the frequency of the grid, additional UI as well.

3B.323 It is axiomatic that the Discom has no control over scheduling, it has no control over drawal and it has its hands tied by the directives of this Hon'ble Commission. In such circumstances to treat any part of UI as a penalty, would be it is respectfully submitted arbitrary and opposed to ground realities.

3B.324 Accordingly the Petitioner requests the Hon'ble Commission to allow UI Charges worth Rs. 2.84 Crore above frequency 49.2 Hz along with carrying cost as under:

Table 3B 66: Impact on account of UI Charges along with carrying cost

(Rs. Crore)

S. No	Particulars	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	3	3	4	5	5	6	7
2	Additions	3	0	0	0	0	0	0	0
3	Cl. Balance	3	3	3	4	5	5	6	7
4	Average	1	3	3	4	5	5	6	7
5	Rate of interest	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.80%	14%
6	Carrying cost	0.19	0.45	1	1	1	1	1	1
7	Grand Cl. Balance	3	3	4	5	5	6	7	8

3B.325 The Petitioner requests the Hon'ble Commission to allow the above in the ARR.

3B.326 Based on the above submissions, the total impact claimed on account of implementation of Hon'ble ATE Judgments is tabulated below:

Table 3B 67: Total impact on account of Hon'ble ATE Judgment

(Rs. Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Capex related issues	2593	4131	6724
2	Impact of 11 months truing-up on account of			
a	Rate of depreciation	90	279	369
b	O&M expenses for FY 2008-09 to FY 2011-12	65	129	194
3	Revision in Distribution loss trajectory for FY 2007-08 to FY 2010-11	161	433	594
4	Computation of AT&C Loss for FY 2009-10	3	7	11
5	AT&C Loss for FY 2011-12	49	71	120
6	Revision of AT&C Loss targets from FY 2012-13 to FY 2013-14	89	92	181
7	Increase in employee expenses corresponding to increase in consumer base for FY 2007-08 to FY 2011-12	122	273	394
8	Efficiency factor for FY 2010-11	16	28	44
9	Revision of R&M Expenses by revising "K" factor for FY 2012-13 to FY 2015-16	21	13	34
10	Lower rates of carrying cost	1791	251	2041
11	Financing cost of LPSC based on SBI PLR-FY 08 to FY 13	26	51	77
12	Own Consumption-Reversals	114	83	197
13	Additional UI Charges above 49.5 Hz frequency	3	5	8
14	Total	5142	5845	10987

PRAYER(S):

3B.327 The Petitioner requests the Hon'ble Commission to allow the impact on account of the aforesaid issues in the present ARR of the Petitioner.

Claims on account of arithmetical/computational errors and omissions sought in Review Petition no. 30 of 2018

3B.328 There are certain arithmetical/computational errors, apparent errors and omissions in the Tariff Order dated 28.03.2018 which require reconsideration by the Hon'ble Commission.

3B.329 The Petitioner had filed a Petition No. 30 of 2018 under section 94 and section 62(4) of the Electricity Act 2003 read with clauses 57, 58 and 59 of the DERC (Conduct of Business) Regulations 2001, seeking review / revision/ clarification of the Tariff Order dated 28.03.2018 on such issues.

3B.330 All submissions with respect to the issues raised therein have already been submitted before the Hon'ble Commission and are not reiterated in this Petition for the sake of brevity.

3B.331 Further vide Order dated 18.09.2018 passed in Review Petition No. 46 of 2018, the Hon'ble Commission was pleased to allow the power purchase cost from Anta, Auriya and Dadri Gas Stations of NTPC for the period FY 2012-13 to FY 2016-17 and stated as under:

“4. In view of the aforesaid discussions and the fact that the instant petition is similar to Petition no. 34 of 2018, same relief is granted to the Petitioner and the cost of power purchase from FY 2012-13 till FY 2016-17 is allowed on the principle of Merit Order. “

3B.332 Accordingly, the impact on account of issues raised in Review Petition 30 of 2018 including claim on account of Hon'ble Commission's Order dated 18.09.2018 is tabulated below:

Table 3B 68: Impact of issues raised in Review Petition 30 of 2018

(Rs. Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Error in consideration of Rebate from DTL as NTI during FY 2013-14	15	13	28
2	Omission to deduct the amount of LPSC from Revenue for FY 2008-09	13	34	47
3	Error in consideration of impact on account of Merit Order Dispatch for FY 2013-14	104	89	194
4	Omission to withdraw / recall the Efficiency Factor for FY2015-16	23	5	28
5	Error in rate of carrying cost while computing impact of APTEL Judgments and Review in Table 98		17	17
6	Cost of power purchase on account of Anta, Auraiya & Dadri Gas for FY 13 to FY 17	224	168	392
7	Normative rebate considered from SECI during FY 2016-17	0	0	1
8	Total	380	327	707

3B.333 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of the Petitioner.



Previous claims which merit reconsideration:

3B.334 The Petitioner most respectfully submits that there are certain issues where the approach of the Hon'ble Commission is not in line either with the executed PPAs; previous tariff orders; affidavits of the Hon'ble Commission filed before Hon'ble APTEL/ Supreme Court or where the Hon'ble Commission has partially implemented the Judgments of the Hon'ble ATE. These issues are listed below for the convenience of the Hon'ble Commission:

- a) Disallowance of power purchase cost during period of regulations;
- b) Disallowance on account of overlapping banking transactions;
- c) Cost disallowed on account of excessive trading at UI above contingency limit;
- d) Normative rebate of 2% considered from FY 2012-13 to FY 2016-17;
- e) Loss due to retirement of assets from FY 2004-05 to FY 2011-12;
- f) Bank Charges/ Syndication fees from FY 2007-08 to FY 2016-17;
- g) Income from Street Light Maintenance Business to be considered as other business income;
- h) Old methodology for computation of financing cost of LPSC continued post FY 2012-13 despite of change in methodology of levying of LPSC;
- i) Wrong computation of carrying cost on outstanding RA by adjusting 8% surcharge during FY 2012-13 and FY 2013-14 against revenue gap of FY 2012-13 and FY 2013-14;
- j) Wrong computation of carrying cost on outstanding RA by adjusting carrying cost allowed in Tariffs directly against revenue gap created during FY 2014-15 to FY 2016-17;
- k) Disallowance of account of monthly billing rebate contrary to its' own affidavit submitted by the Hon'ble Commission in Civil Appeal 6959-60 of 2015 before Hon'ble Supreme Court;
- l) Omission to allow actual expenses incurred on account of Statutory levies while truing up for FY 16-17;
- m) Partial implementation of allowance of actual claims of R&M and A&G



expenses from FY 05 to FY 07;

- n) Write-back miscellaneous provisions considered as part of NTI for FY 2008 to FY 2016-17;
- o) SVRS Pension amount not allowed as part of O&M costs for FY 2016-17
- p) Erroneous net worth computation

3B.335 The Petitioner further respectfully submits that the aforesaid issues are under challenge in various Tariff Appeals filed by the Petitioner and which are presently pending adjudication before Hon'ble ATE. However, without prejudice to the Petitioner's contentions in the said Appeals, the Petitioner is raising the above issues herein in an attempt to clarify the same and with the objective of minimising litigation.

3B.336 The aforesaid issues are discussed in detail as under:

- a) Cost disallowed on account of Regulation of power:

3B.337 As regards cost disallowed on account of regulation of power, the Petitioner submits that the Hon'ble Commission in its Tariff Order dated July 23, 2014 stated as under:

"3.88... Further, the Petitioner may submit within one month, claim if any along with relevant documents, related to loss on sale of surplus power during the off-peak hours from regulated stations that would have been otherwise imminent in case the power was not regulated.

...

3.91 Accordingly, the Commission obtained from SLDC the details of power drawn from other sources during regulation period and also the stations from which power regulation was done along with the quantum of power that would have been available if there was no regulation." (Emphasis added)

3B.338 As is evident from above, the Hon'ble Commission in its Tariff Order dated July 23, 2014 obtained the information pertaining to regulation of power during FY 2012-13 from SLDC and directed the Petitioner to submit the cost-benefit analysis. Accordingly, the Petitioner within one month vide its letter dated August 25, 2014, submitted its claim along with relevant documents, related to

loss on sale of surplus power during the off-peak hours from regulated stations that would have been otherwise imminent in case the power was not regulated. A meeting was also convened by the staff of the Hon'ble Commission on November 20, 2014, wherein the savings on account of regulation of energy from long term sources was demonstrated. However, the Hon'ble Commission in its Tariff Order dated September 29, 2015 has stated that information from SLDC is awaited (which was actually the basis for disallowance of cost on account of regulation of power in Tariff Order dated July 23, 2014).

3B.339 Further, the Petitioner vide letter dated April 10, 2015 also submitted the cost-benefit analysis on account of regulation of power during FY 2013-14. However, the Hon'ble Commission in its Tariff Order dated September 29, 2015 directed the Petitioner as under:

"Impact on account of Regulated Power for FY 2012-13

...

*3.115 The Commission has received the claims regarding disallowance on account of regulated power in truing-up of FY 2012-13 in tariff order dated 23.07.2014. In order to finalise the claim of the Petitioner, the Commission has directed SLDC to submit the relevant information like quantum of Short Term Purchase during regulated period in case there has been no regulation of power. **The said information is awaited from SLDC. The Commission will take the final view on the basis of information submitted by SLDC.***

...

3.262 Accordingly, the Commission vide its letter dated 18.03.2015 directed SLDC to submit various details pertaining to regulation of power viz. period of regulation, quantum of regulated power and short term procurement during regulated period.

SLDC vide its letter dated 21.04.2015 has submitted 99.31 MU of regulated quantum and 40.49 MU of short term purchase during the regulated period i.e., during 01.04.2013 to 14.04.2013.

3.263 The Commission has considered the weighted average per unit rate of Rs. 2.70 based on bill details of TPDDL pertaining to the period of regulation for regulated stations. The Petitioner vide its letter dated 10.04.2015 has submitted the slot wise details of quantum of power purchased from short term sources during the regulation period and



furnished that 14 MU of short term power procurement would have been avoided without regulation of power.

3.264 The Commission has derived additional expenditure incurred for procurement of 14MU by considering the average power purchase cost from various sources from which power was purchased during the period of regulation. The weighted average per unit cost of power procured during the period of Regulation has been derived as Rs. 3.32/kWh for 40.49 MU which were procured by the Petitioner through short-term power purchase. The Commission has considered the weighted average cost of long term power procurement at Rs. 2.70/kWh in case the Petitioner's power was not regulated from these stations. The Commission decides to disallow this differential amount of power procurement for 14 MU @ Rs. 0.62/kWh (3.32-2.70) i.e., Rs. 0.87 Crore incurred in the power purchase cost for FY 2013-14.

3.265 As discussed above, the additional fixed cost amounting to Rs. 11.77 Crore was borne by the Petitioner. The Commission has already given the treatment to 14.00 MU out of 99.31 MU which the Petitioner would have received had his power not been regulated. The Commission, therefore, decides to disallow the prorated fixed cost against 85.31 (99.31-14.00) MU which works out to Rs. 10.11 Crore (85.31(11.77/99.31)).”(Emphasis added)*

3B.340 It is submitted that the Hon'ble Commission in Tariff Order dated July 23, 2014 disallowed the cost borne on account of regulated power based on data of SLDC. However, in its Tariff Order dated September 29, 2015, the Hon'ble Commission stated that the information pertaining to short term power purchased during FY 2012-13 is awaited from SLDC. In subsequent Tariff Order dated August 31, 2017, the Hon'ble Commission rejected the claim of the Petitioner opining as under:

“3.314 The Commission has analysed the submission of the Petitioner and it is observed that the Petitioner has not factored the merit order principle while computing the opportunity cost and benefit due to regulation of power vis-a-vis sale of surplus power. It is clarified that in case the power would not have been regulated from these cheaper station of NHPC then the Petitioner had the opportunity to back down its costly station and avail the cheaper power from NHPC, which could have reduced the loss on sale of surplus power as considered by the Petitioner. Therefore, the claim of the Petitioner is

not tenable.”

(Emphasis added)

3B.341 Thereafter, the Hon’ble Commission in its subsequent Tariff Order dated March 28, 2018 maintained the similar stand without dealing with the contentions of the Petitioner.

3B.342 It is respectfully submitted that as regards the aforesaid, the following points have been ignored by the Hon’ble Commission:

- 1) The fixed charges are to be borne by the Petitioner in accordance with PPA signed with the respective Generators irrespective of the fact that power is regulated or not regulated. The Hon’ble Commission has completely ignored the fact that any additional cost borne by the consumers due to regulation of power may be disallowed but fixed charges paid to generators during period of regulation would have been borne even in case where power would not have been regulated. Fixed charges are even required to be paid in case the power is not regulated and the Petitioner procures even zero units from any power plant during the year. Therefore, disallowance of fixed charges paid during period of regulation is unjustified.

The year-wise fixed charges disallowed for period of regulation is tabulated below:

Table 3B 69: Year-wise fixed charges disallowed for period of regulation

(Rs. Cr.)							
S. No	Particulars	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Fixed cost borne during period of regulation	21	37	11	5	4	24

- 2) As regards Merit Order Despatch Principle, the Hon’ble Commission has not given any computations in support of its statement that the Petitioner was actually having an opportunity to back-down costly power stations in case power would not have been regulated, i.e., the Hon’ble Commission has not examined as to whether the costly power stations were running at full capacity or technical minimum during the period of regulation.
- 3) Further, the Hon’ble Commission has ignored the fact that DISCOM-wise scheduling was implemented after series of rigorous follow-ups

from March 22, 2014 only. For period prior to FY 2013-14, DISCOM-wise scheduling was not available.

- 4) Even for period post FY 2013-14, the Petitioner had to buy power from short term market. The logic given by the Hon'ble Commission, i.e., *the Petitioner has still not factored the merit order principle while computing the opportunity cost and benefit due to regulation of power vis-a-vis sale of surplus power as per the remark of the Commission in Tariff order dated 31/08/2017*, will hold true only for the quantum which would have been available from regulated power above short term power procured from FY 2014-15 to FY 2016-17. A comparison of quantum of short-term power procured and the quantum of power regulated is tabulated below:

Table 3B 70: Comparison of short term power procured and regulated quantum

S. No	Financial Year	Quantum Regulated (MU)	Short term power procured (MU)	Difference (MU)
1	FY 2014-15	92	71	21
2	FY 2015-16	400	366	34
3	FY 2016-17	204	131	73

The difference as shown in the above table was the only potential available for back-down of costly power stations.

3B.343 The Petitioner vide various letters has submitted the reduction in power purchase cost from FY 2012-13 to FY 2016-17. The cost-benefit analysis for FY 2012-13 which is tabulated below:

Table 3B 71: Reduction in Power Purchase Cost on account of Regulation during FY 13

Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Actual Power Purchase cost during FY 13 (A)	11233	5.2	5843	Figures as per ARR Petition
Regulated Power during FY 2012-13	671	2.39	160	671 MU @ Rs. 2.39 per kWh as per DERC Tariff Order
Short term power purchase to make up for Regulated power when demand exceeds schedule (FY 2012-13)	165	3.24	53	165 MU as per short term schedule and Rs. 3.24 per kWh as per IEX Rate (Slot-wise)
Power Purchase Cost assuming no regulation of power in FY 2012-13 (B)	11739	5.07	5950	



Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Net savings to consumers due to reduction in power purchase cost			107	B-A

3B.344 Similarly, during regulation of power during FY 2013-14, the Petitioner was able to avoid purchase of 99 MU during off-peak hours whereas the Petitioner was required to purchase additional 14 MU though short term power during peak hours. As a result, the regulation of power actually contributed in net savings to the consumers due to the reduction in power purchase cost. The same is tabulated as under:

Table 3B 72: Reduction in Power Purchase Cost on account of Regulation of Power during FY 2013-14

Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Actual Power Purchase cost during FY 14 (A)	11509	5.36	6174	Figures as per ARR Petition
Regulated Power during FY 2013-14	99	2.39	24	99 MU @ Rs. 2.39 per kWh as per DERC Tariff Order
Short term power purchase to make up for Regulated power when demand exceeds schedule (FY 2013-14)	14	2.23	3	14 MU as per short term schedule and Rs. 2.23 per kWh as per IEX Rate (Slot-wise)
Power Purchase Cost assuming no regulation of power in FY 2013-14 (B)	11594	5.34	6194	
Avoided cost consumer due to reduction in power purchase cost			21	(B-A)

3B.345 Similarly, during regulation of power during FY 2014-15, the Petitioner was able to avoid purchase of 93 MU during off-peak hours whereas the Petitioner was required to purchase additional 14 MU though short term power during peak hours. As a result, the regulation of power actually contributed in net savings to the consumers due to the reduction in power purchase cost. The

same is tabulated as under:

Table 3B 73: Reduction in Power Purchase Cost on account of Regulation of Power during FY 2014-15

Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Actual Power Purchase cost during FY 15 (A)	11938	5.83	6955	As per actuals
Regulated Power during FY 2014-15	93	3.85	36	Quantum of purchase is considered as per slot-wise analysis and rate is considered before regulation of power
Short term power purchase to make up for Regulated power when demand exceeds schedule (FY 2014-15)	14	1.94	3	14 MU's as per slot-wise analysis and Rs. 1.94/ Unit as per IEX/ UI rate
Power Purchase Cost assuming no regulation of power in FY 2014-15 (B)	12017	5.82	6988	
Avoided cost consumer due to reduction in power purchase cost			33	(B-A)

3B.346 Similarly, during regulation of power during FY 2015-16, the Petitioner was able to avoid purchase of 400 MU during off-peak hours whereas the Petitioner was required to purchase additional 253 MU though short term power during peak hours. As a result, the regulation of power actually contributed in net savings to the consumers due to the reduction in power purchase cost. The same is tabulated as under:

Table 3B 74: Reduction in Power Purchase Cost on account of Regulation of Power during FY 2015-16

Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Actual Power Purchase cost during FY 16 (A)	12017	5.32	6389	As per actuals

Particulars	Quantum	Avg. per unit rate	Amount	Remarks
	MU	Rs./ kWh	Rs. Cr.	
Regulated Power during FY 2015-16	400	3.85	133	Quantum of purchase is considered as per slot-wise analysis and rate is considered before regulation of power
Short term power purchase to make up for Regulated power when demand exceeds schedule (FY 2015-16)	253	2.70	68	253 MU's as per slot-wise analysis and Rs. 2.70/ Unit as per IEX/ UI rate
Power Purchase Cost assuming no regulation of power in FY 2015-16 (B)	12164	5.31	6454	
Avoided cost consumer due to reduction in power purchase cost			65	(B-A)

3B.347 Similarly, during regulation of power during FY 2016-17, the Petitioner was able to avoid purchase of 204 MU during off-peak hours whereas the Petitioner was required to purchase additional 102 MU though short term power during peak hours. As a result, the regulation of power actually contributed in net savings to the consumers due to the reduction in power purchase cost. The same is tabulated as under:

Table 3B 75: Reduction in Power Purchase Cost on account of Regulation of Power during FY 2016-17

Particulars	Quantum (MU)	Avg. per unit	Amt. (Rs. Cr.)	Remarks
Actual Power Purchase (FY 17) (A)	12687	5.45	6913	As per Actuals
Regulated Power (FY 17)	204	5.83	119	204 MU as per SLDC @ Rs. 5.83/ unit (As per slot wise analysis)
Short term power purchase to make up for Regulated power when demand exceeds schedule (FY 17)	102	2.93	30	102 MU as per slot-wise analysis and Rs. 2.93/ unit as per IEX rate
Power purchase cost assuming no regulation of power in FY 17 (B)	12789	5.47	7001	
Avoided cost consumer due to reduction in power purchase cost (Savings to the consumers)			89	B-A

3B.348 Without pre-judice to the Appeal pending before Hon'ble ATE, the Petitioner requests the Hon'ble Commission to consider the above submissions and allow the cost incurred on account of Regulated Power from FY 2011-12 to FY 2016-17 along with carrying cost as tabulated below:

Table 3B 76: Reduction in Power Purchase Cost on account of Regulation of Power during FY 2016-17

(Amount in Rs. Cr.)

S. No	Particulars	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	23	173	211	251	334	422
2	Additions	21	137	11	7	43	36	
3	Cl. Balance	21	159	184	218	294	370	422
4	Average	11	91	179	215	272	352	422
5	Rate of interest	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	2	14	27	32	40	52	59
7	Grand Cl. Balance	23	173	211	251	334	422	481

b) Cost disallowed on account of overlapping banking transactions:

3B.349 The Hon'ble Commission in its Tariff Order dated March 28, 2018 did not deal with the submissions of the Petitioner and simply stated that "The Commission has already provided detail reason for disallowance on account of overlapping of banking transactions in power purchase cost of the relevant year."

3B.350 In this regard, it is respectfully submitted that the Hon'ble Commission has not provided any reason in Tariff Order dated September 29, 2015 and has simply stated as under:

"3.275 During the Technical Validation Session, it was observed that there was overlapping in Banking Transactions during FY 2013-14. The total quantum of Import and Export of Energy in the same time slot as per Letter of Intent (LoI) submitted by the Petitioner in FY 2013-14 was 49.44 MU. Due to overlapping in banking transactions, the Petitioner has incurred additional expenses on account of Trading Margin and Transmission Charges. Accordingly, the additional expenses incurred on account of Trading Margin and Transmission Charges on quantum of overlapping in Banking Transaction is Rs. 6.04 Crore, which could have been avoided and thus has not been considered in Power Purchase Cost for FY 2013-14. Therefore, the Commission directs the

Petitioner to take necessary precautionary measures before entering into Power Banking Transactions to avoid the overlapping transactions and resultant losses."

3B.351 As regards FY 2013-14, it is submitted that the Petitioner vide its letter dated August 12, 2015 provided detailed justification to the Hon'ble Commission regarding reasons for overlapping banking transactions. The Petitioner also highlighted that the Hon'ble Commission vide letter dated January 31, 2013 had itself directed the Petitioner to arrange for extra power to meet the demand stating that Delhi SLDC during its 26th meeting of Coordination Forum on January 18, 2013, had projected a shortage in availability of power during summer months. However, the said demand never materialised due to a long monsoon season during FY 2013-14. As a result, the Petitioner put all out efforts and arranged to sell this surplus power through banking (since banking transactions are revenue neutral) so as to protect the interest of consumers. However, the Hon'ble Commission has not dealt with any of the reasons given by the Petitioner and without providing any details, has disallowed the cost on account of overlapping of banking transactions. The Hon'ble Commission has also not dealt with the aforesaid contentions in Tariff Order dated August 31, 2017.

3B.352 Further, the Hon'ble Commission in Tariff Order dated August 31, 2017 while truing-up FY 2014-15 and FY 2015-16 disallowed banking transaction stating as under:

"3.501 During prudence check, the Commission directed the petitioner to provide statement of banking transactions indicating opening and closing balance of banking transactions as per that indicated in the audited financial statement.

3.502 Further, the Commission observed that import units of LOI no. 2000 and 2026 overlapping with export units of LOI 1962 for the month of January for FY 2014-15 and import units of LOI no. 1962 and 2085 are overlapping with export units of LOI no. 2031, 2000, 2026 for the month of September in FY 2015-16. The Commission has sought clarification on these transaction vide e-mail dated 30/06/2017.

3.503 The petitioner submitted detailed reply to the Commission's e-mail vide their letter ref. : RA/2017-189/01A/177 dated 07/07/2017.



In their reply they have submitted that tender for LOI no. 1932 was floated on 10/09/2014 but LOI was finally signed on 14/11/2014. And contrary to LOI no. 1932 tender for LOI no. 2000/2026 was floated on 18/12/2014 just after 33 days of signing of LOI no. 1962. The Commission is of the view that the petitioner was well aware if they sign LOI no. 2000/2026 then banking transaction will overlapped in the month of January 2015. Therefore, such transactions could have been avoided if the petitioner could have planned in a better manner to optimize power purchase cost. During January 2015 short term power purchase is generally available at cheaper rate as compared with summer period.

Therefore, there is no point that shortfall in power due to sudden re-allocation of power could not be arranged through other short term means.

3.504 Further, signing date of LOI no. 1962, 2000, 2026, 2031 and 2085 were within a range of 3 months. Therefore the Commission is of the view that planning for said banking

LOIs is a failure at petitioner's end. Banking LOIs should not be entered by the petitioner against the philosophy of banking of power. Banking of surplus power was evolved and supported by the Commission in past to optimise power purchase cost by exporting surplus power in winter and to meet shortage of power by importing in summer period. On the contrary, it has been observed that the petitioner is involved in banking of power in which power is being imported in the winter period and is being exported in summer peak. Signing of LOI no. 2000/2062 is a perfect example of this.

3.505 In view of the above it has been observed that 19 MU and 42 MU were overlapped in banking transactions due to non-consideration of opportunity losses by petitioner in the FY 2014-15 and FY 2015-16 respectively while planning for power banking.

Therefore, the Commission has decided to disallow transmission charges and trading margin related to overlapped units from total power purchase cost.

Table 141: Overlapping in banking transactions submitted by Petitioner (MU)

Financial Year	Period of Overlapping	Import Units	Export Units	Overlapped Units
2014-15	January, 2015	19 MU	22 MU	19 MU
2015-16	September, 2015	46 MU	42 MU	42 MU

3.506 In view of the above, the Commission has decided to dis-allow total additional cost due to overlapping in banking transaction of Rs. 1.97 Cr. and Rs. 4.89 Cr. from total power purchase cost in FY 2014-15

and FY 2015-16 respectively.”

3B.353 As regards FY 2014-15 and FY 2015-16, it is submitted that the Hon’ble Commission in Tariff Order dated August 31, 2017 once again disallowed the legitimate entitlements of the Petitioner by citing the instance of the Petitioner doing banking purchase and sale in January 2015 and September 2015 without examining and giving any opportunity to the Petitioner as to why and in what circumstances the overlapping banking transactions happened.

3B.354 It is respectfully submitted that the Petitioner did not intentionally engage in overlapping of any banking transactions and any such incident was completely out of the control of the Petitioner, on account of the re-allocation of power from Dadri II and BTPS by the Central Government. The disallowance amounts to a micromanagement of the Petitioner’s power procurement process, which in the respectful submission of the Petitioner is contrary to the law laid down by the Hon’ble Tribunal in KPTCL v. KERC, reported as 2007 ELR (APTEL) 233.

3B.355 In this regard, the Petitioner makes the following submissions:

- a. Forecasting, importing and exporting of power is done on a best endeavour basis. The same assumes a trajectory of demand based on existing power sources being able to deliver as they have historically. However, at times, it is not possible to forecast with arithmetic precision or even provide in a forecast, a deviation which is not in the ordinary course of business.
- b. It may be noted that the re-allocation of power was done by the Hon’ble Commission itself in Tariff Order dated July 23, 2014 between the Petitioner and other Delhi DISCOMs. The Petitioner who had forecasted its power requirements earlier from these re-allocated sources, actually resulted in a gap, which needed to be filled. However, through its professional, diligent and dedicated review of its power requirements and in anticipation of the shortage arising on account of the reallocation of the Dadri II and BTPS power, the Petitioner sought power from the market to make up the shortfall/gap.

- c. While approaching the market to procure the power to make up the



gap in supply arising out of an extraordinary situation, such as the reallocation of power from Dadri II and BTPS, the Petitioner proceeded in an efficient and economic manner to procure power. The Petitioner approached the market, by way of tenders, to seek power for specific time slots where the gap had arisen, as the gap was not a RTC gap. Accordingly, the Petitioner approached the market for time slots 07-13 hrs and 18-21 hrs., i.e., a time slot other than the time slot for which it had entered into LOI 1962 (which was for 0-06 hrs and 22-24 hrs).

- d. However, the tender did not solicit adequate responses to meet the projected gap and also produced the market rate of Rs. 4.17- Rs. 6, which, in the eyes of the Petitioner did not seem to be a reasonable price. Accordingly, the Petitioner gave up its attempt to bilaterally procure power for the time slots where it was deficient as the said power was either not available or wherever, available was at a high cost.
- e. In light of the fact that bilateral trading did not result in an efficient and economic price, the Petitioner resorted to a cash neutral method for obtaining power to make up for the gap. It did so by way of a banking transaction *vide* LOI 2000/ 2026. However, despite the Petitioner's best efforts and its professional, diligent and prompt actions, only RTC power was available in the banking market (which is usually the case as parties entering into banking are aware that they will be in surplus and want to dispose the power as a whole rather than on a slot wise basis). The Petitioner entered into the banking transaction (i.e. LOI 2000/ 2026), though there was a slight overlap for factors beyond its control and only account of prevailing market conditions, which the Petitioner could not avoid despite its best efforts. This was the most economical and efficient method for arranging the gap. This is evident from the fact that had the Petitioner entered into a bilateral transaction for power @ Rs. 4.17-6 per unit, it would have had to pay charges amounting to approx. Rs. 8 Crs. - Rs. 11Crs for the same as opposed to the Rs. 1.97 Crs., which the Petitioner paid. Had the Petitioner purchased the power from the Exchange, it would have had to pay charges amounting to approx. Rs. 7 Crs. for the same as opposed to the Rs. 1.97 Crs., which the Petitioner paid. A tabular representation of the above comparison is set out below:

Table 3B 77: Comparison of cost actually incurred due to overlapping banking transactions and would have been incurred in other scenarios

FY	Month	Time period	Overlapping Quantum (MU)	If Purchased from Bilateral (Rs. Cr.)	If Purchased from Exchange (Rs. Cr.)	Additional cost due to Banking (Rs. Cr.)
FY 2014-15*	Jan-15	07-13 & 18-21	19	8-11	7	1.97
FY 2015-16#	Sep-15	RTC	42	18	15	4.89

SOURCE: * As per IEX and BRPL's bilateral Tender rates

As per CERC Market monitoring report

- f. It is therefore evident from the above that the Petitioner has not incurred any losses as a result of the above transactions, justifying a disallowance of this nature and has in fact, acted in the best interests of its consumers.
- g. It is submitted that the above transactions have been duly approved by DPPG.
- h. Thus, the acts of the Petitioner were not only reasonable and prudent but also needed to ensure that it had sufficient power to meet the shortfall or gap arising out of an extraordinary circumstance, namely, the reallocation of power from Dadri II and BTPS. Further, the acts are consistent with the statutory obligations of the Petitioner in view of the Power Directions as well as its emphasis on banking as a preferred mode of meeting gaps. Unfortunately, instead of allowing the cost, the Hon'ble Commission has ended up penalizing the Petitioner for its efficient, economic, diligent and professional acts.
- i. The direction to take necessary precautionary measures before entering into "Power Banking Transactions to avoid the overlapping transactions and resultant losses" was issued for the first time in the Hon'ble Commission's Tariff Order dated September 29, 2015. It is submitted that this cannot be the basis for challenging transactions that took place almost a year before, in December 2014.

3B.356 Accordingly the impact on account of the disallowance of power purchase cost due to overlapping banking transactions along with carrying cost is tabulated below:

Table 3B 78: Impact on account of disallowance of power purchase cost due to overlapping banking transactions

(in Rs. Cr.)

S. No	Particulars	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	6	10	16	19
2	Additions	6	2	5		
3	Cl. Balance	6	8	14	16	19
4	Average	3	7	12	16	19
5	Rate of interest	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	0.45	1.13	1.78	2.38	2.61
7	Grand Cl. Balance	6	10	16	19	21

3B.357 Without pre-judice to the contentions in the Appeals, the Petitioner hereby prays before the Hon'ble Commission to consider the submissions made above and thereafter allow the impact of Rs. 21 Crore in the ARR.

c) Cost disallowed on account of excessive trading through UI above contingency limit of 3%

3B.358 The Hon'ble Commission in Tariff Order dated August 31, 2017 disallowed sales in UI above contingency limit above 3% in months of January 2015 and September 2015. Further, the Hon'ble Commission in Tariff Order dated March 28, 2018 disallowed sales in UI above contingency limit above 3% in month of February 2017.

3B.359 As regards above, it is submitted that the aforesaid treatment is required to be reconsidered on account of the following:

- a. It is submitted that the Hon'ble Commission has not provided any basis for determining the contingency limit to dispose of surplus power in UI at 3% of Gross Power Purchase for every month. It is pertinent to note that the Hon'ble Commission has at no point, either in the Tariff Regulations, or in Availability Based Tariff Regulations or in Guidelines for short term power purchase and sale ever mentioned any such criteria of limiting the UI sale contingency limit to dispose of surplus power in UI, which has now been fixed at 3% on Gross Power Purchase for every month.

- b. It is submitted that no such norm was stipulated for the Second MYT period (i.e. FY 2012-13 to FY 2014-15, subsequently extended to FY 2015-16). If no such norm was put in place at the beginning of the MYT Period, but has been inserted towards the end of the MYT Period, the entire principle of regulatory certainty sought to be introduced by the MYT principle, is defeated. Further, by way of its Order dated 22.10.2014, the Hon'ble Commission had specified that the same principles applicable to the original MYT Period of FY 2012-13 to FY 2014-15 would continue to apply to FY 2015-16.
- c. Further, the UI Contingency limit of 3% was specified in Tariff Order dated September 29, 2015. However, the Hon'ble Commission has disallowed the sales through UI above contingency limit for the months of January 2015 and September 2015 which was before the principle was set out. It is a settled law and has been upheld by Hon'ble Tribunal in catena of Judgments, that the principles cannot be applied retrospectively.
- d. It is further submitted that unscheduled interchange, as the name itself suggests, is a deviation from the schedule, entailing a scenario where actual energy drawn is either higher or lower than the schedule. Accordingly, the UI mechanism obliges a DISCOM to pay for excess energy drawn by it over and above the energy scheduled or entitles the DISCOM to receive payment for energy under drawn against its schedule. This is based on the frequency in the grid and is monitored by statutory authorities such as the SLDC and Regional Load Despatch Centre (hereinafter referred to as "RLDC"). The Petitioner too monitors UI, however, it acts as per the directions of the SLDC. The final decision and energy accounting is only as per the SLDC and RLDC directions.
- e. The SLDC and RLDC, in terms of Sections 32 and 28 of the 2003 Act respectively, monitor grid discipline and direct various stakeholders to act as per their directions, including on whether they should schedule power or not. These directions are not just desirable but in fact mandatory and binding under the 2003 Act on the parties to whom it is directed. Thus, the involvement of statutory authorities such as the SLDC and RLDC, whose directions the Petitioner is mandated to follow under the 2003 Act gives the Petitioner little room but to follow the same.
- f. UI is a post facto based transaction and any real time Overdrawl / Under drawl gets settled as per the provisions of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 (as amended) (UI Regulations).



Further, the UI as determined by SLDC and RLDC has to be accepted by the Petitioner, who has no say in the accounting of UI. While the Petitioner monitors UI on a real time basis, its measurement is not taken as conclusive. Instead, the accounting done by the SLDC, two months later, i.e. not on a real time basis is alone relied upon by various stakeholders, including the Hon'ble Commission. For day ahead planning and forecasting, all the SEBs and DISCOMs all over India depend on the real time data of their SLDC (in this case Delhi SLDC). The real time data captured by Delhi SLDC does not match with the actual SEM meter data, which is received from the SLDC after a delay of 2 months. The deviation of SLDC real time demand versus actual SEM demand varies up to 10% higher side and the difference of demand data also creates an unpredictable surplus, which settles through UI mechanism. Thus, even the calculation of the UI is not entirely in the control of the Petitioner, which, coupled with the fact that UI gets determined post facto, establishes that the Petitioner cannot be held responsible as it has to carry out the directions of statutory authorities empowered under the 2003 Act and cannot disregard the same.

- g. In addition to the above, the Petitioner keeps a margin of 30 to 35 MW (around 263 MU per year) of power to avoid any shortages due to outages of generators, rise in predicted demand, down fall in availability, etc. This is also on account of the Power Directions of the Hon'ble Commission dated 21.10.2009 that the Petitioner should not have an unmet demand greater than 1% of the total demand serviced. This is more so in the case of the Petitioner on account of various factors, including the peculiar characteristic of Delhi as an area, unique nature of electricity as a good and the responsibility of the Petitioner to meet the total demand of its consumers. The Petitioner has minimal excess, which it maintains as a buffer to meet unexpected demand surges or forced outages, which is disposed through UI. In the event the Petitioner did not maintain the minimum excess to comply with the Power Directions and had to obtain the day ahead shortfall, it would only be able to do so, if at all possible, at a very expensive rate, i.e. at the marginal cost of power.
- h. As stated above, Delhi SLDC issues UI bills after delay of 2 months due to UI account given by the NRLDC, after adjustment of Inter DISCOM Power and transfer of power under Inter DISCOM. This is on account of the fact that Delhi SLDC does scheduling for Delhi as a whole and not for the Petitioner alone in the first instance and only proceeds to the level of the Petitioner after it has scheduled for the entire state. In

other words, the Petitioner having Surplus power cannot sell the same in the open market beforehand. The Petitioner's power is required to be first adjusted with other DISCOMs, having power shortage and only the balance power goes to UI. As per the directions of SLDC, the Petitioner is allowed to sell power in night hours only in few months of winter.

- i. It is evident from the above submissions that the situation of surplus power is beyond the control of the Petitioner and hence, limiting the Petitioner's ability in this matter would only contribute towards burdening the consumers of the Petitioner. This approach also completely overlooks the existing system constraints, which are uncontrollable in nature. This is on account of the fact that the schedule provided by the Petitioner is being revised by the SLDC, considering various factors such as grid security, technical minimum, islanding schemes, transmission constraints, etc. Thus, the consequential UI charges are incidental and uncontrollable and cannot be attributed to the Petitioner.
- j. It is submitted that UI surplus or deficit cannot be predicted beforehand, as the Petitioner does not know with certainty the exact extent of its surplus but only as an approximation, as it does not have a final say in the accounting/scheduling of the same. Further, the calculation of UI is not in the hand of the Petitioner and is done post facto. Therefore, where the calculation machinery itself fails, the Hon'ble Commission cannot penalize the Petitioner, as it is not in the Petitioner's control and is dependent on statutory authorities such as the SLDC. Finally, the SLDC's directions to schedule in order to maintain grid discipline, as issued under Section 32 cannot be disregarded by the Petitioner, who necessarily has to follow the same. Accordingly, the Petitioner cannot be penalized for disposing off surplus power in UI, where the Petitioner cannot, with 100% freedom decide its drawl (as it has to follow SLDC directions) or account for the surplus power in its system for disposal (as it is dependent upon the SLDC's accounting of the same).
- k. It is submitted that the generation and calculation of the UI is not entirely in the control of the Petitioner. This, coupled with the fact that UI gets determined post facto, establishes that the Petitioner cannot be held responsible as it has to carry out the directions of statutory authorities such as the SLDC and NRLDC, empowered under the 2003 Act and cannot disregard the same.

3B.360 Accordingly, the impact on account of the disallowance of UI above contingency limit of 3% along with carrying cost is tabulated below:

Table 3B 79: Impact on account of disallowance of power purchase cost due to sale through UI above Contingency Limit

(in Rs. Cr.)

S. No	Particulars	FY 16	FY 17	FY 18
1	Op. balance	0	4	8
2	Additions	4	3	
3	Cl. Balance	4	7	8
4	Average	2	6	8
5	Rate of interest	14.80%	14.64%	14.00%
6	Carrying cost	0.30	0.84	1.12
7	Grand Cl. Balance	4	8	9

3B.361 Without prejudice to the contentions in the Appeals, the Petitioner hereby prays before the Hon'ble Commission to consider the submissions made above and thereafter allow the impact of Rs. 9 Crore in the ARR.

d) Normative rebate of 2% considered on gross power purchase cost from FY 2012-13 to FY 2016-17:

3B.362 As regards the issue of normative rebate, the Hon'ble Commission in Tariff Order dated August 31, 2017 and March 28, 2018 has viewed as under:

"3.285 The issue of normative rebate is related to MYT Regulations, 2011 in which the power purchase cost has to be considered on the basis of maximum normative rebate on power purchase cost and transmission charges of the distribution licensee. One of the distribution licensee has challenged this issue before the Hon'ble High Court of Delhi in Writ Petition No. 2203 of 2012. The Hon'ble High Court of Delhi has upheld the provision of MYT Regulations, 2011 regarding consideration of maximum normative rebate on power purchase cost and transmission charges for allowing power purchase cost to the distribution licensee. Therefore, the matter does not merit reconsideration."

3B.363 As regards above, it is submitted that it is factually correct that the Hon'ble Delhi High Court has upheld DERC Tariff Regulations, 2011. Therefore,

maximum rebate at the time of projection or truing-up has to be considered in terms of the Regulations. The Hon'ble Commission has ignored Regulation-4.21 of DERC Tariff Regulations, 2011 which is reproduced below:

"4.21 The true up across various controllable and uncontrollable parameters shall be conducted as per principle stated below:

(a) Variation in revenue/ expenditure on account of uncontrollable sales/ power purchase respectively shall be trued up every year;

..."

3B.364 As per the aforesaid Regulations, entire power purchase cost including normative rebate is uncontrollable. Regulation-4.21 does not carve out any exception for rebate. It includes all components of revenue, sales and power purchase costs.

3B.365 It is further submitted that Regulation-5.24 which was the subject matter of dispute before Hon'ble Delhi High Court is applicable for the purpose of determination of ARR. Regulation-5.24 is reproduced below:

*"A5: PRINCIPLES FOR DETERMINATION OF ARR
ARR FOR RETAIL SUPPLY BUSINESS*

5.2 The Aggregate Revenue Requirement for the Retail Supply Business of the Distribution Licensee, for each year of the Control Period, shall contain the following items;

- (a) Cost of power procurement;*
- (b) Transmission & Load Dispatch Charges;*

...

Cost of Power Procurement

*5.23 Quantum of Power Purchase - The Commission approved category-wise sales forecast shall be applied along with Distribution loss trajectory **for estimating the Licensees" power procurement requirement** for each year of the Control Period.*

*5.24 Distribution Licensee shall be allowed to recover the net cost of power it procures from sources approved by the Commission, viz. Intra-state and Inter-state Trading Licensees, Bilateral Purchases, Bulk Suppliers, State generators, Independent Power Producers, Central generating stations, non-conventional energy generators, generation business of the Distribution Licensee and others, **assuming maximum normative rebate** available from each source for payment of bills*



through letter of credit on presentation of bills for supply to consumers of Retail Supply Business;

Provided that the Distribution Licensee shall propose the cost of power procurement taking into account the fuel adjustment formula specified for the generating stations and net revenues through bilateral exchanges and Unscheduled Interchange (UI) transactions;

Provided further that where the Licensee utilises a part of the power purchase approved or bulk supply allocated or contracted for the Retail Supply Business for its Trading Business, the Distribution Licensee shall provide an Allocation Statement clearly specifying the cost of power purchase that is attributable to such trading activity."

(Emphasis bold and underlined)

3B.366 As evident from the above, normative rebate of 2% was required to be assumed for the purpose of ARR. It is further clear from Regulation-5.40 which states as under:

*"5.40 Truing-up shall be carried out in accordance with Regulation 4.21, for each year based on the actual/ audited information and prudence check by the Commission;
..."*

3B.367 As evident from the above, Regulation-5.40 clearly states that truing-up shall be carried out in accordance with Regulation-4.21. There is no mention of Regulation-5.24 for the purpose of truing-up.

3B.368 It is further submitted that the Hon'ble Delhi High Court in Judgment dated July 29, 2016 (W.P. (C) 2203/ 2012 & C.M. No. 4756/2012) on the issue of normative rebate held as under:

"34. Next, the petitioner complained that in terms of Regulation 5.24, it is assumed that the petitioner would avail the 2% rebate on power purchase costs allowed to a distribution licensee on immediate payment of purchase bills. It was submitted on behalf of the petitioner that even though the working capital has been determined on the basis that bills for purchase of electricity would be paid within a period of one month, nonetheless, the impugned Regulations assumed availing of rebate of 2% which is only possible if the bills are paid by a letter of credit. It is submitted that to the aforesaid extent, the



impugned Regulations are contrary to Section 61(c) and 61(e) of the Act which required the Commission to be guided by the principle of rewarding efficiency in performance while determining the tariff. Mr Sanjay Jain countered the aforesaid submissions by pointing out that the bills for purchase of electricity are raised only at the end of the month and, therefore, the petitioner is expected to pay the same immediately thereafter and there is no inconsistency in the Regulations.

35. It is not necessary for us to examine the merits of this dispute because the principles as referred to in Section 61(c) and 61(e) of the Act are broad principles for guidance of the Commission. It is not necessary for the Commission to ensure that each and every component of ARR be so determined so as to incorporate an incentive for rewarding efficiency. As long as the Regulations as a whole promote efficiency in performance, no grievance in this regard can be made by any distribution licensee.” (Emphasis added)

3B.369 As evident from the aforesaid, the Hon’ble High Court has categorically stated that the Hon’ble High Court has not examined the merits of the dispute. Therefore, the issue of normative rebate is not dismissed on merits.

3B.370 It is further submitted that the Hon’ble ATE in Judgment dated July 30, 2010 (Appeal 153 of 2009) and March 2, 2015 (Appeal 177 of 2012) has decided the matter on merits and ruled as under:

“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.

6.4 Accordingly, this issue is decided in term of the findings of this Tribunal in Appeal no. 153 of 2009 and Appeal no. 14 of 2012 in favour of the Appellant.”

3B.371 Therefore, the decision of Hon’ble ATE in Judgment dated March 2, 2015 to consider the actual rebate upto 1% still holds valid and therefore is required to be implemented in true letter and spirit.

3B.372 In accordance with the above submissions and without prejudice to the contentions raised in Appeal before the Hon’ble ATE, the Petitioner requests the Hon’ble Commission to reinstate the power purchase cost disallowed by assuming normative rebate and consider the actual rebate earned from FY 2012-13 to FY 2016-17 in accordance with Regulation-4.21 read with Regulation-5.40 of DERC Tariff Regulations, 2011. Accordingly, the Petitioner is claiming the difference between actual and normative rebate from FY 2012-13 to FY 2016-17 along with carrying cost as per the table given below:

Table 3B 80: Impact along with carrying cost on normative rebate
(Rs. Crore)

S. No	Particulars	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	82	181	320	486	683
2	Additions	76	81	104	110	118	
3	Cl. Balance	76	162	285	430	604	683
4	Average	38	122	233	375	545	683
5	Rate of interest	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	5.71	18.32	35.22	55.52	79.71	95.67
7	Grand Cl. Balance	82	181	320	486	683	779

3B.373 The Petitioner requests the Hon’ble Commission to allow the aforesaid amount

in the ARR.

e) Loss due to retirement of assets from FY 2004-05 to FY 2011-12:

3B.374 As regards de-capitalisation of assets, it is submitted that the Petition for loss on retirement of assets was submitted on October 25, 2012. Pending adjudication of the petition, the Hon'ble Commission in Tariff Order dated September 29, 2015, instead of allowing the loss incurred on retirement of assets, decided to reduce all capex associated costs on account of retirement of assets (which was neither subject matter of the Petition nor the methodology for loss on retirement of assets as per the Tariff Order dated July 7, 2005) based on the methodology specified in letter dated November 26, 2014.

3B.375 The Hon'ble Commission in Order dated May 28, 2018 stated as under:

"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."

3B.376 As regards loss on account of retirement of assets, Regulation-45 of DERC 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."

3B.377 The Petitioner in its Petition has already provided the details of the assets retired from FY 2004-05 to FY 2011-12.

3B.378 Accordingly, the Petitioner requests the Hon'ble Commission to allow the impact in the ARR.

3B.379 The amount on loss on retirement of assets along with carrying cost is tabulated as under:

Table 3B 81: Amount due to retirement of assets

(in Rs. Cr.)

S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	0	7	10	14	22	26	33	66	76	87	101	115	132
2	Additions	(0.46)	7	2	3	6	1	3	26						
3	Cl. Balance	0	7	9	13	20	23	30	59	66	76	87	101	115	132
4	Average	0	3	8	11	17	23	28	46	66	76	87	101	115	132
5	Rate of interest	9%	9%	9%	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	-0.02	0.28	0.71	1.54	2.37	2.99	3.74	6.89	9.93	11.40	13.21	14.89	16.90	18.53
7	Grand Cl. Balance	0	7	10	14	22	26	33	66	76	87	101	115	132	151

3B.380 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.

f) Bank Charges/ Syndication fees:

3B.381 As regards the issue of allowance of bank charges/ syndication fees, the Hon'ble Commission in Tariff Order dated August 31, 2017 and March 28, 2018 has stated as under:

"3.324 The Commission had already clarified this issue in its tariff order dated 29/09/2015 that the borrowing cost including syndication & documentation charges for availing the loan will be considered at the time of final true up of capitalisation. Further, the matter is sub-judice before Hon'ble APTEL in Appeal No. 297/ 2015 against the

Commission's direction in Tariff Order dtd. 29/09/2015. Therefore, the matter does not merit consideration at this point of time."

3B.382 The Hon'ble Commission in its Tariff Order dated September 29, 2015 ruled as under:

As per Regulation 5.6 of the MYT Regulations, 2011,

"Return on Capital Employed (RoCE) shall be used to provide a return to the Distribution Licensee, and shall cover all financing costs, without providing separate allowances for interest on loans and interest on working capital".

As per Accounting standard (AS 16 - Borrowing Costs) issued by Institute of Chartered Accountants of India and notified by Companies amendment Act 1999,

"6. Borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset should be capitalized as part of the cost of that asset. The amount of borrowing costs eligible for capitalisation should be determined in accordance with this Statement. Other borrowing costs should be recognised as an expense in the period in which they are incurred."

Conjoint reading of all the three extracts above, the Commission is of the view that the borrowing costs directly related to the capital assets shall be added to the cost of such capital assets.

The information provided by the Petitioner does not distinguish the borrowing costs on capital expenditure loans and other loans. The Commission is of the view that only the borrowing cost will be considered at the time of final true up of capitalization. Accordingly, the Commission has not considered the syndication and documentation charges claimed by the Petitioner."

3B.383 It is submitted that :-

- a. The Petitioner is not claiming syndication charge and bank charges as a part of its capitalization. Hence, the Hon'ble Commission's finding that only actual borrowing costs will be considered for the true up of capitalization is not relevant to the issue at hand. Admittedly, the Petitioner is seeking recovery of such syndication/bank charges as part of miscellaneous expenses and not as part of capitalization.
- b. The Hon'ble Commission in fact ignored clause 3 (b) of Appendix 2 of the Multi Year Tariff Regulations, 2011 which clearly contemplates

A&G costs to include financing expenses on loans. The Hon'ble Commission was thus obliged to include such financing costs as part of the A&G expenses.

- c. Since the A&G expenses projected in the original Multi Year Tariff order only provided for an escalation on the previous Multi Year Tariff's A&G expenses level and also since such earlier A&G expenses level did not include any amounts towards financing charges, the Petitioner could not be pegged down to the level of A&G expenses which have been projected by the Hon'ble Commission.
- d. Even the definition of ROCE in Clause 5.6 of the Multi Year Tariff Regulations, 2011 (**MYT Regulations, 2011**) indicates that it shall cover all financing costs. Hence, taking a cue from the same, it is obvious that even the return to the business would include something more than the actual interest on debt but also include such costs over and above the actual interest costs. However, this Regulation is applicable only in respect of the financing cost of Capex loans and not loans taken by the Petitioner to fund its Regulatory Assets. The Regulations do not even conceive that the Petitioner would need to borrow funds to fund its Regulatory Assets since the Regulations in fact contemplate the determination of a full cost reflective tariff and do not contemplate the Hon'ble Commission creating Regulatory Assets for the licensees. The Hon'ble Commission, having created Regulatory Assets, could not, in law, rely on the Regulations which do not contemplate this situation at all.
- e. Further, as already submitted herein above the Petitioner is relying upon the definition of ROCE for the limited purposes of showing that the Hon'ble Commission is cognizant of all "financial costs" being a reality. As already submitted earlier the Petitioner is claiming the reimbursement of such Bank charges and syndication charges as a revenue item and not as a capital expense.
- f. Admittedly, the Petitioner is seeking recovery of such syndication/bank charges as part of miscellaneous expenses and not as part of capitalization. The same did not form part of the projected Operation & Maintenance Expenses (**O&M Expenses**). If a particular expense did not form part of the projected O&M Expenses, the Hon'ble Commission could not peg such uncovered expenses within the Operation & Maintenance norm.

3B.384 It is submitted that in the past, the Hon'ble Commission appears to have not

considered the following:

- a) Other SERCs are also allowing borrowing costs separately and not covering the same under carrying costs. Even the Hon'ble Commission also allowed borrowing costs/ financing charges separately till February 2008. The Hon'ble Commission did not delve into the issues as to how the financial institutions can have different borrowing conditions only for the Petitioner as compared to the Utilities in other states?
- b) The Hon'ble Commission did not delve into the issue as to how the borrowing costs/ financing charges borne on account of the loans taken for funding of Regulatory Assets be covered under normative rate of carrying cost which is already lower than the actual rate at which Petitioner is borrowing?
- c) The Hon'ble Commission did not delve into the issue as to when borrowing costs have not been included in A&G Expenses in the base year, i.e., FY 2010-11 then how the condition of cost allocation as per DERC MYT Regulations, 2011 is fulfilled?
- d) The Hon'ble Commission did not delve into the issue as to how the financial institutions can exclude Delhi DISCOMs from finance charges when DISCOMs in other states are paying the syndication charges/ borrowing fees and the same is being allowed in their ARR.

3B.385 Borrowing costs pertaining to capex Loans is not capitalized with Assets: The borrowing costs which are capitalized during the year are not directly attributable to specific assets/ capital expenditure incurred during the year. In fact the funds are borrowed generally for capex purposes and related borrowing costs are capitalized as per the requirements of Clause-12 of AS-16 which states as under:

"12. To the extent that funds are borrowed generally and used for the purpose of obtaining a qualifying asset, the amount of borrowing costs eligible for capitalisation should be determined by applying a capitalisation rate to the expenditure on that asset. The capitalisation rate should be the weighted average of the borrowing costs applicable to the borrowings of the enterprise that are outstanding during the period, other than borrowings made specifically for the purpose of obtaining a qualifying asset. The amount of borrowing costs capitalised during a period should not exceed the amount of

borrowing costs incurred during that period.”

3B.386 However, the borrowing costs/ syndication fees are not being capitalized and are charged to Profit and Loss Account as finance costs. The practice adopted by the Petitioner regarding borrowing costs, i.e., syndication fees and finance charges etc. is in line with that followed by DISCOMs operating in other states. The Petitioner vide its letter dated May 30, 2014 submitted the relevant extracts of the Tariff Orders issued by other State Electricity Regulatory Commissions where the financing charges have not been capitalized and have been allowed separately as a part of ARR. The same is reproduced again as under:

Chhattisgarh State Electricity Regulatory Commission (CSERC):

CSERC in its Tariff Order for FY 2013-14 dated July 12, 2013 considered the financing Charges of Rs. 2.35 Crore and Rs. 2.69 Crore apart from Interest on Loans while truing-up Interest and Finance Charges for FY 2010-11 and FY 2011-12 respectively. The relevant excerpts from the Order are given below:

“The Interest and Finance Charges claimed by CSPDCL and approved by the Commission is as given in the following Table:

Table 204: Interest and Finance Charges as approved by the Commission (Rs. Crore)

Particulars	FY 2010-11		FY 2011-12	
	Petition	Approved after Final Truing-up	Petition	Approved after Final Truing-up
Total Opening Net Loan	689.59	395.76		459.93
Repayment during the period	109	53.15		59.06
Additional Capitalisation of Borrowed loan during the year	108.47	97.18		92.37
Addition/ (Reduction) in normative loan during the year	0	20.14		18.58
Total Closing Net Loan	689.06	459.93		511.83
Average Loan during the year	689.33	427.85		485.88
Weighted Average Interest Rate	9.55%	9.62%		10.09%
Interest Expenses for the period	65.85	41.17		49.02

Spaw



Particulars	FY 2010-11		FY 2011-12	
	Petition	Approved after Final Truing-up	Petition	Approved after Final Truing-up
Add: Interest payment on Consumer Security Deposit	33.13	30.71		34.7
Add: Legal, Bank, Guarantee and Other Charges		2.35		2.69
Add: Adjustment on a/c of term loan from financial institution				(2.99)
Total interest and finance charges	98.98	74.22		83.4

Maharashtra Electricity Regulatory Commission (MERC):

MERC in its Tariff Order for FY 2013-14 dated August 16, 2012 allowed the actual financing Charges apart from interest on loans while truing-up the Interest and Finance Charges of MSEDCL for FY 2011-12. The relevant excerpts from the Order are given below:

“3.10.5 The actual expenditure on other interest and finance charges has been accepted by the Commission as per the Audited Accounts. Thus, the interest on working capital, other interest and finance charges including interest on consumers’ security deposit, approved by the Commission for FY 2010-11 works out to Rs. 257 crore.

Table 30: Interest on Working Capital, Consumers’ Security Deposit and other interest and finance charges for FY 2010-11

(Rs. crore)

Particulars	APR Order	Actual	Allowed after Truing-up
Interest on Working Capital		198.76	0
Interest on Security Deposit		211.3	211.3
Guarantee Charges		14.33	14.33
Finance Charges		25.34	25.34
Stamp Duty		5.93	5.93
Service Fee		0	0
Total other Interest and Finance Charges	295.8	455.66	256.9

Tamil Nadu Electricity Regulatory Commission (TNERC):

TNERC in its Tariff Order for FY 2013-14 dated June 20, 2013 allowed the Finance Charges apart from Interest on Loans. The relevant excerpts from the Order are given below:

“3.148 Commission has observed that TANGEDCO has claimed interest

on GPF in other finance charges. Commission is not allowing the interest expenses on GPF as it has not considered GPF reserve for funding of capital expenditure. **The interest expenses on consumer security deposits and other finance charges approved by the Commission are tabulated below.**

Table 67: Interest and other finance charges approved by the Commission (Rs. Cr)

Parameter	2010-11		2011-12		2012-13	
	Petition	Commission	Petition	Commission	Petition	Commission
Interest on Consumer Security Deposit	145.34	100.44	380.05	247.6	399.05	380.81
Other Finance Charges	48.78	20.23	140.56	87.14	147.58	87.14
Total	194.12	120.67	520.61	334.74	546.63	467.95

Rajasthan Electricity Regulatory Commission (RERC):

RERC in its Tariff Order for FY 2013-14 dated June 06, 2013 allowed the Finance Charges as sought by the DISCOMs. The relevant excerpts from the Order are given below:

“12.2 Commission’s Analysis

Finance charges have been allowed as sought by the three Discoms.....

Table-13: Interest and Finance Charges approved by the Commission for FY 2013-14 (Rs. Crore)

Particulars	Approved JVNL	Approved AVNL	Approved JdVNL	Total
Opening balance of LTL	4108	2705	2496	9309
Capitalization	673	506	556	1734
Capital expenditure financed by Equity	120	111	108	339
Capital expenditure financed by Consumer Contribution and grants	272	137	195	604
Receipt of LTL for Capital expenditure	281	258	253	791
Principal Repayment	398	311	280	989
Closing balance of LTL	3990	2652	2469	9111
Average LTL	4049	2679	2482	9210
Average Interest rate of LTL (%)	12.61%	10.12%	11.51%	

Spaw



Particulars	Approved IV/VNI	Approved AV/VNI	Approved IdV/VNI	Total
Interest Charges on LTL	511	271	286	1067
Interest on Security Deposit	80	42	34	156
Finance Charges & Lease Rental	2	1	6	10
Gross Interest Charges	593	314	326	1233
Interest Expenses Capitalized	0	0	0	0
Total Interest & Financing Charges	593	314	326	1233

Haryana Electricity Regulatory Commission (HERC):

HERC in its Tariff Order for FY 2013-14 dated March 30, 2013 allowed the Finance Charges apart from Interest. The relevant excerpts from the Order are given below:

“3.9.4 Cost of raising finance and bank charges

UHBVNL has estimated that it will incur additional expenditure on account of raising finance and bank charges amounting to Rs. 110.60 million. The Commission feels that this estimate is extremely high considering the fact that the licensee expects to raise an additional amount of Rs. 1125 million and the proposed cost comes to nearly 10% of additional borrowings. The Commission allows the licensee to recover Rs. 68.30 million on this account based on the audited accounts for FY 2011-12 subject to true up.” (Emphasis added)

As evident from above, the Distribution companies in other states have also not capitalized the finance charges along with assets and the respective SERCs have allowed the same as a part of ARR. Therefore the borrowing cost, i.e., finance charges, syndication fees etc. ought to be allowed separately in the ARR.

3B.387 Borrowing costs pertaining to non-capex Loans are directly linked to Regulatory Assets:

In absence of any amortization plan of Regulatory Assets, the Petitioner was left to fund the entire Regulatory Assets on its own. The Petitioner is funding a large portion of these Regulatory Assets through debt for which the Petitioner is required to bear syndication and documentation fees. It is noteworthy to mention that the finance charges have been borne mainly on account of IDBI Loan of Rs. 5000 Crore which was borrowed in absence of amortization of Regulatory Assets so as to clear the dues to the Gencos during FY 2011-12 and

FY 2012-13. The Petitioner also informed the same to the Hon'ble Commission vide letter dated December 16, 2011 and November 1, 2012. The Petitioner also submitted the loan agreement before the Hon'ble Commission. Also the Hon'ble Commission vide its letter dated December 16, 2011 has assured the lender to amortize the Regulatory Assets completely by the end of Second Control Period.

3B.388 It is further submitted that the energy distribution Sector is operating on cost plus regime. Any costs on account of Regulatory Assets ought to be allowed to the Petitioner otherwise the Petitioner will be penalized without any fault its own.

3B.389 Borrowing cost have not been included in A&G Expenses:

The Hon'ble Commission itself has observed that Appendix 2 – Cost Allocation, Clause 3 (b) states as under:

"A&G Cost: A&G expenses related to power purchase, metering, billing and collection, financing expenses on loan related to Retail Supply business shall be allocated to Retail Supply business. Office expenses like telephone, stationery, electricity, lease rent etc. shall be apportioned between Wheeling and Retail Supply business on the basis of predominant usage concept." (Emphasis added)

3B.390 The Hon'ble Commission has not included financing charges as a part of A&G Expenses while approving A&G Expenses from FY 2012-13 to FY 2014-15 in Tariff Order dated July 13, 2012. The financing charges appear in a separate schedule and are not merged with the A&G Expenses in the Audited Accounts of the Petitioner. The comparison of A&G Expenses from FY 2006-07 to FY 2010-11 as considered by the Hon'ble Commission and that appearing in the Audited Accounts is tabulated below:

Table 3B 82: A&G Expenses considered from FY 07 to FY 11

(Rs. Cr.)

S. No	Particulars	Reference	FY 07	FY 08	FY 09	FY 10	FY 11
1	A&G Expenses considered by the Commission	Table-93, Page-140 of TO dt. July 13, 2012	137	158	108	145	110
	Less: Provisions		77	94	43	95	35
	Add: Lease Rentals		2	2	2	2	2
	Net A&G Expenses considered by Commission for benchmarking		61	65	67	52	76
2	A&G Expenses as per Audited Accounts	Respective Audited Accounts	139	159	113	147	110
3	Financing charges as per Audited Accounts[#]	Respective Audited Accounts	5	2	3	7	16

not included in Sr. No. 2 and appearing in separate schedule of Audited Accounts

3B.391 As evident from above, the Hon'ble Commission has not considered the financing charges while benchmarking A&G Expenses. Therefore, the financing charges have not been included in A&G Expenses from FY 2012-13 to FY 2014-15 and are required to be allowed separately.

3B.392 In view of the above submissions, the Commission may kindly permit bank charges/ syndication charges to be included as a cost in the Annual Revenue Requirement.

3B.393 The present issue is also pending in Appeal No. 290 & 297 of 2015 and Appeal Nos. 235 & 236 of 2014. Without pre-judice to the contentions in the said appeals, the Petitioner requests the Hon'ble Commission to allow the impact in the ARR. It is respectfully submitted that, the Hon'ble Commission should take up and decide the issue subject to the result of the aforesaid Appeals. This will avoid exposure of carrying costs on the consumers which could also be contained.

3B.394 Accordingly the Petitioner is claiming syndication fees/ borrowing cost incurred



during previous year as under:

Table 3B 83: Impact on account of syndication fees/ borrowing cost along with carrying cost

(in Rs. Cr.)												
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. Balance	0	2	6	14	33	58	103	143	177	213	258
2	Additions	2	3	7	16	19	34	23	11	9	13	
3	Cl. Balance	2	5	13	30	52	92	126	155	186	226	258
4	Average	1	4	9	22	42	75	115	149	182	219	258
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	0.14	0.50	1.20	2.92	6.28	11.25	17.19	22.53	26.87	32	36
7	Grand Cl. Balance	2	6	14	33	58	103	143	177	213	258	294

3B.395 Without prejudice, the Petitioner requests the Hon'ble Commission to allow the impact in the ARR.

g) Income from Street Light Maintenance Business to be considered as other business income:

3B.396 As regards Street Light Maintenance Charges, the Hon'ble Commission in Tariff Order dated August 31, 2017 and March 28, 2018 ruled as under:

"3.338 The Commission has already clarified this issue in true up of FY 2014-15 and FY 2015-16 that there is no mention of incentive on street light maintenance in the notes of the audited financial statement. Therefore, the Commission has not considered the incentive on street light maintenance in the ARR of the relevant year."

3B.397 As regards above, it is submitted that the responsibility of maintaining street light is not contained in the License of the Petitioner. Even 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;"

3B.398 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 March 24, 2004 intimated the Hon'ble Commission that maintenance of street lighting is the responsibility of MCD under DMC Act and not the Petitioner. Also the Hon'ble Commission in Order dated September 3, 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."

3B.399 Therefore, it is clear that maintenance of street lighting is an activity assigned to the Petitioner by MCD under DMC Act and does not fall under Regulated Business.

3B.400 However, there was a dispute between the Delhi DISCOMs and MCD on scope of work of the activities and charges at which is the maintenance is to be undertaken by Delhi DISCOMs. During FY 2003-04, the Hon'ble Commission received a 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 Hon'ble Commission vide letter dated October 15, 2003, identified the scope of works as maintenance of existing streetlights, addition of new streetlights, installing of high mast lights, transformers, etc. Further, the Hon'ble Commission vide Order dated March 5, 2004 determined the rates for

maintenance of street lights. These rates were further amended by the Order issued by the Hon'ble Commission on September 24, 2009.

3B.401 It is further submitted that the determination of rates and scope of work by the Hon'ble Commission, was only with a view to helping end an impasse between the Petitioner and the DERC and de-hors the jurisdiction of the Commission under Section 62 of the Act and does not mean that maintenance of streetlights falls under the Licensed Activity and is a part of the regulated business. The scope of work and determination of rates by the Hon'ble Commission has only helped MCD and the Petitioner to reach a consensus to avoid dispute.

3B.402 Therefore, the Petitioner is maintaining Street Lights not as an obligation under Licensed Business but on behalf of road owning agencies, viz. MCD, NHAI, PWD in the areas comprising South and West Delhi.

3B.403 For carrying out the maintenance services the Petitioner optimally engages its existing manpower, Technicians, Electricians, Electric Men, Line Engineers and also outsources further manpower.

3B.404 In view of the above submissions, the amount of streetlight maintenance charges recovered by the Petitioner ought to be considered as other income and not NTI as considered by the Hon'ble Commission.

3B.405 The income from street light maintenance business along with carrying cost is tabulated below:

Table 3B 84: Impact on income from SLM Business along with carrying cost

(in Rs. Cr.)												
S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	16	21	48	80	122	168	221	282	340	416
2	Additions	15	3	22	24	28	26	26	26	15	24	
3	Cl. Balance	15	19	44	72	108	148	194	247	297	365	416
4	Average	7	17	32	60	94	135	181	234	290	352	416
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	1	2	4	8	14	20	27	35	43	52	58
7	Cl. Balance	16	21	48	80	122	168	221	282	340	416	475

3B.406 Without pre-judice the Petitioner requests the Hon'ble Commission to allow the aforesaid along with carrying cost.

h) Financing cost of LPSC from FY 2013-14 to FY 2016-17: Old methodology for computation of financing cost of LPSC continued post FY 2012-13 despite of change in methodology of levying of LPSC:

3B.407 As regards financing cost of LPSC from FY 2013-14 onwards, the Hon'ble Commission in Tariff Order dated August 31, 2017 ruled as under:

"3.346 The Petitioner has submitted that total LPSC collected from the consumer should be allowed to be retained by the Petitioner. However, as per the practice followed by the Commission and Hon'ble APTEL's direction in Appeal no. 61 & 62 of 2012 dated 28/11/2014, the cost of funding of working capital due to delayed payment by the consumers has been allowed to the Petitioner. Therefore, the Commission has not considered the additional cost over and above the cost of funding of working capital for financing of LPSC during FY 2013-14."

3B.408 Further, in Tariff Order dated March 28, 2018, the Hon'ble Commission without dealing with contentions of the Petitioner simply stated that it has already dealt the issue in respective Tariff Order and therefore this issue does not merit reconsideration.

3B.409 In this regard, it is respectfully submitted that the Hon'ble Commission has referred to Hon'ble ATE's direction in Appeal No. 61 and 62 of 2012 which was in respect of truing-up of FY 2008-09 and FY 2009-10 when the LPSC was being levied for entire month of flat rate of 1.5% per month. However the Hon'ble Commission has not dealt with the submission of the Petitioner that the Hon'ble Commission vide letter dated December 13, 2012 itself changed the methodology of charging LPSC from the consumers and has directed the Petitioner to charge LPSC only corresponding to number of days of delay in the payment by the Consumers.

3B.410 It is further submitted that in compliance with the directions of the Hon'ble Commission, the Petitioner levied LPSC @ 1.5% per month on flat basis till FY

2012-13. The Hon'ble 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 principal amount was passed on the consumers by way of NTI.

3B.411 Based on the representation of Foundation of Rubber & Polymer Manufacturers, the Hon'ble Commission vide letter dated December 13, 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 Hon'ble Commission in Tariff Order dated July 31, 2013 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.

3B.412 The Petitioner in its Petition for Truing-up of FY 2013-14, Review of FY 2014-15 and ARR and Tariff for FY 2015-16 requested the Hon'ble Commission to allow the entire LPSC instead of financing cost of LPSC as during FY 2013-14, 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 Hon'ble 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.

3B.413 It is further submitted that the concept of financing cost of LPSC was introduced by the Hon'ble Commission in Tariff Order dated August 26, 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.

3B.414 The Petitioner respectfully submits that in the past, the Hon'ble Commission has been unjustified in considering the amount of LPSC in the Non-Tariff Income while computing the ARR, without realising that the change in the methodology of levy of LPSC to a proportionate number of days results in the LPSC itself being equal to the financing cost. Hence, according to Regulation 5.35 of the DERC MYT Regulations, 2011, the entire amount of LPSC is required to be allowed to be retained by the Petitioner.

3B.415 It is further 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 a time taking process and therefore, in case of any default on part of consumers to pay their electricity bills on time, the Petitioner has to face the following penalties as per the MYT Regulations 2011:

- a. Penalty on account of under-achievement of AT&C Loss: As per DERC MYT Regulations, 2011, the AT&C Loss Target has been categorized as controllable parameter. In case of any under-achievement of AT&C Loss, the Hon'ble 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.

3B.416 The Hon'ble Commission neither allows the amount nor financing cost on account of these penalties. These penalties are entirely borne by the Petitioner. However, the penalty paid by the consumers on account of the delayed payment is not being allowed to the Petitioner and only financing cost on such delayed payment is being allowed. Therefore, the Petitioner requests the Hon'ble Commission to allow entire LPSC during FY 2013-14 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

3B.417 It is further submitted as follows:-

- (i) The Petitioner, in its ARR Petition, requested the Hon'ble Commission to allow the Petitioner to retain the entire amount collected during FY 2014-15 & FY 2015-16 on account of LPSC on actuals instead of allowing financing cost of LPSC. The Petitioner had made the above request, based on the direction of the Hon'ble Commission in its Tariff Order dated 31.07.2013, under which it had been charging only the financing cost of LPSC on an actuals basis as opposed to a normative basis. Consequently, the Petitioner was entitled to retain the entire amount of LPSC received as the same was the entire financing cost on an actual basis. However, the Hon'ble Commission has given a selective tariff treatment in this regard by sticking to only allowing financing cost on normative basis by deducting the difference between LPSC and the principal amount due and offering the same towards tariff fixation through non-tariff income. In other words, while the Hon'ble Commission has moved away from a normative basis for charging of LPSC, however, it has done so only selectively contrary to its own directions contained in its letter dated 13.12.2012. Thus, the Hon'ble Commission has not made consequential changes in the tariff process which reflect the fact that today the LPSC charged by the Petitioner is on actual basis. Therefore, there is no requirement for any deduction on the LPSC financing cost, as done earlier when the same was charged on a normative basis. The amount charged by the Petitioner now is the actual cost incurred by it which ought



to be allowed entirely to the Petitioner.

- (ii) It is submitted that the Hon'ble Commission by considering the funding of LPSC as per the principle adopted in previous tariff orders has acted contrary to its own directions given in Tariff Order dated 31.07.2013. The Hon'ble Commission by giving directions to charge LPSC based on proportional number of days of delay in receiving payment from the consumers from FY 2014-15 to FY 2015-16 ought not to apply a methodology for computation of financing cost of LPSC which was applicable when LPSC was charged @ 1.5% per month.
- (iii) It is further submitted that the LPSC being charged from the consumers from FY 2014-15 to FY 2015-16 is itself only the financing cost of funding the delay in payment by the consumers since the same is being charged proportional to the number of days of delay and not a flat basis. The Hon'ble Commission has provided the working capital on a normative basis as per the MYT Regulations, 2011. Therefore, the entire LPSC is required to be retained by the Petitioner was required to resort to additional borrowing since actual collection was less than 100% and normative working capital does not include financing on account of delayed payment of consumers. This Hon'ble Tribunal in para 13 of Judgment dated 04.10.2007 (Appeal No. 223 of 2006) has also observed as under:

"13. On a consideration of contentions of all parties, we are inclined to agree with the decision of the Commission to not include delayed surcharge revenue in the ARR in view of the fact that the working capital amount has been reduced to the bare minimum, 100% collection is not happening as of now, and therefore, to meet its cash requirements, the Discoms will have to borrow from Banks to compensate for the outstanding payments from consumers."

As evident from the above, the Hon'ble Tribunal has also ruled that LPSC is to be retained by the DISCOMs when the additional financing is required to be done to compensate for the outstanding payments from consumers.

- (iv) The impact of the omission on the part of the Hon'ble Commission in following its own directions of shifting from normative to actual basis is a denial to the Petitioner of its rightful entitlement of funding the shortfall in its legitimate recoveries. While the Hon'ble Commission allows working capital @ 10% - 11% (approximately), the present dispensation allows the Petitioner a funding of the gap at a much lower rate. This denies the Petitioner a legitimate amount of funds due to a mismatch in the period between the



date of billing and its actual recovery, for which LPSC is made available. The reference to working capital, which is pari-materia and covers the funding up to the date of billing (till when the benefit of working capital cover is available), is drawn to highlight the fact that the market would give funding for the period for which delay takes place in recovery post the bill date on a similar rate as that for working capital.

- (v) It is further submitted that concept of financing cost of LPSC is based on the principle that the Petitioner will fund the LPSC 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 as per the MYT Regulations 2011:
- a. Penalty on account of under-achievement of AT&C Loss: As per DERC MYT Regulations, 2011, the AT&C Loss Target has been categorized as controllable parameter. In case of any under-achievement of AT&C Loss, the Hon'ble 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.
- (vi) The Hon'ble Commission neither allows the amount nor financing cost on account of these penalties. These penalties are entirely borne by the Petitioner. However, the penalty paid by the consumers on account of the delayed payment is not being allowed to the Petitioner and only financing cost on such delayed payment is being allowed. Therefore, entire LPSC paid by the consumers ought to be retained by the Petitioner.



If the LPSC is now permitted to be recovered from the consumers proportionately for the actual days of delayed payment, the financing cost of such LPSC has to be computed on the same basis. It cannot be computed as if the LPSC has been computed for the month as a whole. There is no contention by the Petitioner on this issue pertaining to the rate of interest of funding LPSC. The Petitioner accepts that the rate of interest of funding of LPSC should be equal to the rate of interest of working capital funding. That is all that has been held in the judgment in Appeal 14 of 2012 by the Hon'ble Tribunal. However, that is not at all a question in the current issue.

- (vii) The Hon'ble Commission while computing the financing cost of LPSC during FY 2014-15 and FY 2015-16 ignored the fact that the Hon'ble Commission itself in Tariff Order dated 31.07.2013 has directed the Petitioner to levy LPSC proportional to number of days of delay by the consumers in making payment and not on flat basis. Therefore, the LPSC collected from the consumers for the above two years is itself equivalent to the financing cost required to bridge the revenue gap due to delay in payment by the consumers. The Hon'ble Commission erred in applying the previous methodology which was utilised for computation of financing cost of LPSC till FY 2012-13, while computing the financing cost of LPSC during FY 2014-15 and FY 2015-16. This may be better explained with the help of the following illustration:

Illustration: Suppose a consumer X is required to pay Rs. 1000. The due date of payment is 20th. Now the consumer pays the bill on 25th, i.e., a delay of 5 days. The LPSC percentage is 1.5% per month. The amount of LPSC as per the methodology adopted till FY 2012-13 is tabulated below:

Case-1: When LPSC is charged on flat basis

Table 3B 85: When LPSC is charged on flat basis

S. No	Particulars	Amount (Rs.)	Reference
A	Billed Amount	1000	
B	No. of days of delay	5	
C	LPSC pc charged on monthly basis	1.50%	
D	LPSC amount	15	D=AxC



Whereas the amount of LPSC charged as per the methodology adopted during FY 2013-14 pursuant to the directions of the Hon'ble Commission in Tariff Order dated 31.07.2013 is tabulated below: **Case-2:** When LPSC is charged proportional to no. of days of delay

Table 3B 86: When LPSC is charged proportional to no. of days of delay

S. No	Particulars	Amount (Rs.)	Reference
A	Billed Amount	1000	
B	No. of days of delay	5	
C	LPSC pc charged on monthly basis	1.50%	
D	LPSC amount	2.5	$D = A \times C \times 5 / 30$

Now the Hon'ble Commission is applying the same principle of LPSC in both cases which is adversely impact the Petitioner. The same is demonstrated in the table below:

Table 3B 87: Comparison of financing cost allowed by the Commission in two approaches of LPSC (Amount in Rs.)

S. No	Principal	Case-1	Case-2	Reference
A	LPSC Amount	15	2.5	
B	Rate of LPSC	1.50%	1.50%	
C	Principal amount	1000	167	$C = A / B$
D	Rate of Carrying cost	12.50%	12.50%	
E	Financing cost of LPSC for the month	10.42	1.74	$E = C \times D / 12$

3B.418 As evident from aforesaid table, the Petitioner earlier was collecting Rs. 15 towards LPSC and the Hon'ble Commission was allowing Rs. 10.42 towards financing cost of LPSC whereas after the change in methodology, the Petitioner is able to collect only Rs. 2.5 and the Hon'ble Commission by erroneously applying the previous formulae is allowing Rs. 1.74 towards financing cost of LPSC. Accordingly the methodology for computation of financing cost of LPSC ought not be applied on LPSC collected during FY 2014-15 and FY 2015-16 and the Petitioner ought to be allowed to retain entire amount of LPSC collected during FY 2014-15 and FY 2015-16.

3B.419 The difference in LPSC and the amount allowed by the Hon'ble Commission from FY 2013-14 to FY 2015-16 along with carrying cost is tabulated below:

Table 3B 88: Impact on account of difference in LPSC during FY 2013-14 to FY 2017-18 along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	10	23	38	57
2	Additions	9	11	11	12	
3	Cl. Balance	9	21	34	50	57
4	Average	5	15	29	44	57
5	Rate of interest	15.01%	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	0.70	2.32	4.23	6.48	7.92
7	Grand Cl. Balance	10	23	38	57	65

3B.420 Without prejudice to the Petitioner's contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the aforesaid along with carrying cost.

i) Wrong computation of carrying cost on outstanding RA by adjusting 8% surcharge during FY 2012-13 and FY 2013-14 against revenue gap of FY 2012-13 and FY 2013-14:

3B.421 As regards the issue of wrong computation of carrying cost, 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 for FY 2016-17 stated as under:

"3.8.268 Regulation 5.40 of MYT Regulations, 2011 states as under:

"5.40 Truing-up shall be carried out in accordance with Regulation 4.21, for each year based on the actual/audited information and prudence check by the Commission;

Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the guidelines provided in clause 8.2.2 of the National Tariff Policy."(Emphasis supplied)

3.8.269 Clause-8.2.2 of National Tariff Policy, 2015 dated January 28, 2016 states as under:

"8.2.2 The facility of a regulatory asset has been adopted by some Regulatory Commissions in the past to limit tariff impact in a

particular year. This should be done only as a very rare exception in case of natural calamity or force majeure conditions and subject to the following:

- a. Under business as usual conditions, no creation of Regulatory Assets shall be allowed;
- b. Recovery of outstanding Regulatory Assets **along with carrying cost** of Regulatory Asset should be time-bound and with a period not exceeding seven years. The State Commission may specify the trajectory for the same.”(Emphasis supplied)

3.8.270 The Hon’ble Commission in Tariff Order dated September 29, 2015 directly deducted the 8% surcharge from the revenue gap during the year instead of adjusting the same firstly against the carrying cost. In such a manner, the Hon’ble Commission has not provided any carrying cost on Regulatory Assets during truing-up of FY 2013-14.

3.8.271 It is further submitted that the adjustment of revenue from 8% surcharge directly from revenue gap recognised during the year is contrary to the following:

- a) Hon’ble Commission statement in Tariff Order dated July 31, 2013:

“5.28 **For meeting carrying cost** of the revenue gap till FY 2013-14, the Commission **has decided to continue the existing surcharge at 8% over the revised tariff**. The Commission in consultation with GoNCTD shall evolve a reasonable schedule for liquidation of revenue gap which will be fair to all stakeholders. (Emphasis added)

- b) Submission made by the Hon’ble Commission on November 25, 2013 in IA 358 & 365 of 2013 on affidavit before Hon’ble ATE:

“3...Furthermore, in compliance of APTEL’s Order of November 11, the Commission in a time span of less than one year approved another tariff hike of 23% with quarterly power purchase adjustment surcharge and **additional surcharge @ 8% for recovery of carrying cost and partial recovery of Regulatory Assets**. It was expected that the recovery of accumulated short-fall will commence w.e.f. 1st July 2012...

...

6. **The surcharge of 8% was introduced in FY 12-13 so as to meet a partial gap in carrying costs and start the process of gradual recovery of the Regulatory Assets...**”[Emphasis Added]



c) *Submission made before the Hon'ble Supreme Court in Writ Petition 104 of 2014:*

The Hon'ble Commission submitted a road-map for liquidation of Regulatory Assets before Hon'ble Supreme Court wherein Delhi DISCOMs would be allowed to recover carrying cost separately apart from recovery of principal amount whereas the Hon'ble Commission is adjusting 8% surcharge directly from revenue gap during the year without providing the carrying cost.

3.8.272 It is further submitted that the Hon'ble Commission has done similar treatment in Tariff Order dated July 23, 2014 for FY 2012-13. The Petitioner in the Petition submitted on December 18, 2014 also highlighted the erroneous treatment given for 8% surcharge in Tariff Order dated July 23, 2014 and requested to rectify the same. However the Hon'ble Commission without assigning any reason continued with the same methodology. The Hon'ble Commission did not even indicate as to where the carrying cost on Regulatory Assets created upto FY 2013-14 has been allowed in the truing-up of FY 2013-14."

3B.422 As regards the aforesaid submission, the Hon'ble Commission in Tariff Order dated August 31, 2017 viewed as under:

"3.354 The Petitioner has failed to appreciate that the computation of carrying cost for FY 2013-14 is on net gap/ surplus for FY 2013-14 by considering the adjustment of 8% surcharge in the revenue gap/ surplus for FY 2013-14 only. Therefore, the Petitioner's submission is not correct and advised to re-verify the computation of carrying cost for FY 2013-14 available in tariff order dated 29/07/2015."

3B.423 As per the advice of the Hon'ble Commission, the Petitioner in its Petition for Truing-up of FY 2016-17 and ARR and Tariff of FY 2018-19 submitted that it has re-verified the computation of interest being charged by the financial institutions. All financial institutions are adjusting the repayment amount firstly against the interest accrued on the outstanding balance and then if anything out of repayment is left, with the principal amount. Same is true with any loan borrowed to fund the purchase of any commodity. Same is also explained with the help of illustration given below:

Suppose there is a car loan of Rs. 50,000 with annual interest rate of 10%.

Same is to be repaid in 5 years. The repayment schedule shall be as under:

Table 3B 89: Illustration on repayment of loans

(in Rs. Cr.)

Years	Outstanding	Principal	Interest	Closing
Year-1	50000	5000	5000	45000
Year-2	45000	5000	4500	40000
Year-3	40000	5000	4000	35000
Year-4	35000	5000	3500	30000
Year-5	30000	5000	3000	25000
Year-6	25000	5000	2500	20000
Year-7	20000	5000	2000	15000
Year-8	15000	5000	1500	10000
Year-9	10000	5000	1000	5000
Year-10	5000	5000	500	0

3B.424 As evident from above, apart from the complete interest on the outstanding loan, 10% of principal amount is to be made. In case the repayment is less than Rs. 5000 then the same shall be completely adjusted towards interest as the interest alone is Rs. 5000.

3B.425 Similarly, in case of FY 2012-13 and FY 2013-14, 8% surcharge fetched only Rs. 299 Crore and Rs. 507 Crore whereas the carrying cost alone is Rs. 539 Crore and Rs. 632 Crore respectively. Therefore, the same ought to be adjusted with the carrying cost computed for the complete year on outstanding balance of Regulatory Assets.

3B.426 However, the Hon'ble Commission in Tariff Order dated March 28, 2018 without dealing with the contentions of the Petitioner, simply stated that "The Commission has already explained the methodology of Carrying Cost Rate in respective tariff order, therefore, this issue does not merit consideration. "

3B.427 It is further submitted that the Hon'ble Commission, by diverting the amount meant for 8% surcharge towards ARR has actually left nothing for recovery of both carrying cost and principal amount of Regulatory Assets. Such treatment is directly against the observations of the Hon'ble Tribunal in IA 365 of 2013. Relevant excerpts are reproduced below:

"16. It is not clear to us from the schedule for recovery of the

Spaw



Regulatory Assets filed by the Commission how the carrying cost of the Regulatory Assets has to be recovered when the revenue generated from 8% surcharge is to be used to set off the principal sum of Regulatory Assets. We expect a proper road map from the Commission indicating clearly the proposed year-wise liquidation of the Regulatory Assets both for the principal and interest thereupon for the approved Regulatory Asset as at the end of FY 2011-12 which could give comfort to the Banks/ Financial Institutions to continue financial support to the Applicants."

3B.428 As is evident from the above, the Hon'ble Commission by considering the 8% surcharge towards meeting revenue gap during turned back the clock to a time when the 8% surcharge was allowed to the Petitioner which was not even enough to meet the carrying cost on Regulatory Assets.

3B.429 It is a settled law that the principles based on which ARR is forecasted cannot be changed at the stage of Truing-up. Same has been upheld by the Hon'ble Tribunal in Judgment dated 23.05.2007 in Appeal 265 of 2006. However, the Hon'ble Commission by diverting the amount of 8% surcharge allowed in ARR of FY 2012-13 and FY 2013-14 towards computation of revenue gap/ surplus for FY 2012-13 and FY 2013-14 has changed the principle at the stage of truing-up.

3B.430 It is further submitted that the Hon'ble Commission has acted contrary to its own submission made on November 25, 2013 in matter of IA 358 & 365 of 2013 on affidavit before this Hon'ble Tribunal which is reproduced below:

*"3...Furthermore, in compliance of APTEL's Order of November 11, the Commission in a time span of less than one year approved another tariff hike of 23% with quarterly power purchase adjustment surcharge and **additional surcharge @ 8% for recovery of carrying cost and partial recovery of Regulatory Assets**. It was expected that the recovery of accumulated short-fall will commence w.e.f. 1st July 2012...*

...

***6. The surcharge of 8% was introduced in FY 12-13 so as to meet a partial gap in carrying costs** and start the process of gradual recovery of the Regulatory Assets..."[Emphasis Bold and Underlined]*



- 3B.431 As evident from above, the Hon'ble Commission has clearly stated that 8% surcharge is directed towards entire recovery of carrying cost and partial recovery of principal amount of Regulatory Assets. Since the revenue from 8% surcharge during FY 2012-13 and FY 2013-14 is not enough even to recover the carrying cost on opening balance of Regulatory Assets upto FY 2012-13 and FY 2013-14, the same cannot be utilised for recovery of principal amount.
- 3B.432 Such treatment of revenue from 8% surcharge would mean that the Hon'ble Commission did not provide anything towards amortization of Regulatory Assets till FY 2015-16 which is contrary to the Hon'ble Commission's own views regarding implementation of 8% surcharge in Tariff Order dated July 13, 2012 and submissions made before the Hon'ble Tribunal on November 25, 2013 as also the Statutory Advice dated 1.2.2013 given by the Hon'ble Commission to the Govt. of Delhi.
- 3B.433 In view of the above submissions, the revised computation of Regulatory Assets is tabulated below:

Table 3B 90: Revised computation of Regulatory Assets

(in Rs. Cr.)

S. No	Particulars	FY 2012-13	FY 2013-14	Reference
1	Opening Balance	4974	5400	A
2	Additions	184	-304	B
3	8% Surcharge	-299	-507	C
4	Net (Gap)/ Surplus	-115	-812	D=B+C
5	Rate of CC	10.67%	10.80%	E
6	Carrying cost	541	567	$F=(A+B/2) \times E$
7	Closing Balance	5400	5155	$G=A+D+F$
8	RA during the year	5384	5110	H
9	Difference	16	45	$I=G-H$

- 3B.434 The aforesaid amount along with carrying cost is tabulated below:

Table 3B 91: Impact on account of revised computation of RA along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 15	FY 16	FY 17	FY 18
1	Op. balance	45	52	60	68
2	Additions				
3	Cl. Balance	45	52	60	68
4	Average	45	52	60	68
5	Rate of interest	15.13%	14.80%	14.64%	14.00%
6	Carrying cost	6.81	7.68	8.71	9.56
7	Grand Cl. Balance	52	60	68	78

3B.435 Without pre-judice to its contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the same in the ARR.

j) Wrong computation of carrying cost on outstanding RA by adjusting carrying cost allowed in ARR from FY 2014-15 to FY 2016-17 against revenue (gap)/ surplus during the year:

3B.436 The Hon'ble Commission in Tariff Order dated July 23, 2014, the Hon'ble Commission allowed carrying cost of Rs. 692 Crore in ARR of FY 2014-15 towards funding of Regulatory Assets recognised till FY 2013-14 and 8% surcharge towards recovery of principal amount of Regulatory Assets. Relevant excerpts are reproduced below:

"4.170 The Commission has submitted to the Hon'ble APTEL, the proposal for liquidation of Revenue Gap in the matter of I.A. no. 365 of 2013 in Appeal no. 266 of 2013 of the Petitioner. As per the proposal, carrying cost for FY 2014-15 will be considered in the ARR of FY 2014-15. This proposal has also been submitted before Hon'ble Supreme Court of India in Civil Appeal No. 884 of 2010.

4.171 The Carrying Cost of 12.11% (WACC for FY 2014-15 as per 2nd MYT order) on Revenue Gap has been considered based on the Hon'ble APTEL's directions in Appeal No. 142 of 2009 in the ratio of Debt: Equity (70:30) which is subject to final outcome of Civil Appeal No 9003 & 9004 of 2011 before Hon'ble Supreme Court of India.

4.172 Accordingly, the carrying cost on provisionally approved Revenue

Gap upto FY 2014-15 is indicated in the Table as follows:

Table 4.60: Carrying Cost on Revenue Gap

Sl. No	Particulars	BRPL	Remarks
1	Opening Gap for FY 2012-13 (Revised)	(5337.49)	Table 5.1
2	Revenue Requirement for FY 2012-13	6393.16	Table 3.71
3	Revenue during FY 2012-13	6048.65	
4	(Gap) / Surplus for FY 2012-13 (3-2)	(344.51)	
5	Surcharge for FY 2012-13	298.50	Para 3.24
6	Net (Gap) / Surplus for FY 2012-13 (4+5)	(46.01)	
7	Provisional Rate of carrying cost for FY 2012-13	11.79%	Para 5.25
8	Carrying cost for FY 2012-13	(632.16)	$(1*7)+((6*7)/2)$
9	Closing balance of (Gap) / Surplus at the end of the year FY 2012-13	(6015.67)	(1+6+8)
10	Revenue requirement for FY 2014-15	6939.76	Table 4.61
11	Provisional Rate of carrying cost for FY 2014-15	12.11%	Para 5.25
12	Total Revenue Requirement including carrying cost for FY 2014-15	7631.30	$(10-(9*11))/(1+(8\%/2)*11)$
13	Carrying cost for FY 2014-15	(691.53)	(10-12)

3B.437 In Tariff Order dated September 29, 2015, the Hon'ble Commission adopted similar approach and allowed carrying cost of Rs. 451 Crore in ARR of FY 2015-16 and 8% Surcharge separately towards recovery of principal amount of Regulatory Assets recognised till FY 2014-15. Relevant excerpts are reproduced below:

"4.162 The ARR approved in the 2nd MYT Order ARR claimed by the Petitioner and ARR considered by the Commission for FY 2015-16 are summarized in the table below:

Table 4.62: Approved Aggregate Revenue Requirement for FY 2015-16 (Rs. Crore)

Sl. No.	Particulars	Petitioner's Submission	Now Approved	Reference
1	Aggregate Revenue Requirement (without carrying cost)	8862.71	7513.01	Table 4.61
2	Carrying cost		450.61	Table 4.61
3	ARR with Carrying Cost	8862.71	7,963.62	1+2
4	Revenue at existing tariff		8,041.89	Table 4.8
5	Surplus/(Gap) during the year		78.27	4-3

4.163 The Commission therefore approves Aggregate Revenue Requirement of Rs. 7963.62 Crore including Carrying cost of Rs. 450.61

Crore for FY 2015-16.”

3B.438 In Tariff Order dated August 31, 2017 while undertaking truing-up of FY 2014-15 and FY 2015-16, the Hon’ble Commission ignored the fact that Rs. 692 Crore and Rs. 451 Crore were allowed towards carrying cost on opening Regulatory Assets of FY 2014-15 and FY 2015-16 and adjusted the same against revenue gap/ (Surplus) during FY 2014-15 and FY 2015-16 respectively. Similar methodology was adopted in Tariff Order dated March 28, 2018.

3B.439 By doing so, the Hon’ble Commission has acted contrary to its own affidavit submitted before the Hon’ble Supreme Court in Writ Petition 104 of 2014 wherein it proposed the recovery of carrying cost through tariff and recovery of principal amount through 8% surcharge.

3B.440 The Hon’ble Commission by diverting the amount meant for carrying cost of Regulatory Assets towards ARR of FY 2014-15 and FY 2015-16 has actually left only 8% surcharge for recovery of both carrying cost and principal amount of Regulatory Assets during FY 2014-15 and FY 2015-16. Such treatment is directly against the observations of this Hon’ble Tribunal in IA 365 of 2013. Relevant excerpts are reproduced below:

“16. It is not clear to us from the schedule for recovery of the Regulatory Assets filed by the Commission how the carrying cost of the Regulatory Assets has to be recovered when the revenue generated from 8% surcharge is to be used to set off the principal sum of Regulatory Assets. We expect a proper road map from the Commission indicating clearly the proposed year-wise liquidation of the Regulatory Assets both for the principal and interest thereupon for the approved Regulatory Asset as at the end of FY 2011-12 which could give comfort to the Banks/ Financial Institutions to continue financial support to the Applicants.”

3B.441 As evident from the aforesaid, the Hon’ble Commission by considering carrying cost towards meeting revenue gap during FY 2014-15 and FY 2015-16 has brought to situation back to FY 2012-13 and FY 2013-14 during which meagre 8% surcharge was allowed to the Petitioner which was not even enough to meet the carrying cost on Regulatory Assets.



- 3B.442 It is a settled law that the principles based on which ARR is forecasted cannot be changed at the stage of Truing-up. Same has been upheld by this Hon'ble Tribunal in Judgment dated May 23, 2007 in Appeal 265 of 2006. However the Hon'ble Commission by diverting the amount of carrying cost allowed in ARR of FY 2014-15 and FY 2015-16 towards computation of revenue gap/ surplus for FY 2014-15 and FY 2015-16 has changed the principle at the stage of truing-up.
- 3B.443 Further the Hon'ble Commission has entirely changed the methodology for computation of Regulatory Assets proposed in the liquidation plan submitted before the Hon'ble Supreme Court.
- 3B.444 As per the proposed liquidation plan, the Regulatory Assets was required to be computed at applicable carrying cost which shall ensure full recovery of carrying cost incurred during the year and after that 8% surcharge was required to be deducted from the principal amount of Regulatory Assets at the end of Year.
- 3B.445 By doing so, the Hon'ble Commission has reduced the amount of Regulatory Assets by Rs. 101 Crore, i.e., approved Rs. 4258 Crore in place of Rs. 4359 Crore. Correct amount of Regulatory Assets till FY 2016-17 by adjusting the amount meant for carrying cost against carrying cost based on Order RA numbers during FY 2014-15 to FY 2016-17 as per the liquidation plan proposed before Hon'ble Supreme Court has been computed below:

Table 3B 92: Revised RA sought at the end of FY 2015-16

(in Rs. Cr.)

S. No	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
1	Opening Balance	5105	5160	4301
2	Additions	746	-632	64
3	8% Surcharge	-580	-619	-649
4	Net (Gap)/ Surplus	167	-1251	-585
5	Rate of CC	11.18%	11.23%	11.18%
6	Carrying cost	580	509	448
7	Less: CC	692	451	451
8	Closing Balance	5160	3967	3713
9	Amount of carrying cost		334	646
10	Total Closing balance	5160	4301	4359



S. No	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
11	RA during the year	5122	4233	4258
12	Difference	39	68	101

3B.446 Aforesaid amount along with carrying cost is tabulated below:

Table 3B 93: Total impact on revised RA along with carrying cost

(Rs. Crore)

S. No	Particulars	FY 18
1	Op. balance	101
2	Additions	0
3	Cl. Balance	101
4	Average	101
5	Rate of interest	14.00%
6	Carrying cost	14.15
7	Grand Cl. Balance	115

3B.447 Without prejudice to the Petitioner's contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the same in the ARR.

k) Monthly Billing Rebate for FY 2014-15 and FY 2015-16: Disallowance of account of monthly billing rebate contrary to its own affidavit submitted by the Hon'ble Commission in Civil Appeal 6959-60 of 2015 before Hon'ble Supreme Court:

3B.448 As per Regulation-4.21 (b) of DERC Tariff Regulations, 2011 any surplus or deficit in working capital shall be to the account of Licensee and shall not be trued up in ARR.

3B.449 With a view of manage its working capital requirement, the Petitioner in FY 2013-14 changed the billing cycle of its consumers from bi-monthly to monthly. Such change in billing cycle only benefitted the Petitioner in efficiently managing its cash-flow, i.e., the revenue which was to be collected after 2 months would be collected one month earlier, and did not provide any additional revenue to the Petitioner. However, the Hon'ble Commission in Tariff Order dated July 31, 2013 introduced a rebate system linked to the number of bills raised during the year. This was done by the Hon'ble

Commission with an objective to counter the positive impact on account of cash-flow improvement was brought in the system by the Petitioner by shifting to monthly billing cycle.

3B.450 However, the Petitioner provided the monthly billing rebate in accordance with the directions of the Hon'ble Commission. Therefore, whatever positive impact due to increase in cash-flow was brought in the system was paid back to the consumers at the end of financial year by way of monthly billing rebate.

3B.451 On March 2, 2015, the Hon'ble ATE pronounced Judgment in Appeal 177 of 2012 wherein the Hon'ble ATE decided the issue of normative rebate in favour of the Petitioner. The Hon'ble Commission challenged the same in Civil Appeal No. 6959-60 of 2015 before Hon'ble Supreme Court wherein the Hon'ble Commission submitted as under:

"Issue No. (iii) Rebate on power purchase:

(h) Because the Hon'ble Tribunal failed to appreciate that the Commission as shown before it that it has determined the tariff in such a manner that the Respondent requires the power purchase cost for one month only to avail the rebate of 2%. The submissions of the Appellant before the Tribunal were as follows:

"...

By optimizing and efficiently managing its working capital requirement, DERC made clear that the Appellant can adjust its billing/ revenue cycles, in such a manner that it keeps getting revenue throughout the month which would reduce the requirement for working capital loan."

(Emphasis Supplied)

3B.452 As evident from the aforesaid, the Hon'ble Commission has also submitted on affidavit before Hon'ble Supreme Court, that the Petitioner is free to adjust its billing cycle. However, when the Petitioner has actually shifted from bi-monthly to monthly billing cycle, the Hon'ble Commission has levied a rebate linked to number of bills which is not being allowed as a pass-through in the ARR at the time of truing-up.

3B.453 The allowance of monthly billing rebate shall result in change in AT&C Loss of FY 2014-15 to FY 2016-17. During FY 2014-15 and FY 2015-16, the penalty shall reduce as the Petitioner was not able to achieve the stipulated AT&C Loss Target, whereas during FY 2016-17, the incentive will increase as the Petitioner over-achieved the AT&C Loss target during FY 2016-17.

3B.454 Accordingly, AT&C Loss Target and under-achievement for FY 2014-15 to FY 2016-17 has been computed below:

Table 3B 94: Change in Revenue Billed from FY 2014-15 to FY 2016-17

(in Rs. Cr.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Amount billed	7513	8075	8150
Less: Rebate	48	28	30
Less: Error apparent			37
Net amount billed	7465	8047	8084

Table 3B 95: Re-computation of AT&C Loss from FY 2014-15 to FY 2016-17:

Particulars	UoM	FY 2014-15	FY 2015-16	FY 2016-17
Energy Input	MU	11824	12000	12564
Units billed	MU	10229	10505	11166
Amount billed	Rs. Cr.	7465	8047	8084
Average Billing Rate	Rs./ kWh	7.30	7.66	7.24
Distribution Loss	%	13.49%	12.46%	11.13%
Amount collected	Rs. Cr.	7499	8109	8130
Collection Efficiency	%	100.46%	100.77%	100.58%
Units realized	MU	10276	10587	11231
AT&C Loss level	%	13.09%	11.78%	10.61%

Table 3B 96: Financial Impact from FY 2014-15 to FY 2015-16:

(in Rs. Cr.)

Particulars	UoM	FY 2014-15	FY 2015-16
AT&C Loss	%	12.50%	11.67%
Energy Input	MU	11824	12000
Units realised	MU	10346	10600
Average billing rate	Rs./ kWh	7.30	7.66
Amount realised	Rs. Cr.	7550	8119
Revenue considered by DERC	Rs. Cr.	7599	8147
Financial impact	Rs. Cr.	49	

Table 3B 97: Financial Impact from FY 2016-17:

(in Rs. Cr.)

Particulars	FY 2016-17
Target for CY	11.67%
Actual	10.61%
Target for PY	12.50%
Incentive	1.27
RRB	3177.58
Equity	734.07
Debt	2443.51
ROE	17.27%
ROD	10.47%
WACC	12.04%
ROCE	382.61
ROCE AS PER TO	376.13
Impact	6.48

3B.455 The aforesaid amount along with carrying cost is tabulated below:

Table 3B 98: Impact on account monthly billing rebate along with carrying cost

(in Rs. Cr.)

S. No	Particulars	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	52	82	89
2	Additions	49	28	6	0
3	Rate of interest	15.13%	14.80%	14.64%	14.00%
4	Carrying cost	4	10	14	15
5	Grand Cl. Balance	52	90	110	126

3B.456 Without prejudice to its contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.

l) Omission to allow actual expenses incurred on account of Statutory levies while truing up for FY 16-17;

3B.457 The Hon'ble Commission by Regulation-139 of DERC Tariff Regulations, 2017 notified on January 31, 2017, extended the principles of truing-up of DERC Tariff Regulations, 2011 for FY 2016-17. Regulation-139 of DERC Tariff Regulations, 2017 is reproduced below:

“139. Performance review and adjustment of variations in the ARR and Revenue for the Utilities for FY 2016-17 shall be considered in accordance with the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2011, Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011.”

- 3B.458 As per DERC Tariff Regulations, 2011, for conducting truing-up, targets for various controllable parameters are required to be defined in advance before the control period. Since there were no targets, the Petitioner in its Petition proposed that truing-up may be done on actual by giving proper justification and replying on various Judgments of Hon’ble ATE and Hon’ble Supreme Court.
- 3B.459 The Hon’ble Commission in Tariff Order dated March 28, 2018 undertook truing-up by extending the targets of FY 2015-16 to FY 2016-17. The Petitioner has challenged such treatment in Appeal 193 of 2018.
- 3B.460 Without pre-judice to its contentions in Appeal, the Petitioner would like to submit that the Hon’ble Commission has not even allowed the statutory levies on actual which was a practice followed in earlier years. It is respectfully submitted that the Petitioner was unaware about the approach adopted by the Hon’ble Commission for truing-up of FY 2016-17. Also the Petitioner was not given any opportunity to submit its claims towards statutory levies during FY 2016-17.
- 3B.461 The statutory levies borne by the Petitioner during FY 2016-17 are computed as under:
- a) Property-tax for FY 2016-17:
The property-tax is a statutory requirement and the Petitioner is obligated to pay property tax. However, FY 2016-17 was the first year in which the Petitioner has paid property tax. The Petitioner paid property tax of Rs. 16.10 Crore during FY 2016-17. The Hon’ble



Commission in Tariff Order dated September 29, 2015 has also allowed property-tax in case of DTL apart from normative A&G Expenses of FY 2012-13 and FY 2013-14. Relevant excerpts from Tariff Order dated September 29, 2015 are reproduced below:

*“3.35 The Petitioner has claimed Rs. 11.30 Crore for FY 2012-13 and Rs. 8.30 Crore for FY 2013-14 on account of Property Tax. However, as per the notes to the accounts of Audited Financial Statements for FY 2013-14 it has been observed that the Petitioner has paid Rs. 11.30 Crore for FY 2012-13 and Rs. 8.30 Crore for FY 2013-14 on account of Property Tax under protest **and this expenditure has not been part of A&G expenditure.** Accordingly, **The Commission has considered provisionally the claim of Rs. 11.30 Crore for FY 2012-13 and Rs. 8.30 Crore for FY 2013-14 on account of Property Tax subject to the final assessment and disposal of writ petition file before the Hon’ble High Court of Delhi.**” (Emphasis bold and underlined)*

Therefore, on parity, the amount of property tax paid during FY 2016-17 ought to be allowed on actual basis.

b) SMS Charges during FY 2016-17:

The Petitioner borne Charges of Rs. 0.74 Crore on SMS Charges/ hotline number etc. during FY 2016-17. Since it is a new initiative, the expenses ought to be allowed on actual basis.

c) License fees paid to GoNCTD during FY 2016-17:

The difference between license fees paid to GoNCTD on actual basis and that allowed on normative basis during FY 2016-17 is computed below:

Table 3B 99: Difference in license fees to GoNCTD

(Amount in Rs. Cr.)

Particulars	UoM	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
License fees paid to GoNCTD	Rs. Cr.	3.44						
Esc. Factor	%		1.08	1.08	1.08	1.08	1.08	1.08
License fees allowed on normative basis	Rs. Cr.		3.72	4.01	4.33	4.68	5.05	5.46
License fees actually borne	Rs. Cr.							6.06
Difference	Rs. Cr.							0.61

d) License fees paid to DERC during FY 2016-17:

The difference between license fees paid to DERC on actual basis and

that allowed on normative basis during FY 2016-17 is computed below:

Table 3B 100: Difference in license fees to DERC

(Amount in Rs. Cr.)

Particulars	UoM	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
License fees included in base year	Rs. Cr.	1.20						
Inflation Factor	%		8%	8%	8%	8%	8%	8%
License fees approved	Rs. Cr.		1.30	1.40	1.51	1.63	1.76	1.91
License fees actually paid	Rs. Cr.							4.60
Incremental License fees	Rs. Cr.							2.69

e) Increase in bonus of contractual employees during FY 2016-17:

Ministry of Law and Justice vide Gazette Notification dated January 1, 2016 notified Payment of Bonus (Amendment) Act, 2015. The Government vide this notification revised the amount from Rs. 3500 to Rs. 7000. In case the amount would not have been revised, the Petitioner would have to bear expense of Rs. 0.98 Crore whereas after revision, the actual expenses incurred towards the same was Rs. 3.11 Cr. Accordingly, there was an additional outgo of Rs. 2.14 Cr. during FY 2016-17. The details can be shared in case the Hon'ble Commission desires so.

3B.462 The impact on account of the aforesaid issues along with carrying cost is tabulated below:

Table 3B 101: Impact of Bonus on contractual employees

(Rs. Cr.)

S. No	Particulars	FY 17	FY 18
1	Op. balance	0	24
2	Additions	22	
3	Cl. Balance	22	24
4	Average	11	24
5	Rate of interest	14.64%	14%
6	Carrying cost	2	3
7	Grand Cl. Balance	24	27

3B.463 Without pre-judice to its contentions in the pending Appeal(s), the Petitioner

requests the Hon'ble Commission to allow the same in the ARR.

m) Partial Implementation of allowance of actual claims of R&M and A&G Expenses from FY 2004-05 to FY 2006-07

3B.464 The Hon'ble ATE in Judgment dated October 10, 2009 (Appeal 36 of 2008) has ruled as under:

"89) The appellant has alleged that the Commission has incorrectly denied the R&M expenses for the FY 2004-05, 05-06 & 06-07 to the tune of Rs.13.01 Crores, Rs.1.85 Crores and Rs.18.51 Crores respectively.

90) For the FY 2004-05 and 05-06, the appellant had notified expenses of Rs.92 Crores and Rs.73.60 Crores respectively. For the FY 2004-05, the Commission accepted the actual expense of Rs.92 Crores but allowed only Rs.68.99 Crores while carrying out the second truing up for the FY 2004-05 in its tariff order for the FY 2006-07 dated 22.09.08. The principle of second truing up was challenged before this Tribunal and this Tribunal vide order dated 24.05.07 said that truing up was to be done for adjusting the provisional accounts with the audited accounts and with the second truing up beyond adjustment the provisional account was not correct. For the FY 2005-06, the Commission approved R&M to the tune of Rs.71.75 Crores and denied the raise on the ground that the appellant did not take prior approval of the Commission before incurring such liability. The appellant contends that the appellant cannot predict with precision the work that is required to be undertaken and certain sudden expenditures caused by transformer failures, cable failure, breakdown of vehicles, equipment's etc. caused the rise of R&M expenditures which should have been allowed. For the FY 2006-07 instead of Rs.89.49 Crores, the Commission allowed a sum of Rs.70.98 Crores only. The Commission contends that the appellant did not claim for truing up for the FY 2004-05 in its MYT petition. The appellant, however, contends that it had submitted audited accounts of R&M expenses for the FY 2004-05 and 2005-06. The appellant contends that the Commission had failed to give effect to the principle enunciated by the Tribunal in the matter of truing up. As per the appellant the audited accounts showed R&M expenses for the FY 2004-05 as Rs.92 Crores and 2005-06 as Rs.73.60 Crores.

91) The next question is whether any expense towards R&M expenses

can be denied on the ground that approval of the Commission had not been taken before incurring expenses. Now R&M expense is directly related with capital works and gross fixed assets. The Commission does not say that the expenses incurred were imprudent or unnecessary. Since the sole purpose of tariff fixation is to recover the cost and reasonable profit it will not be prudent to be technical on such issues. We are of the opinion that R&M expenses properly incurred should be approved and in case there is any gap between the demand made by the appellant and the amount sanctioned by the Commission, the Commission should enter into the exercise of a prudent check and grant the approval to such expenses. The appellant would be bound to produce whatever expenses or material that may be required for permitting the Commission to carry out a prudent check. ...

97...

It appears that the Commission is yet to true up the accounts for the year 2004-05 on the basis of the audited accounts and whenever such truing up is done the appellant's grievance of denial of administrative and general expenses of 2004-05 should disappear."

3B.465 The Hon'ble Commission in Tariff Order dated July 23, 2014 has allowed the R&M and A&G Expenses from FY 2004-05 to FY 2006-07 based on benchmarking with other DISCOMs of Delhi.

3B.466 The Hon'ble ATE in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

*"22. We agree with the contentions made by the Appellants that true up for the policy direction period cannot be carried out on the basis of benchmarking concept muted in MYT Regulations. **The Commission is directed to implement the direction of this Tribunal in true letter and spirit and do not involve in inventing any new methodology to circumvent to such directions.** The issue is decided in favour of the Appellants. " (Emphasis added)*

3B.467 The Hon'ble Commission in Tariff Order dated September 29, 2015 stated as under:

"3.50 In compliance of the direction of Hon'ble APTEL in Appeal No. 61 and 62 of 2012, the Commission has appointed a Chartered Accountant firm empanelled with C&AG for independent verification



of the claims of the Petitioner in respect of R&M and A&G expenses for FY 2004-05 to FY 2005-06. Final impact will be considered based on the report of Chartered Accountant firm appointed by the Commission."

3B.468 The Hon'ble Commission in Tariff Order dated August 31, 2017 claimed to allow the actual R&M and A&G Expenses from FY 2005-06 to FY 2006-07 but disallowed even the earlier allowed R&M Expenses for FY 2004-05 based on benchmarking in Tariff Order dated 23.07.2014. The relevant para is reproduced below:

"3.128 The Commission has indicated in its Tariff Order dtd. 29/09/2015 that in compliance of the direction of Hon'ble APTEL in Appeal No. 61 and 62 of 2012, the Commission has appointed a Chartered Accountant firm empanelled with C&AG for independent verification of the claims of the Petitioner in respect of R&M and A&G Expenses for FY 2004-05 to FY 2005-06. The report has been submitted by the firm and approved by the Commission.

3.129 Accordingly, the incremental impact based on the report of the firm on R&M and A&G Expenses from FY 2004-05 to FY 2006-07 is indicated in the Table 101: Impact as approved by the Commission on account of implementation Hon'ble APTEL Judgments (Rs. Cr.) as follows:

Table 43: Impact on R&M and A&G Expenses from FY 2004-05 to FY 2006-07 (Rs. Cr.)

FY	Particulars	Petitioner's Submission	Trued up as per Consultant's Report	Approved in earlier TO	Difference
2004-05	Repair & Maintenance	92.02	68.99	78.7	-9.71
	Administrative & General Expenses	38.54	29.04	35.06	-6.02
2005-06	Repair & Maintenance	75.3	75.3	68.38	6.92
	Administrative & General Expenses	48.47	48.47	48.47	0
2006-07	Repair & Maintenance	89.49	89.49	77.2	12.29
	Administrative & General Expenses	66.65	66.65	66.65	0

Claim-1: Non-consideration of actual R&M and A&G Expenses of FY 05

3B.469 The numbers trued-up by the Hon'ble Commission from FY 2004-05 to FY

2006-07 do not appear in the Consultant's Report shared with the Petitioner. Further, the Hon'ble Commission has not provided any computation as to how the Hon'ble Commission has derived the numbers appearing in the truing-up column from FY 2004-05 to FY 2006-07 from Consultant's Report.

3B.470 A Comparison of R&M Expenses and A&G Expenses allowed by the Hon'ble Commission during FY 2004-05 in various Tariff Orders is given in the table below:

Table 3B 102: R&M and A&G Expenses for FY 2004-05-Comparison of various Orders

(in Rs. Cr.)

S. No	Particulars	TO dt. 23.02.2008	TO dt. 23.07.2014	Impugned Order	Actuals
1	Repair & Maintenance	68.99	78.70	68.99	92.02
2	Administrative & General Expenses	29.04	35.06	29.04	38.54

3B.471 The above comparison shows that the Hon'ble Commission has simply considered the numbers for R&M Expenses and A&G Expenses for FY 2004-05 as per Tariff Order dated February 23, 2008 which was subject matter of Appeal 36 of 2008. In Tariff Order dated February 23, 2008, the Hon'ble Commission without entering into any prudence check simply disallowed the R&M and A&G Expenses during FY 2004-05 only based on the reason that the Petitioner did not apply for prior approval from the Hon'ble Commission before incurring the R&M and A&G Expenses above stipulated limit. Coincidentally, the Hon'ble Commission in the Tariff Order dated August 31, 2017 has arrived at the same numbers (upto two decimal places) as trued-up in Tariff Order dated February 23, 2008 based on the Consultant's report.

3B.472 Accordingly, the Petitioner is claiming actual R&M Expenses and A&G Expenses of FY 2004-05 as under:

Table 3B 103: Impact of R&M and A&G Expenses from FY 2004-05 to FY 2006-07

(in Rs. Cr.)

Particulars	FY 2004-05		
	Audited A/c	Tariff Order	Diff.
A&G Expenses	38.54	29.04	9.50
R&M Expenses	92.02	68.99	23.03
Total base impact	130.57	98.03	32.54

3B.473 The total impact on account of R&M and A&G Expenses from FY 2004-05 along with carrying cost is as under:

Table 3B 104: Impact of R&M and A&G Expenses from FY 05 along with carrying cost

(Rs. Cr.)

S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	34	37	40	46	52	59	67	77	89	102	117	135	154
2	Additions	33													
3	Cl. Balance	33	34	37	40	46	52	59	67	77	89	102	117	135	154
4	Average	16	34	37	40	46	52	59	67	77	89	102	117	135	154
5	Rate of interest	9%	9%	9%	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	1.46	3.06	3.34	5.53	6.32	6.85	7.91	9.97	11.57	13.29	15.40	17.35	19.69	22
7	Grand Cl. Balance	34	37	40	46	52	59	67	77	89	102	117	135	154	176

3B.474 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of the Petitioner.

Claim-2: Impact of revision in R&M Expenses due to change in K factor approved from FY 08 to FY 12

3B.475 Regulation-5.4 of DERC Tariff Regulations, 2007 states as under:

"5.4 O&M expenses permissible towards ARR for each year of the Control Period shall be determined using the formula detailed below. The R&M expenses are linked to the Gross Fixed Assets, while the employee expenses and A&G expenses are linked to an Inflation Index, as shown below:

*(a) $O\&M_n = (R\&M_n + EMP_n + A\&G_n) * (1 - X_n)$*

*(i) Where, $R\&M_n = K * GFAn-1$;*

...



Where

(b) 'K' is a constant (could be expressed in %) governing the relationship between O&M costs and gross fixed assets (GFA) for the nth year. Value of K shall be determined by the Commission in the MYT Tariff order based on Licensee's filing, benchmarking, approved cost by the Commission in past and any other factor the Commission feels appropriate;
..."

3B.476 The Hon'ble Commission in Tariff Order dated February 23, 2008 while approving R&M Expenses for first control period, i.e., FY 2007-08 to FY 2011-12 determined the K factor based on ratio of R&M Expenses approved to GFA approved from FY 2002-03 to FY 2006-07. Relevant excerpts from Tariff Order are reproduced below:

"4.139 The Commission has considered the approved values of R&M expenses and opening GFA, as contained in previous Tariff Orders to calculate the respective values of 'K' for the previous years, as shown below.

Table 83: Determination of 'K'

Particulars	FY03	FY04	FY05	FY06	FY07
Opening GFA (Rs Cr)	1533.00	1551.72	1658.01	1751.39	1882.93
R&M Expenses (Rs Cr)	35.84	52.57	68.99	71.75	70.98
'K' (%)	2.34%	3.39%	4.16%	4.10%	3.77%

3B.477 The Hon'ble Commission in Tariff Order dated August 31, 2017 has revised R&M Expenses of FY 2005-06 to FY 2006-07. At Para-3B.469 to Para-3B. 474, the Petitioner has requested to revise R&M Expenses based on actual during FY 2004-05 in line with Hon'ble Tribunal's directions in Judgment dated October 6, 2009 (Appeal 36 of 2008). Therefore, based on revision of R&M Expenses from FY 2004-05 to FY 2006-07, the K factor approved for first control period shall revise as under:

Table 3B 105: Revised k-factor from FY 2002-03 to FY 2006-07

(Rs. Cr.)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07	Average
1	R&M Expenses	36	53	69	75	89	
2	Opening GFA	1533	1552	1658	1751	1883	
3	k factor	2.34%	3.39%	4.16%	4.30%	4.75%	3.79%

Spaw



3B.478 The revised K factor when applied on revised opening GFA as computed in Para-3B. 149 results in increase in R&M Expenses as under:

Table 3B 106: Increase in R&M due to revision of k-factor

(Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12
1	Opening GFA	3001	3254	3702	3995	4343
2	k factor	3.79%	3.79%	3.79%	3.79%	3.79%
3	Revised R&M Expenses	9	123	140	151	165
4	R&M Expenses based on revision in GFA as computed in Para-3B. 149	9	115	131	142	154
5	Difference	1	8	9	9	10
6	Efficiency factor	0%	2%	3%		
7	Difference after efficiency factor	1	8	9	9	10

3B.479 The aforesaid difference along with carrying cost is tabulated below:

Table 3B 107: Impact of increase in R&M due to revision of k-factor

(Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Opening balance	0	1	9	19	32	48	55	63	72	83	95
2	Additions	1	8	9	9	10						
3	Closing balance	1	8	17	29	42	48	55	63	72	83	95
4	Average	0	4	13	24	37	48	55	63	72	83	95
5	CC Rate	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%
6	CC	0.04	1	2	3	5	7	8	10	11	12	13
7	Grand closing balance	1	9	19	32	48	55	63	72	83	95	109

3B.480 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of the Petitioner.

n) Error in consideration of write-back of miscellaneous provisions as part of NTI from FY 2007-08 to FY 2016-17

3B.481 The Hon'ble Commission in Order dated May 11, 2010 (Review Petition No.

06/2009 filed by NDPL), ruled as under:

“20. The Commission has revisited the trued-up Non-Tariff Income of the Petitioner for F.Y. 2007-08 and has observed that the claim of the Petitioner is valid. There has been an inadvertent error while computing the Non-Tariff Income where the write back of doubtful debts amounting to Rs. 0.17 Cr. have been considered as a part of Non-Tariff Income. The Commission, therefore, allows the amount of Rs. 0.17 Cr.”

3B.482 The Hon’ble Commission in Tariff Order dated July 31, 2013 allowed the provisions written back from FY 2007-08 to FY 2011-12 while truing-up NTI from FY 2007-08 to FY 2011-12.

3B.483 However, in Tariff Order dated September 29, 2015 without assigning any reason, reversed the entire amount of miscellaneous provisions written back and considered the same as NTI.

3B.484 It is respectfully submitted that the Hon’ble Commission in the same review Order dated May 11, 2010 (Review Petition No. 06/2009 filed by NDPL) stated as under:

“13. It is important to understand that while dealing with an application for a review of an Order, it is very necessary to process the application with utmost caution as the powers of review are not ordinary powers.

*14. The provisions relating to review of an Order constitute an exception to the general Rule to the effect **that once a judgement is signed and pronounced, it cannot be altered. Therefore, the Orders are not generally interfered with, till there are circumstances as defined under the law which make it necessary for a Court to alter or modify or reverse its original judgement.** The application and the scope of the review of an Order are circumscribed under Order 47, Rule 1, of Code of Civil Procedure. The power of review is not inherently vested with a Court or a Tribunal or a Commission. The right and power of review does not exist unless conferred by law expressly or by necessary implication.”(Emphasis bold and underlined)*

3B.485 Contrary to the aforesaid, the Hon’ble Commission suo-moto reversed the miscellaneous provisions.

3B.486 The Petitioner in its Petition for True-up of FY 2016-17, ARR and Tariff of FY 2018-19 requested the Hon’ble Commission to allow the impact on account of



the same. However the Hon'ble Commission simply stated that the issue is pending before Hon'ble ATE in Appeal 297 of 2015.

3B.487 The impact on account of such provisions along with carrying cost is tabulated below:

Table 3B 108: Impact write-back of miscellaneous provisions

(Rs. Cr.)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
1	Op. balance	0	2	4	29	36	50	60	76	93	131	153
2	Additions	2	2	23	3	8	3	6	6	22	3	0
3	Cl. Balance	2	4	27	32	44	53	66	81	115	133	153
4	Average	1	3	15	30	40	51	63	79	104	132	153
5	Rate of interest	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14%
6	Carrying cost	0.13	0.38	2	4	6	8	9	12	15	19	21
7	Grand Cl. Balance	2	4	29	36	50	60	76	93	131	153	174

3B.488 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of the Petitioner.

o) SVRS Pension amount not allowed as part of O&M costs for FY 2016-17

3B.489 The Hon'ble Commission in Tariff Order dated March 28, 2018 did not allow SVRS Pension as part of O&M Costs while computing O&M Expenses for FY 2016-17. However, the same was allowed for previous years, i.e., FY 2007-08 to FY 2015-16 while truing-up O&M Expenses during respective years.

3B.490 The impact along with carrying cost is tabulated below:

Table 3B 109: SVRS Pension amount not allowed as part of O&M costs for FY 2016-17

(Rs. Cr.)

S. No	Particulars	FY 17	FY 18
1	Opening balance	0	8
2	Additions	7	
3	Closing balance	7	8
4	Average	4	8
5	Rate of CC	14.64%	14%
6	Carrying Cost	1	1
7	Grand Closing balance	8	9

3B.491 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of the Petitioner.

p) Erroneous net-worth computations:

3B.492 As regards the computation of net-worth, the Petitioner in its Petition for Truing-up of FY 2014-15, Review of FY 2015-16, Multi-year ARR from FY 2016-17 to FY 2020-21 and Tariff of FY 2016-17 stated as under:

"3.13.21 The Hon'ble Commission in Tariff Order dated September 29, 2015 considered the means of finance as per the net-worth formulae proposed in Tariff Order dated July 31, 2013.

In this regard it is submitted that the Hon'ble Commission mis-represented the submissions of the Petitioner by naming the heading of Table-3.7 in Tariff Order dated September 29, 2015 as "Net worth assessment from FY 2002-03 to FY 2014-15 submitted by the Petitioner".

It is respectfully submitted that the Hon'ble Commission did not capture the following:

a) *Net-worth details submitted from FY 2002-03 to FY 2011-12:*

Table 3.22e: Correspondences on net-worth from FY 2002-03 to FY 2011-12

S. No	Date of letter	Subject	Considered or not?
1	17.02.2014 (DERC to Petitioner)	Direction to submit net-worth details of the company	
2	24.02.2014 (Petitioner to DERC)	Net-worth details of the company as per Regulatory Books	Not considered
3	25.03.2014 (DERC to Petitioner)	Direction to submit net-worth details of the company as per formulae in TO dt. 31.07.2013	
4	2.04.2014 (Petitioner to DERC)	Net-worth details of the company as per formulae in TO dt. 31.07.2013	Considered in TO dated September 29, 2015

b) *Net-worth details submitted from FY 2012-13 to FY 2014-15:*

Table 3.22f: Correspondences on net-worth details from FY 2012-13 to FY 2014-15

S. No	Date of letter	Subject	Considered or not?
1	15.06.2015 (DERC to Petitioner)	Email to submit net-worth as per new formulae	
2	19.06.2015 (Petitioner to DERC)	<ul style="list-style-type: none"> Challenged the net-worth formula Request to consider formula as per PFC Report "The Performance of State Power Utilities for the years 2010-11 to 2012-13" Implement ATE Judgments before arriving at any conclusion as the same will drastically change net-worth. 	<ul style="list-style-type: none"> Considered only net-worth from FY 13 to FY 15 Did not consider the challenge to net-worth formula. Did not consider the formulae as per PFC Report for determination of net-worth from FY 03 to FY 13. Did not implement ATE Judgments.

It is submitted that the computation of net-worth based on the audited statements is irrelevant and leads to incorrect results due to the following reasons:

1. Consideration of net-worth based on audited accounts contradictory to Statutory advice dated December 15, 2010:

The Hon'ble Commission in its Statutory advice dated December 15, 2010 has itself recognised the fact that due to continuous non cost reflective tariffs, the Petitioner is not able to realise the return on equity in accordance with the entitlement as per Regulations and thus had to resort to extensive borrowings resulting in adverse effect on financials of the Petitioner. It is further submitted that the advice of the Hon'ble Commission was based on the audited accounts for FY 2008-09, FY 2009-10 and half yearly accounts of FY 2010-11. However, the Hon'ble Commission in Tariff Order dated September 29, 2015 contradictory to its own statutory advice dated December 15, 2010 considered the funding of capitalisation and working capital by computing net-worth as per Audited Accounts of respective years whereas the Regulatory Assets of Rs. 5105 Crore (as per the Tariff Order dated September 29, 2015) have yet not been amortised till date.

2. Inconsistent approach for different expenses:

The consideration of net-worth as per audited statements is also inconsistent with the treatment given to other expenses which is as

under:

- a) *R&M Expenses and A&G Expenses-FY 05 to FY 07: The Petitioner vide letter dated June 5, 2015 requested the Hon'ble Commission to allow R&M and A&G Expenses from FY 2004-05 to FY 2006-07 as per audited statements pending verification of claims by auditor firm appointed by the Hon'ble Commission. However the Hon'ble Commission in Tariff Order dated September 29, 2015 stated that an final impact shall be considered based on the report of Chartered Accountant firm appointed by the Hon'ble Commission.*
- b) *Physical verification of assets: The Petitioner in the Petition for Truing-up for FY 2013-14, Review of FY 2014-15 and ARR and Tariff determination of FY 2015-16 requested the Hon'ble Commission to consider actual capital expenditure and capitalisation based on audited accounts pending non-completion of physical verification of assets for last 9 years. The Hon'ble Commission stated that the final impact shall be considered based on the report from consultant.*
- c) *SVRS terminal benefits: The Hon'ble Commission acknowledged that the payment has been made on account of SVRS terminal benefits by the Petitioner. However the Hon'ble Commission did not allow the same pending adjudication of clarificatory application filed before Hon'ble ATE.*
- d) *Implementation of other ATE directions: The Hon'ble Commission stated that the impact shall be allowed after the adjudication of clarificatory application filed before Hon'ble ATE.*

In case of net-worth, the Hon'ble Commission has followed a different approach in the same tariff order, i.e., September 29, 2015. The Petitioner vide letter dated June 19, 2015 requested the Hon'ble Commission to consider debt-equity ratio after implementation of Hon'ble ATE's directions in various Judgments. However the Hon'ble Commission considered net-worth ratio as per audited statement despite of following a different approach in case of other expenses. Such selective approach leads to incorrect result in terms of net-worth.

3. *Reversal of means of finance from FY 2002-03 onwards and reopening of previous tariff orders:*

The Hon'ble Commission has not realized the fact that the Petitioner has not recovered the return on equity which is still invested in the business. The Hon'ble Commission in Tariff Order dated June 26, 2003 while approving means of finance stated as under:

"3.9.2... According to the Policy Directions, the Return of 16% is applicable on Equity and Free Reserves invested into the assets.

However, the approval of Commission has been obtained for the free reserves invested towards the funding of the capital investments.” (Emphasis supplied)

Further the Hon’ble Commission in tariff order dated June 9, 2004 has utilized the internal accruals invested in the business for the purpose of capitalisation as under:

“2.27.15. Return on Equity

The Commission would like to inform that the system of ARR and Tariff determination being followed by the Commission gives due weightage to the efficiency of operations and only prudent expenditure is allowed to be recovered through tariffs. The paying capacity of the DISCOMs is determined after considering the prudently incurred expenses as well as the revenue earned through tariffs....

As regards provision of return on opening balance of free reserves or closing balance of free reserves invested in the system, the Commission in its Order on ARR for FY 2002-03 and FY 2003-04 has taken a very rational and balanced view and allowed the return on the average of opening balance at the beginning of the year and the closing balance of free reserves at the end of the year to the extent these free reserves has been considered as means of finance to be invested towards capital investment.” (Emphasis supplied)

As evident from above, the Hon’ble Commission considered the return on equity earned as a means of finance for the purpose of funding capitalisation in Tariff Order dated June 9, 2004. The Hon’ble Commission continued with this approach till Tariff Order dated July 23, 2014. The Petitioner vide letter dated February 24, 2014 provided the details of net-worth of the company from FY 2002-03 to FY 2012-13 by considering return on equity as surplus funds as per the approach adopted by the Hon’ble Commission in the past.

However, in the Tariff Order dated September 29, 2015 (refer to Para No. 3.134 to 3.136), the Hon’ble Commission reopened the means of finance pertaining to all previous years and revised the means of finance based on net-worth from FY 2002-03 onwards contrary to its’ own statutory advice dated December 15, 2010.

4. Determination of net-worth without implementation of directions given by Hon’ble ATE:

It is submitted that the Hon’ble Commission has till date not implemented various directions of Hon’ble ATE despite of submission on affidavit in Appeal 14 of 2012 which has resulted in continuous denial of legitimate expenses and thus lower income. This policy of continuous denial of implementation of Hon’ble ATE’s directions has led



to adverse effect on net-worth of the Petitioner for no fault on the part of the Petitioner and is not account of any business as usual situation. In fact the Hon'ble Commission vide affidavit dated January 31, 2014 filed before the Hon'ble Supreme Court in IA No. 7 of 2014 (Civil Appeal No. 980 of 2010) itself admitted that the impact on account of non-implementation of various directions of Hon'ble ATE for BSES DISCOMs is Rs. 4500 Crore.

It is further submitted that the aforesaid does not include the impact on account the Judgment pronounced by the Hon'ble Tribunal in Appeal 61 of 2012 and Appeal 177 of 2012 on November 28, 2014 and March 2, 2015 respectively, i.e., Judgments issued after submission of affidavit of the Hon'ble Commission. It is further submitted that there is no stay on the directions given by the Hon'ble ATE in various Judgments.

It is submitted that the Petitioner vide letter dated 19.06.2015 requested the Hon'ble Commission to consider debt-equity ratio after implementation of Hon'ble ATE's directions in various Judgments. Further, the Petitioner also submitted the comparison of debt-equity ratio as per the audited accounts of the respective years from FY 2012-13 to FY 2014-15 with the debt-equity ratio after implementation of Hon'ble ATE's directions in various Judgments. However, the Hon'ble Commission neither responded to the contentions of the Petitioner nor assigned any reason for consideration of net-worth as per audited accounts without implementing the directions of Hon'ble ATE. In fact the Hon'ble Commission has not even mentioned that the net-worth will change after implementation of Hon'ble ATE directions as if the same is not required to be implemented and the issue of net-worth has attained the finality.

5. Net-worth formulae also utilised for working capital contrary to directions of Hon'ble ATE in Appeal 52 of 2008:

It is further submitted that the Hon'ble Commission has also applied the aforesaid formula for the computation of means of finance for working capital which is contrary to the findings of this Hon'ble ATE in Judgment dated July 31, 2011 (Appeal 52 of 2008) which states as under:

"43. Regulation 5.8 provides formula for calculating the Regulated Rate Base for a particular year wherein working capital is clearly one of the elements so much so that any change in the normative

working capital has to be included.

44. Regulation 5.9 sets out the formula for computing the Return on capital employed by multiplying the weighted average cost of capital with the Regulated Rate Base. As mentioned above, **Regulation 5.10 stipulates formula to compute the weighted cost of capital which precedes on a clear belief that the debt equity ratio of 70% and 30% has to be accounted for.**

45. The Learned Counsel for the Appellant, while refuting the submission of the State Commission that the approach adopted by the State Commission was on the basis of the normal industry practice by referring to the tariff orders of the 4 State Commissions. The Appellant has cited Tariff orders of Karnataka State Commission, Himachal Pradesh State Commission, Jharkhand State Commission and the Gujarat State Commission. **It is noticed from the regulations of these State Commissions have different Regulations for the interest on Working Capital and have treated Working Capital separate from the Regulated Rate Base and do not have the concept of Return on Capital Employed as provided in the Delhi Commission's Regulations. Under these circumstances, the Delhi Commission is directed to re-compute the Weighted Average Cost of Capital for each year of the Control Period along with the carrying cost and apply on the respective years Regulated Rate Base for allowance of Return on Capital Employed according to its Regulations. This issue is answered in favour of the Appellant."** (Emphasis supplied)

As evident from above, the Hon'ble ATE directed the Hon'ble Commission to allow the funding of working capital in debt-equity ratio of 70:30 since the Tariff Regulations applicable in Delhi have the concept of RRB which includes working capital unlike the practice of separately allowing interest on working capital adopted by the Regulatory Commissions in other states. However the Hon'ble Commission instead of implementing the directions of Hon'ble ATE has chosen to allow the funding of working capital based on the formulae of net-worth as proposed in Tariff Order dated July 31, 2013 which is contrary to the directions of the Hon'ble ATE.

Therefore, the present net-worth as per the financial books of the Petitioner does not represent the true picture and thus cannot be utilized for computation of actual equity available for the purpose of funding capitalisation and Working Capital. Accordingly the Petitioner has considered the funding of capitalisation and working capital in line with practice adopted by the Hon'ble Commission prior to Tariff Order dated September 29, 2015 and as per the directions of Hon'ble ATE given in



various Judgments.”

3B.493 As regards the aforesaid submissions, the Hon’ble Commission in Tariff Order dated August 31, 2017 has stated as under:

“3.358 The Petitioner has not submitted the specific justification and reasons where net worth computation is erroneous and the Petitioner has already preferred an appeal on this issue in its appeal against tariff order for FY 2014-15 and FY 20-15-16. Therefore, appropriate decision can be taken after the judgement of Hon’ble APTEL on this issue.”

3B.494 As evident above, the Hon’ble Commission has inadvertently stated that the Petitioner has not submitted the specific justification and reasons where net worth is erroneous.

3B.495 It is respectfully submitted that the Hon’ble Commission may adjudicate the matter. Since the Petitioner has already submitted the details, subject to the result of the said Appeals which are currently pending. This will avoid exposure of carrying costs on the consumers which could be contained.

3B.496 The Petitioner would like to further submit that the Hon’ble Commission in Tariff Order dated September 29, 2015 has not provided the details of means of finance and has applied the debt and equity balance by comparing the net-worth with 30% of Regulated Rate Base. In fact in Tariff Order dated August 31, 2017, the Hon’ble Commission unlike previous tariff orders has not provided any schedule for debt and equity allowed for the funding of capitalisation while revising the same based on net-worth formulae. Now the Petitioner has made the debt and equity schedule based upon the computations given by the Hon’ble Commission in Tariff Order dated September 29, 2015 and August 31, 2017:



Table 3B 110: Equity schedule based on Table-3.37 and Table-3.50 of Order dtd 29.09.2015

(Rs. Crore)

S. No	Financial Year	Opening Equity	Additions	Closing Equity	Average Equity Considered
1	FY 2002-03	460	-29	431	446
2	FY 2003-04	431	-38	394	413
3	FY 2004-05	394	158	551	472
4	FY 2005-06	551	113	664	608
5	FY 2006-07	664	-121	543	604
6	FY 2007-08	543	-438	105	324
7	FY 2008-09	105	-100	5	55
8	FY 2009-10	5	184	190	97
9	FY 2010-11	190	381	570	380
10	FY 2011-12	570	173	744	657
11	FY 2012-13	744	-14	730	737
12	FY 2013-14	730	159	889	809

Table 3B 111: Debt schedule based Table-3.36 and Table-3.50 of Order dtd 29.09.2015

(Rs. Crore)

S. No	Financial Year	Opening Debt	Additions	Repayment	Closing Debt	Average Debt Considered
1	FY 2002-03	690	1	0	691	691
2	FY 2003-04	691	19	0	710	700
3	FY 2004-05	710	221	0	930	820
4	FY 2005-06	930	359	30	1260	1095
5	FY 2006-07	1260	97	6	1351	1305
6	FY 2007-08	1351	-782		569	960
7	FY 2008-09	569	2000		2569	1569
8	FY 2009-10	2569	-1352		1217	1893
9	FY 2010-11	1217	1020		2237	1727
10	FY 2011-12	2237	-1408		829	1533
11	FY 2012-13	829	1779		2608	1719
12	FY 2013-14	2608	-1440		1168	1888

3B.497 Based on the above the funding of capitalisation is tabulated below:

Table 3B 112: Means of finance for Policy Direction Period

(Rs. Crore)

S. No	Particulars	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
1	Capex	76	115	539	619	306
2	Closing sundry creditors				21	
3	Closing Sundry debtors	6				
4	Total financing reqd.	71	115	539	639	306
5	Means of finance					
a	Consumer contribution	12	57	60	39	48
b	APDRP Grants		19			
c	APDRP Loans		19			
d	Depreciation	57	20	143	88	119
e	Internal accruals	-29	-38	158	113	-121
f	Loan	1	19	221	359	97
g	Sundry creditors			21		
5	Gap left in funding	29	19	-63	41	162

Table 3B 113: Means of finance from FY 2007-08 to FY 2013-14

(Rs. Crore)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
A	Capitalisation	29	220	97	90	-23	301	288
B	Working Capital	67	9	5	-6	2	110	123
C	Total	96	229	102	83	-21	411	410
D	Means of Finance							
1	Consumer contribution	3	39	40	57	13	69	47
2	Debt	-782	2000	-1352	1020	-1408	1779	-1440
3	Equity	-438	-100	184	381	173	-14	159
4	Total	-1217	1939	-1128	1458	-1221	1834	-1234
E	Gap left in funding	1313	-1709	1230	-1374	1200	-1423	1645

3B.498 As evident from the aforesaid tables, means of finance is not matching with capitalisation for even a single year for the period from FY 2002-03 to FY 2013-14.

3B.499 Accordingly the Petitioner has considered the impact on account of the same by considering debt-equity ratio of 70:30 as per the methodology adopted by the Hon'ble Commission in past Tariff Orders. The impact on account of the



same is already included in Table-3.25 of the Petition.

3B.500 Without pre-judice, the Petitioner requests the Hon'ble Commission to allow the same in the ARR.

3B.501 The total impact claimed on account of implementation of Hon'ble ATE Judgments is tabulated below:

Table 3B 114: Total impact claimed on aforesaid issues which merit reconsideration

(Rs. Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Fixed charges against regulated power	255	225	481
2	Over lapping banking transactions	13	8	21
3	Cost disallowed on account of excessive trading at UI above contingency limit	7	2	9
4	Normative rebate from FY 13 to FY 17	489	290	779
5	Loss due to retirement of assets	48	103	151
6	Bank charges/ syndication fees	137	157	294
7	Income from other business-SLMC	209	265	475
8	Financing cost of LPSC-FY 14 to FY 17	43	22	65
9	Wrong computation of carrying cost-8% Surcharge	45	33	78
10	Wrong computation of carrying cost-CC amount allowed in tariff	101	14	115
11	Monthly Rebate	83	43	126
12	Omission to allow actual expenses incurred on account of Statutory levies while truing up for FY 16-17	22	5	27
13	Partial implementation of allowance of actual claims of R&M and A&G expenses from FY 05 to FY 07			
a	Non-consideration of actual R&M and A&G Expenses of FY 05	33	143	176
b	Impact of revision in R&M Expenses due to change in K factor approved from FY 08 to FY 12	37	72	109
14	Error in consideration of write-back miscellaneous provisions as part of NTI for FY 2008 to FY 2016-17	76	98	174
15	Error in allowing SVRS Pension amount as part of O&M costs for FY 2016-17	7	2	9
16	Total	1605	1483	3088

3B.502 The Petitioner requests the Hon'ble Commission to allow the impact on

account of the aforesaid issues in the present ARR of the Petitioner.

Total impact on account of past claims:

3B.503 Based on aforesaid submissions, the total impact on account of past claims is tabulated below:

Table 3B 115: Total impact on account of past claims

(Rs. Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Implementation of ATE Judgments	5142	5845	10987
2	Impact of Review Petition	380	327	707
3	Impact of Past Claims	1605	1483	3088
4	Total	7127	7654	14782

[Signature]



Chapter – 4



Aggregate Revenue Requirement FY 2019-20

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ARR of FY 2019-20

Background

- 4.1 On January 31, 2017, the Hon'ble Commission notified DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 (hereinafter "**Tariff Regulations, 2017**").
- 4.2 Clause-3 and 4 of the Tariff Regulations, 2017 states as under:

"3. The Commission shall notify Business Plan Regulations for each Control Period based on the Business Plan submitted by the Utility which shall be read as part of these Regulations.

4. The Business Plan Regulations shall contain the following parameters applicable for a Control Period:

- (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 Assets,*
- (7) Generating Norms:*
 - (a) Gross Station Heat Rate,*
 - (b) Plant Availability Factor,*
 - (c) Secondary Fuel Oil Consumption,*
 - (d) Auxiliary Consumption and*
 - (e) Plant Load Factor,*
- (8) Transmission Norms:*
 - (a) Annual Transmission System Availability,*
 - (b) Annual Voltage wise Availability*
- (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."*

- 4.3 On August 31, 2017, the Hon'ble Commission notified DERC (Business Plan)

Regulations, 2017 (hereinafter “**Business Plan Regulations, 2017**”) which are applicable for a period of 3 years, i.e., FY 2017-18, FY 2018-19 and FY 2019-20. Business Plan Regulations, 2017 contain the trajectory for various controllable parameters to be followed during FY 2017-18 to FY 2019-20.

4.4 Regulation-11 of 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:

- (1) Sales forecast for the ensuing year and audited sales for previous year on monthly basis as prescribed in the Appendix-2;*
- (2) Expected revenue to be billed for the ensuing year and audited Revenue Billed and Realised for previous year as prescribed in Appendix-2;*
- (3) Power Procurement Quantum & Cost for ensuing Year and audited Power Purchase Quantum & Cost for previous Year on monthly basis indicating Long Term and Short Term, Renewable Energy Purchase and other applicable Charges as prescribed in the Appendix -2:*

Provided that the Distribution Licensee shall propose the indicative cost of power procurement taking into account revenues from Short term sale of Surplus Power and maximum normative rebate available from each entity;

Provided that the Renewable Purchase Obligation of the Distribution Licensee as per the Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2012 as amended from time to time shall be part of the Distribution Licensee’s Power Procurement Cost;

- (4) Actual and Expected intra- State & inter-State Transmission Loss & Charges including Load Dispatch Charges, Open Access Charge indicating maximum normative rebate available from each entity for the previous and ensuing Year respectively:*

Provided that the Distribution Licensee shall propose Wheeling Charges in case the distribution network of other Distribution Licensee is used for procurement of power for the Retail Supply Business;

- (5) Actual and Expected amount on account of Cross-Subsidy Surcharge and Additional Surcharge to be received by the Licensee, as approved by the Commission from time to time in accordance with the Delhi Electricity Regulatory Commission*



- (Terms and Conditions of Open Access) Regulations 2005 as amended from time to time, shall be indicated separately against the consumer category by the Distribution Licensee;*
- (6) Actual Voltage wise Distribution Loss and Collection Efficiency for the previous Year;*
 - (7) Energy Audit Report of distribution network of the Distribution Licensee for previous Year by certified energy auditor from Bureau of Energy Efficiency;*
 - (8) Monthly Energy Balance for the ensuing & previous Year;*
 - (9) Actual and Expected additional Expenses on account of O&M beyond the Control of Distribution Licensee for the ensuing & previous Year respectively;*
 - (10) Actual and Expected Capitalisation and Depreciation Schedule for the previous and ensuing Year respectively;*
 - (11) Actual and Expected Non-Tariff Income including Other Business Income for the previous and ensuing Year respectively;*
 - (12) Actual weighted average rate of interest on loan."*

4.5 Accordingly, the following sections forecast the Petitioner's ARR for FY 2019-20.



Energy Sales

- 4.6 The Petitioner has considered the Adjusted Trend Analysis Method for the purpose of accurate projection of sales. This method assumes the underlying factors which drive the demand for electricity and are expected to follow the same trend as in the past. However, this approach also discounts any outliers (relative to the trend) observed in the growth rates over the period of 5 years and excludes them while projecting energy sales for each year of the control period. Adopting such a method has enabled the Petitioner to further fine tune the projection by eliminating any abnormal pattern observed under any category.
- 4.7 The Adjusted Trend Analysis Method makes use of a statistical tool, namely the Compound Annual Growth Rate (CAGR) and, accordingly, Compound Annual Growth Rates (CAGRs) have been calculated from the past figures for each category, corresponding to different lengths of time in the past five years, along with the year on year growth rates from FY 2012-13 to FY 2017-18. The category-wise actual sales since FY 2012-13 are as follows:

Table 4- 1: Actual sales from FY 2012-13 to FY 2017-18 (MU)

S. No	Consumer Category	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
1	DOMESTIC	5076	5297	5737	5924	6464	6869
2	NON-DOMESTIC	2759	2765	2827	2941	3028	3141
3	INDUSTRIAL	537	526	507	501	499	500
4	PUBLIC LIGHTING	158	161	188	175	193	153
5	AGRICULTURE	17	15	16	16	16	19
6	MUSHROOM	0	0	0	0	0	0
7	RAILWAY TRACTION	36	35	24	40	21	22
8	DMRC	269	253	271	279	308	331
6	E-RICKSHAW	0	0	0	0	0	3
	Supply at LT	0	0	0	0	0	3
	Supply at HT	0	0	0	0	0	0
10	OTHERS	525	637	609	629	660	651
a	DIAL	230	221	218	222	219	199
b	11KV (WORSHIP/HOSPITALS)	27	26	27	29	29	34
c	DJB 11 KV	114	134	132	142	152	154
d	DJB (LT)	51	77	75	71	70	72
e	DVB STAFF	25	25	24	22	23	22
f	ADVERTISEMENT/ HOARDINGS	2	3	1	2	2	2
g	TEMPORARY	0	66	74	81	86	92



S. No	Consumer Category	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
<i>h</i>	<i>THEFT</i>	51	62	35	42	66	58
<i>i</i>	<i>OWN CONSUMPTION</i>	26	23	24	18	11	15
	<i>NET METERING</i>	0	0	0	0	1	3
10	TOTAL	9377	9689	10179	10505	11189	11688

4.8 The Category-wise CAGR for various consumer categories are as follows:

Table 4- 2: Various Years CAGR

S. No	Consumer Category	2-YEAR CAGR	3-YEAR CAGR	4-YEAR CAGR	5-YEAR CAGR
1	DOMESTIC	9.4%	9.0%	7.9%	7.8%
2	NON-DOMESTIC	5.4%	4.3%	3.3%	3.5%
3	INDUSTRIAL	-0.8%	-1.7%	-1.8%	-1.5%
4	PUBLIC LIGHTING	-9.6%	-1.5%	-0.7%	2.3%
5	AGRICULTURE	9.6%	9.0%	2.4%	1.6%
6	MUSHROOM	31.5%	28.7%	10.4%	5.6%
7	RAILWAY TRACTION	-4.3%	-14.3%	-11.6%	-0.4%
8	DMRC	10.5%	9.4%	5.3%	4.1%
6	E-RICKSHAW	0.0%	0.0%	0.0%	0.0%
	Supply at LT	0.0%	0.0%	0.0%	0.0%
	Supply at HT	0.0%	0.0%	0.0%	0.0%
10	OTHERS	3.4%	0.7%	5.5%	3.4%
<i>a</i>	<i>DIAL</i>	-4.5%	-3.5%	-3.5%	-3.0%
<i>b</i>	<i>11KV (WORSHIP/HOSPITALS)</i>	12.2%	9.9%	5.9%	6.4%
<i>c</i>	<i>DJB 11 KV</i>	8.2%	4.9%	7.9%	8.5%
<i>d</i>	<i>DJB (LT)</i>	-2.1%	-2.2%	9.2%	0.0%
<i>e</i>	<i>DVB STAFF</i>	-4.7%	-5.2%	-3.7%	-2.4%
<i>f</i>	<i>ADVERTISEMENT/ HOARDINGS</i>	66.5%	-13.7%	-0.8%	0.0%
<i>g</i>	<i>TEMPORARY</i>	12.0%	12.1%	332.8%	241.7%
<i>h</i>	<i>THEFT</i>	28.6%	-2.2%	3.6%	-15.5%
<i>i</i>	<i>OWN CONSUMPTION</i>	-22.6%	-14.5%	-13.3%	-14.8%
	<i>NET METERING</i>	0.0%	0.0%	0.0%	0.0%
10	TOTAL	7.2%	6.5%	5.7%	5.6%

4.9 The category-wise closing consumers and total connected load from FY 2012-13 to FY 2017-18 are as follows:

Table 4- 3: Actual Closing Consumers from FY 2012-13 to FY 2017-18

S. No	Consumer Category	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
1	DOMESTIC	1568469	1687030	1785363	1897574	1995034	2106590
2	NON-DOMESTIC	253430	269441	279817	296761	310672	332578
3	INDUSTRIAL	12307	12042	11874	11669	11498	6031
4	PUBLIC LIGHTING	1	1409	7628	7907	5381	5542
5	AGRICULTURE	4333	4388	4550	4721	5009	5409
6	MUSHROOM	12	11	11	10	10	11
7	RAILWAY TRACTION	1	1	1	1	1	1
8	DMRC	6	6	7	8	8	9
6	E-RICKSHAW	0	0	0	0	0	370
	Supply at LT	0	0	0	0	0	370
	Supply at HT	0	0	0	0	0	0
10	OTHERS	10396	22400	9455	9476	9445	8864
a	DIAL	1	1	1	1	1	1
b	11KV (WORSHIP/HOSPITALS)	20	19	20	19	18	18
c	DJB 11 KV	64	68	71	76	76	75
d	DJB (LT)	3068	3179	3105	3140	3218	3193
e	DVB STAFF	6146	6110	5258	5219	5039	4709
f	ADVERTISEMENT/ HOARDINGS	1096	1059	998	1020	1071	863
g	TEMPORARY	0	11640	1	1	0	0
h	THEFT	0	0	0	0	0	0
i	OWN CONSUMPTION	1	324	1	0	22	5
	NET METERING	0	0	0	0	0	0
10	TOTAL	1848955	1996728	2098706	2228127	2337058	2465405

Table 4- 4: Actual total connected load from FY 2012-13 to FY 2017-18.

S. No	Consumer Category	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
1	DOMESTIC	5169.35	5737.75	6544.21	7061.84	7177.12	5624.01
2	NON-DOMESTIC	1946.33	2228.03	2343.03	2484.50	2427.26	2540.79
3	INDUSTRIAL	326.27	349.12	316.47	316.71	311.37	266.07
4	PUBLIC LIGHTING	0.00	13.16	58.48	61.71	46.58	47.67
5	AGRICULTURE	18.85	20.11	19.65	20.19	19.34	20.73
6	MUSHROOM	0.09	12.00	0.04	0.04	0.06	0.09
7	RAILWAY TRACTION	12.75	12.75	12.75	12.75	12.75	12.75
8	DMRC	43.35	42.57	43.08	48.10	48.10	50.60

S. No	Consumer Category	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
6	E-RICKSHAW	0.00	0.00	0.00	0.00	0.00	1.35
	Supply at LT	0.00	0.00	0.00	0.00	0.00	1.35
	Supply at HT	0.00	0.00	0.00	0.00	0.00	0.00
10	OTHERS	197.41	255.95	210.81	208.64	210.14	207.28
a	DIAL	51.29	51.29	51.29	51.29	51.28	51.28
b	11KV (WORSHIP/HOSPITALS)	13.62	14.56	15.74	14.41	14.89	14.89
c	DJB 11 KV	65.42	68.05	74.95	74.04	74.03	73.74
d	DJB (LT)	42.22	43.43	45.03	45.39	46.27	46.39
e	DVB STAFF	22.07	22.21	21.46	21.21	20.38	19.06
f	ADVERTISEMENT/ HOARDINGS	2.79	2.70	2.25	2.20	2.18	1.62
g	TEMPORARY	0.00	44.98	0.10	0.10	0.00	0.00
h	THEFT	0.00	0.00	0.00	0.00	0.00	0.00
i	OWN CONSUMPTION	0.00	8.74	0.00	0.00	1.11	0.30
	NET METERING	0.00	0.00	0.00	0.00	0.00	0.00
10	TOTAL	7714.39	8671.44	9548.53	10214.47	10252.72	8771.33

4.10 During the exercise for forecasting of Energy Sales for the FY 2019-20, the Petitioner could only consider actual Sales data till the month August 2018. However, in order to forecast energy sales for the entire FY 2019-20, it is necessary to first forecast expected energy sales for the remaining period of FY 2018-19, i.e., for the months September to March 2019.

4.11 For forecasting the expected sales for the remaining months of FY 2018-19, actual category-wise sales for FY 2017-18 have been considered as base i.e. the chosen growth rate is applied over the sales for FY 2017-18.

4.12 For the purpose of this projection, actual sales for the first five months of FY-2018-19, i.e., till August 2018 have been considered. On these 5 months, adjusted growth rate has been applied based on past year trend to arrive at projected sales of FY 2018-19. Once the energy sales projection for the entire FY 2018-19 is obtained, various year CAGR is again computed, now considering FY 2018-19 as base. The various year CAGR, then obtained is then analyzed for further projection.

4.13 However, solely relying on annual CAGR is not sufficient. Certain categories show abnormal growth rates due to various reasons such as:

- New category introduced like E-Rickshaws for which data for past years is not available.

- Certain consumers / categories show no or very less consumption due to opting of Open Access.
 - Cross-migration of consumers from one category to another, etc.
- 4.14 Such outliers have been manually identified and appropriate growth rates have been applied to these categories so that the overall trend matches with the actual growth.
- 4.15 The category specific methodology adopted for projection of energy sales has been elaborated as under:
- **Domestic:** Domestic category is the most predominant category of the Petitioner, representing more than 70% of total energy sales. Due to sheer number of consumers in this category, and Delhi being the capital of India, this category witnesses robust and consistent year-on-year growth.
However, there are several other parameters also that influence trends in energy sales. On one hand, several consumers have undertaken energy conservation measures such as replacement of incandescent bulbs with energy efficient LED lights, replacement of old and dilapidated air conditioners with star rated ones. Measures such as these have a reducing impact on the growth of energy sales. However, on the other hand increasing sales of electronic gadgets coupled with ever increasing life styles are having a significant increasing trend in energy sales. To a large extent, these two influences are counter-acting each other.
Growth in energy sales is primarily contributed by two distinct parameters. One is from consumption growth of existing consumers due to change in lifestyles, increase in disposable income, etc. Second source of growth is from addition of new consumers. The Petitioner has been adding almost one lakh domestic consumers every year in the last 2 years.
From the past year trends, it is evident that the domestic category has been showing a CAGR of 7-8%. For projection of sales for FY 2019-20, the Petitioner has considered a growth of 7.5% for domestic category which is almost equal to the 5 Year CAGR for this category.
 - **Non-Domestic:** Non-domestic category contributed the second higher energy sales for the Petitioner. This category has also been showing consistent growth on year-on-year basis. Past trends show

that this category has shown a CAGR of around 5% to 4.42%. For the purpose of projecting energy sales for FY 2019-20, the Petitioner has considered 5 year CAGR which is 3.42%.

- **Industrial:** Industrial category holds the third largest energy sales for the Petitioner. Analyzing the energy consumption trend for this category, it becomes evident that for last many years, the consumption under this category is under decline. This decline can be attributed to many factors such as:

- Such consumers opting for energy conservation measures.
- Some consumers opting for net meters.
- Permanent / temporary closure of some industrial units.

Due to the aforementioned and other reasons, the historical consumption under Industrial category shows a negative CAGR ranging from -0.29% to -1.47%. Accordingly, Petitioner has considered a growth of rate of -1.47% for industrial category which is the 5 Year CAGR.

- **Railway:** Railways have acquired the status of deemed licensee and no longer acquires energy from the Petitioner for consumption in its traction load. Hence, for the purpose of projecting energy sales for the FY 2019-20, the Petitioner has not considered any energy sales under this category.
- **DIAL:** Energy consumption of DIAL has also shown a negative trend due to it opting for Open Access. For the purpose of projection of energy sales for FY 2019-20, the Petitioner has considered no growth in case of DIAL and it is expected its energy consumption will remain more or less constant.
- **Public Lighting:** This category is showing minimal reduction in energy consumption on a year-to-year basis, primarily due to replacement of conventional street lights with energy efficient LED lighting. Accordingly, the Petitioner has considered growth rate of -0.26% which is the 5 year CAGR for this category.
- **DMRC:** During the FY 2018-19, DMRC has opted for Open Access. Under this arrangement, DMRC will not be procuring any energy from the Petitioner from 6:00 AM to 6:00 PM. Considering the fact the DMRC has train services running from 6:00 AM to 11:00 PM, this means that the Petitioner will be feeding its traction load only for 5



hours every day i.e. from 6:00 PM to 11:00 PM from the Petitioner. Mathematically, the Petitioner will be supplying DMRC with load for 5 out of 17 operation hours which is 30% of the time. Accordingly, the Petitioner envisages that DMRC's energy procurement from the Petitioner will fall / reduce by 70% during FY 2019-20.

- **Own Consumption:** Growth under own consumption has been gradually decreasing due to various energy consumption measures undertaken by the Petitioner such as replacement of conventional lighting with LED fixtures, replacement of old / inefficient ACs with new ACs. As such, the Petitioner's own consumption is significantly lesser than the normative limit prescribed by the Hon'ble Commission. Therefore, no growth has been considered under this category for the FY 2019-20.
- **DJB:** The Hon'ble Commission has merged DJB tariff category with the Public Utilities category. However, for the purpose of projection of energy sales, it is important for the Petitioner to analyze and project the energy consumption of DJB separately since DJB constitutes a significant consumer for the Petitioner. Going by past year trends, it is apparent that DJB has shown consistent growth at 11 kV. Therefore, the Petitioner has considered 6.54% for DJB under 11 KV which is equivalent to its 5 year CAGR.
- **All other categories –** No growth has been considered as energy consumption under all remaining categories are expected to remain more or less constant.

4.16 On the basis of the reasons elaborated above, the expected growth in the sales for FY 2019-20 is as tabulated below:

Table 4- 5: Projected Sales (MU) for FY 2019-20:

S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
1	DOMESTIC	7319	7868	7.5%
2	NON-DOMESTIC	3260	3370	3.4%
3	INDUSTRIAL	503	497	-1.3%
4	PUBLIC LIGHTING	155	154	-0.4%
5	AGRICULTURE	23	25	6.5%
6	MUSHROOM	0	0	13.0%
7	RAILWAY TRACTION	15	0	-100.0%
8	DMRC	395	118	-70.0%

S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
6	E-RICKSHAW	10	10	0.0%
	Supply at LT	10	10	0.0%
	Supply at HT	0	0	
10	OTHERS	610	623	2.3%
a	DIAL	203	203	0.0%
b	11KV (WORSHIP/HOSPITALS)	36	38	6.0%
c	DJB 11 KV	156	166	6.4%
d	DJB (LT)	72	78	7.4%
e	DVB STAFF	23	23	-1.7%
f	ADVERTISEMENT/ HOARDINGS	2	2	0.0%
g	TEMPORARY	101	101	0.0%
h	THEFT	0	0	
i	OWN CONSUMPTION	13	13	0.0%
	NET METERING	3	0	-100.0%
10	TOTAL	12289	12666	3.1%

4.17 **Projection of Load:** While projecting load for FY 2019-20, the Petitioner has observed that since this Hon'ble Commission has increased Fixed Charges in its Tariff Order dated 28.03.2018, several domestic consumers have approached the Petitioner for reduction in Sanctioned Load. Such request for load reduction is still continuing till date. The Petitioner has been accepting and executing such requests in accordance with law including in cases where consumers are eligible for Load Reduction as per criteria specified in the Supply Code Regulations.

4.18 It is further submitted that majority of the additional load on year-to-year basis comes from addition of new consumers. The Petitioner has the highest number of Domestic consumers and the majority of the addition of new consumers happens under this category. The Petitioner has been adding about 1 lakh new consumers every year under domestic category (taking average of last 5 years). Similarly, around 14000 new consumers are being added under Non-Domestic category. Most of the load growth is due to addition of such new consumers every year.

4.19 Taking in to account the average load addition by the Petitioner during past years and also the current trend of consumers reducing their load, the Petitioner has projected the following consumer-wise load for FY 2019-20:

Table 4- 6: Projected connected load for FY 2019-20

S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
1	DOMESTIC	5879	6032	2.6%
2	NON-DOMESTIC	2564	2642	3.1%
3	INDUSTRIAL	345	345	0.0%



S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
4	PUBLIC LIGHTING	46	46	-1.3%
5	AGRICULTURE	26	28	9.1%
6	MUSHROOM	0	0	0.0%
7	RAILWAY TRACTION	0	0	
8	DMRC	52	16	-70.0%
6	E-RICKSHAW	4	4	0.0%
	Supply at LT	4	4	0.0%
	Supply at HT	0	0	
10	OTHERS	280	280	0.2%
a	DIAL	51	51	0.0%
b	11KV (WORSHIP/HOSPITALS)	16	16	2.7%
c	DJB 11 KV	71	71	0.0%
d	DJB (LT)	45	45	0.0%
e	DVB STAFF	20	20	0.0%
f	ADVERTISEMENT/ HOARDINGS	1	1	0.0%
g	TEMPORARY	65	65	0.0%
h	THEFT	0	0	
i	OWN CONSUMPTION	11	11	0.0%
	NET METERING	0	0	
10	TOTAL	9195	9392	2.1%

Table 4- 7: Projected number of consumers for FY 2019-20

S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
1	DOMESTIC	2201882	2333995	6.0%
2	NON-DOMESTIC	339688	360184	6.0%
3	INDUSTRIAL	6233	6233	0.0%
4	PUBLIC LIGHTING	3002	3212	7.0%
5	AGRICULTURE	5321	5544	4.2%
6	MUSHROOM	11	11	0.0%
7	RAILWAY TRACTION	1	0	
8	DMRC	13	13	0.0%
6	E-RICKSHAW	367	404	10.0%
	Supply at LT	367	404	10.0%
	Supply at HT	0	0	
10	OTHERS	33613	33210	-1.2%
a	DIAL	1	1	0.0%
b	11KV (WORSHIP/HOSPITALS)	19	18	-2.0%
c	DJB 11 KV	41	37	-8.7%
d	DJB (LT)	1729	1542	-10.8%



S. No	Consumer Category	FY 2018-19	FY 2019-20	Growth %
e	DVB STAFF	4933	4721	-4.3%
f	ADVERTISEMENT/ HOARDINGS	696	696	0.0%
g	TEMPORARY	25473	25473	0.0%
h	THEFT	0	0	
i	OWN CONSUMPTION	721	721	0.0%
	NET METERING	0	0	
10	TOTAL	2590130	2742805	5.9%

4.20 The Petitioner requests the Hon'ble Commission to consider the aforesaid submission for estimation of sales, connected load and number of consumers during FY 2019-20.

Revenue Projection for FY 2019-20 at Existing Tariff

4.21 Revenue from Fixed Charges:

The revenue calculation from fixed charges requires the category/sub-category wise consumers (for domestic category) and connected load for other categories. The Hon'ble Commission has revised fixed charges vide tariff order dated March 28, 2018. The revised fixed charges have been considered for estimation of fixed charges for FY 2019-20.

4.22 Revenue from Energy Charges:

For projection of revenue for each category, actual sales trends observed in respective category/ sub categories have been considered based on the data available for last complete financial year as captured in form 2.1 (a). In each category the actual proportion of each sub-category/ slab has been considered based on the trends observed and accordingly the sub category/slab wise revenue projection of energy charges has been done.

4.23 Power factor considered for projection of sales for FY 2019-20 are as under:

Table 4- 8: Power factor considered

S. No	Consumer Category	Value
1	DOMESTIC	NA
2	Non Domestic Low Tension (NDLT)	
a	10-140 kW	0.95
b	Above 140 kW	0.95
c	Non Domestic High Tension (NDHT)	0.97
3	Small Industrial Power (SIP)	

S. No	Consumer Category	Value
a	10-140 kW	0.94
b	Above 140 kW	0.94
4	Large Industrial Power (LIP)	0.97
5	Railway Traction	0.99
6	DMRC	1.00
7	DJB	
a	10-140 kW	0.88
b	Above 140 kW	0.93
c	Supply at 11 kV and above	0.94
8	DIAL	0.93
9	ADVERTISEMENT/HOARDING	0.95
10	E Rickshaw	1.00

Revenue estimated for FY 2019-20

4.24 The revenue estimated on account of sales to various consumer categories for FY 2019-20 has been tabulated below:

Table 4- 9: Revenue billed estimated during FY 2019-20 (Rs. Crore)

	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
1	DOMESTIC	1087.97	3367.65		4455.63
1.1	INDIVIDUAL CONNECTIONS				
A	Up to 2 kW Sanctioned Load	190.26	749.86		940.12
	0-200 units		241.43		
	201-400 units		288.49		
	401 – 800 units		168.75		
	801-1200 Units		33.28		
	Above 1200 Units		17.91		
B	Between 2kW and 5 kW Sanctioned Load	457.87	1323.35		1781.22
	0-200 units		173.65		
	201-400 units		428.10		
	401-800 units		515.33		
	801-1200 Units		153.93		
	Above 1200 Units		52.35		
C	5 kW - 15kW Sanctioned Load	162.70	614.56		777.26
	0-200 units		5.75		
	201-400 units		22.69		
	401-800 units		109.51		
	801-1200 Units		137.93		
	Above 1200 Units		338.68		

	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
D	5 kW - 15kW Sanctioned Load	195.76	414.77		610.53
	0-200 units		14.71		
	201-400 units		58.29		
	401-800 units		135.88		
	801-1200 Units		92.02		
	Above 1200 Units		113.87		
E	15 kW - 25kW Sanctioned Load	20.04	59.05		79.09
	0-200 units		0.18		
	201-400 units		0.60		
	401-800 units		3.79		
	801-1200 Units		7.07		
	Above 1200 Units		47.42		
F	Above 25kW Sanctioned Load	22.49	77.67		100.16
	0-200 units		0.03		
	201-400 units		0.10		
	401-800 units		0.59		
	801-1200 Units		1.25		
	Above 1200 Units		75.71		
1.2	SINGLE DELIVERY POINT FOR GROUP HOUSING SOCIETY (GHS)	31.08	91.89		122.96
	Supply at 11kV		91.89		
1.3	Hospitals/Worship	4.79	29.72		34.52
1.4	DVB Staff	2.99	6.78		9.77
2	NON-DOMESTIC	816.06	2855.55	44.97	3716.58
2.1	NON- DOMESTIC LOW TENSION (NDLT)				
2.1(a)	Up to 10 kW	246.08	506.15		
2.1(b)	10 kW/11kVA - 140 kW/150 kVA	321.04			
	Normal		948.75		
	Peak		71.89		
	Off Peak		16.16		
2.1(c)	Greater than 140 kW / 150 kVA (400 volts)	15.88			
	Normal		61.74		
	Peak		24.99		
	Off Peak		5.86		
2.2	NON-DOMESTIC HIGH TENSION (NDHT)	0.00			
	For supply at 11 kV and above	233.06			
	Normal		740.08		



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
	Peak		370.34		
	Off Peak		109.60		
	Voltage Rebate				
3	INDUSTRIAL	108.71	385.21	5.53	499.46
3.1	Small Industrial Power (SIP) [less than 200kW/215 kVA]				
3.1(a)	Up to 10 kW	8.20	23.56		
3.1(b)	10 kW/11kVA - 140 kW/150 kVA	81.77	269.29		
	Normal		227.23		
	Peak		33.46		
	Off Peak		8.60		
3.1(c)	Greater than 140 kW / 150 kVA (400 volts)	2.15			
	Normal		7.57		
	Peak		1.85		
	Off Peak		0.39		
3.2	Industrial Power on 11 kV SIP Consumers				
3.3	Large Industrial Power (LIP)	16.60			
	Normal		51.26		
	Peak		23.31		
	Off Peak		7.98		
	Voltage Rebate				
4	AGRICULTURE	4.17	3.75		7.92
5	MUSHROOM CULTIVATION	0.02	0.03		0.05
6	PUBLIC LIGHTING	0.00	88.53	0.00	88.53
6.1	Metered				
A	Street Lighting	0.00	21.06		21.06
B	Signals and Blinkers	0.00	0.08		0.08
6.2	Unmetered				
A	Street Lighting	0.00	67.33		67.33
B	Signals and Blinkers	0.00	0.06		0.06
7	DELHI JAL BOARD (DJB)	37.94	152.79	1.12	191.85
7.1	Supply at LT	15.07	49.98		65.06
7.1(a)	Up to 10 kW	1.60	5.32		6.92
7.1(b)	10 kW/11kVA - 140 kW/150 kVA	12.97			12.97
	Normal		41.43		41.43
	Peak		0.67		0.67



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
	Off- Peak		0.27		0.27
7.1©	Greater than 140 kW / 150 kVA (400 volts)	0.50			0.50
	Normal		1.71		1.71
	Peak		0.39		0.39
	Off Peak		0.19		0.19
7.20	Supply at 11 kV and above	22.87	102.81		125.68
	Normal		65.84		65.84
	Peak		24.72		24.72
	Off Peak		12.25		12.25
8	DIAL	15.54	151.75	2.79	170.08
	Normal		80.45		
	Peak		49.47		
	Off Peak		21.83		
9	RAILWAY TRACTION	0.00		0.00	0.00
	Normal		0.00		
	Peak		0.00		
	Off Peak		0.00		
10	DMRC	4.67	71.30	3.16	79.13
	Normal		43.46		
	Peak		24.28		
	Off Peak		3.56		
	Voltage Rebate		0.00		
11	ADVERTISEMENTS AND HOARDINGS	0.32	1.56		1.87
	Normal		1.56		
	Peak		0.00		
	Off Peak		0.00		
12	Temporary	20.55	111.02		131.57
13	E-Rickshaw	0.00	5.33		5.33
	LT	0.00	5.33		
	HT	0.00			
14	Own Consumption	0.00	0.00		0.00
15	Net Metering	0.00	0.00		0.00



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
	Grand Total	2,095.96	7,194.49	57.56	9348.01

Distribution Loss

- 4.25 Regulation-25 (1) of the Business Plan Regulations, 2017 specifies the distribution Loss Target from FY 2017-18 to FY 2019-20 as under:

“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

S. No	Distribution Licensee	2017-18	2018-19	2019-20
1	BSES Rajdhani Power Limited	10.93%	10.19%	9.50%
	...			
	...			
	...			
	...			

“

- 4.26 Accordingly, the Petitioner has considered the distribution loss at 9.5% for FY 2019-20.

Collection Efficiency

- 4.27 The Hon’ble Commission while estimating revenue for FY 2018-19 in Tariff Order dated March 28, 2018 considered Collection Efficiency of 99.50%. In line with the same, the Petitioner has considered Collection Efficiency of 99.50%.

Energy Requirement

- 4.28 Based on the sales projected for FY 2019-20 and Distribution loss as specified for FY 2019-20 in Business Plan Regulations, 2017, the estimated energy requirement based on the sales and distribution loss as per the aforesaid discussion is tabulated below:

Table 4- 10: Energy Requirement for FY 2019-20

S. No	Particulars	Unit	Quantity	Remarks
A	Energy sales	MU	12666	Table-4.5
B	Distribution Loss	%	9.50%	Table-15 of DERC Business Plan Regulations, 2017
C	Energy Requirement	MU	13995	A/(1-B)
D	Distribution Loss	MU	1330	C-A



Power Purchase

4.29 The Petitioner sources its power requirement through mix of long term and short-term sources to meet the demand of Delhi. Long term sources include Central Generating Stations which are owned and/or fully controlled by Central Government and State Generating Stations which are owned and/or fully controlled by State Government. The Petitioner has been assigned the share based on the PPAs which have been inherited from Delhi Transco Limited and assigned to the Petitioner by way of Orders passed by the Hon'ble Commission. The allocation of power within Delhi is being done by the Hon'ble Commission.

4.30 The energy from various existing and upcoming generating stations has been estimated by applying Merit Order Dispatch Scheduling principle in the following manner:

i. NTPC Stations

- Revised allocation of various generating stations is considered as per Hon'ble Commission's last Tariff Order dated 28.03.2018 for FY 2018-19.
- The power availability has been estimated based on Hon'ble Commission's last Tariff Order dated 28.03.2018 during FY 2018-19.

ii. BTPS:

- No procurement is considered due to expected phasing out of plant.

iii. NHPC Stations:

- Revised allocation of various generating stations is considered as per Hon'ble Commission's last Tariff Order dated 28.03.2018 for FY 2018-19.
- The power availability has been estimated based on Hon'ble Commission's last Tariff Order dated 28.03.2018 during FY 2018-19.

iv. SJVNL, THDC, NPCIL, DVC, Sasan and SGS stations:

- The power availability for each year has been estimated based on the Hon'ble Commission's last Tariff Order dated 28.03.2018 issued for FY 2018-19.

v. RE Sources:

- For sources like Thyagraj Solar, TOWMCL and MSW Bawana, the Petitioner has considered the quantum as per Hon'ble Commission's last Tariff Order dated 28.03.2018 issued for FY 2018-19.

vi. New Generating Stations:

- The expected COD has been taken from various sources like latest CEA reports, PPA signed with the generation companies as per



information made available by the generators;

- Power availability after COD has been projected taking into account norms of auxiliary consumption, expected PLF and Petitioners share in power generated as per the normative operational parameters specified by CERC.

4.31 The energy estimated to be available during FY 2019-20 is tabulated below:

Table 4- 11: Energy available for FY 2019-20

SOURCE	Capacity (MW)	BRPL Share		FY 2019-20
NAME		MW	%age	MUs
LONG TERM				
Singrauli STPS	2,000	30	1%	174
Rihand STPS-I	1,000	69	7%	466
Rihand STPS-II	1,000	55	6%	343
Rihand STPS-III	1,000	78	8%	430
ANTA GPS	419	19	5%	84
Auriya GPS	663	32	5%	61
Dadri GPS	830	40	5%	129
Unchahaar-I TPS	420	11	3%	53
Unchahaar-II TPS	420	21	5%	113
Unchahaar-III TPS	210	13	6%	72
Dadri NCTPS(Th) I	840	559	67%	2,788
Kahalgaon I	840	22	3%	99
Kahalgaon II	1,500	69	5%	386
BTPS	705	140	20%	0
Farakka	1,600	10	1%	41
Aravali - Jhajjar	1,500	12	1%	0
Dadri NCTPS(Th) II	980	545	56%	2,860
Bairasul	180	9	5%	32
Salal- I	690	60	9%	180
Tanakpur	120	6	5%	20
Chamera -I	540	19	3%	80
Chamera-II	300	18	6%	91
Chamera-III	231	13	6%	60
URI	480	23	5%	120
Dhauliganga	280	16	6%	65
Sewa II	120	7	6%	27
Dulhasti	390	22	6%	127
URI 2	240	14	6%	76
Parbati 3	520	29	6%	40
Tala HEP	1,010	13	1%	63
RAPS	440	25	6%	188
NAPS	440	33	7%	225

Spaw



SOURCE	Capacity (MW)	BRPL Share		FY 2019-20
NAME		MW	%age	MUs
Nathpa Jhakri HPS	1,500	59	4%	292
Tehri HPP	1,000	44	4%	140
Koteshwar	400	27	7%	86
DVC CTPS 7 & 8	500	101	20%	849
Mejia 6	250	75	30%	295
Sasan	3960	66	2%	451
SECI Solar Rajasthan	60	20	33%	45
PPCL	330	93	28%	695
GT	270	165	61%	412
BAWANA	1,500	427	28%	825
TOWMCL	16	8	50%	60
MSW Bawana	24	10	42%	52
Thyagraj	1	1	100%	1
PTC-Wind	100	100	100%	293
SECI-Wind (150 MW)	150	150	100%	157
Tapovan Vishnugad	520	31	6%	43
Parbati-2	800	29	4%	40
Kemeng HEP	600	15	3%	21
Total Long Term Availability (A)		3,451		14,253

4.32 The power purchase cost has been estimated from the aforesaid sources as per the assumptions given below:

i. ISGS Stations:

- Annual fixed Charges (AFC) are considered as per latest bills for FY 2018-19 of various generating stations.
- Variable Cost (VC) has been considered equivalent to variable cost as per Hon'ble Commission in Tariff Order issued for FY 2018-19.

ii. State Generating Stations:

- Actual Annual fixed Charges (AFC) are considered as per DERC Orders for FY 2018-19 of various generating stations.
- Variable Cost (VC) has been considered equivalent to variable cost as per Hon'ble Commission in Tariff Order issued for FY 2018-19.

iii. RE Sources:

- The cost of procurement from TOWMCL, SECI, and Wind SECI have been considered as per the PPAs signed and/or billed, as the case may be.

iv. Sasan:

- The Petitioner has considered the per unit rate equivalent to Hon'ble



Commission in Tariff Order issued for FY 2018-19.

v. New Generating Stations:

- The Cost of power from new stations have been considered same as the average power purchase cost of similar stations and as indicated by various generating stations.

vi. Other Charges

- The Petitioner has considered the other cost in accordance with equivalent to actual cost observed during FY 2017-18 excluding water charges of Rs. 15 Cr. pertaining to NHPC's share of BYPL (allocated to the Petitioner).

4.33 The power purchase cost as proposed for various stations during FY 2019-20 is tabulated below:

Table 4- 12: Power Purchase Cost proposed for FY 2019-20

SOURCE	Quantum	Fixed Charges	Variable Charges	Total Charges	Rate
NAME	Mus	Rs.Cr.	Rs.Cr.	Rs.Cr.	Rs./kwh
LONG TERM					
Singrauli STPS	174	14	24	37	2.13
Rihand STPS-I	466	41	60	101	2.17
Rihand STPS-II	343	28	44	72	2.09
Rihand STPS-III	430	80	58	138	3.21
ANTA GPS	84	10	22	32	3.76
Auriya GPS	61	15	19	34	5.56
Dadri GPS	129	17	39	56	4.34
Unchahaar-I TPS	53	8	15	23	4.23
Unchahaar-II TPS	113	14	31	45	4.02
Unchahaar-III TPS	72	12	20	32	4.39
Dadri NCTPS(Th) I	2,788	376	884	1,260	4.52
Kahalgaon I	99	16	23	40	3.98
Kahalgaon II	386	53	88	141	3.66
BTPS		77		77	0.00
Farakka	41	6	10	16	3.88
Aravali - Jhajjar	0	13	0	13	0.00
Dadri NCTPS(Th) II	2,860	557	852	1,410	4.93
Bairasul	32	3	3	6	2.01
Salal- I	180	14	10	25	1.38
Tanakpur	20	3	3	6	3.12
Chamera -I	80	6	8	14	1.78
Chamera-II	91	8	9	17	1.83

SOURCE	Quantum	Fixed Charges	Variable Charges	Total Charges	Rate
NAME	Mus	Rs.Cr.	Rs.Cr.	Rs.Cr.	Rs./kwh
Chamera-III	60	10	13	23	3.83
URI	120	9	10	19	1.56
Dhauliganga	65	7	10	17	2.58
Sewa II	27	7	6	12	4.56
Dulhasti	127	26	33	58	4.60
URI 2	76	14	18	32	4.20
Parbati 3	40	13	11	24	6.08
Tala HEP	63	0	14	14	2.16
RAPS	188	0	64	64	3.41
NAPS	225	0	53	53	2.37
Nathpa Jhakri HPS	292	28	35	62	2.13
Tehri HPP	140	28	38	66	4.72
Koteswar	86	16	17	33	3.81
DVC CTPS 7 & 8	849	107	159	266	3.13
Mejia 6	295	71	70	141	4.78
Sasan	451	0	58	58	1.29
SECI Solar Rajasthan	45	0	25	25	5.50
PPCL	695	47	300	347	4.99
GT	412	81	132	213	5.16
BAWANA	825	379	311	691	8.37
TOWMCL	60	0	17	17	2.75
MSW Bawana	52	0	37	37	7.03
Thyagraj	1	0	0	0	3.56
Other Charges		0	78	78	
PTC-Wind	293	0	103	103	3.53
SECI-Wind (150 MW)	157	0	40	40	2.52
Tapovan Vishnugad	43	9	9	19	4.34
Parbati-2	40	0	26	26	6.50
Kemeng HEP	21	0	9	9	4.59
Total Long Term Availability (A)	14,253	2,222	3,918	6,140	4.31

Cost of Power from other sources (Short term power purchase):

- 4.34 The Petitioner requires short term power to meet the peak demand so as to ensure uninterrupted and quality supply of power to the consumers and also to comply with the directives issued by the Hon'ble Commission.
- 4.35 The Petitioner always attempts to dispose-off its surplus power in an economic manner. Given the seasonal and within a day variations in temperatures in Delhi, the demand for power varies widely between the peak and the off peak hours during a day and between the summer and winter months. As the demand varies

hugely within a day, it becomes essential for the Discoms like the Petitioner to prepare or arrange the power on slot-wise basis. The Power System Operation Corporation Limited (National Load Dispatch Centre) in “Electricity Demand Pattern Analysis” Report, 2016 has also acknowledged the fact that Delhi has a variation of 30% to 60% between peak demand and lean demand. Such rampant fluctuations in demand necessitate the Petitioner to arrange for buffer power so as to ensure uninterrupted supply to Delhi Consumers. In order to cater to the rising demand, BRPL has to arrange for power from long and short term sources.

- 4.36 The Petitioner has projected the energy requirement and energy availability on monthly basis by applying MOD principles. The deficit thus observed has been considered to be met through short term purchases as under:

Table 4- 13: Month-wise projection from short term power purchase (MU)

Month	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
Sales (MU)	876	1210	1340	1336	1364	1313	1168	898	742	797	794	829
STU Quantum Required (MU)	978	1350	1495	1491	1522	1465	1304	1002	828	889	886	926
Total Availability @ State Periphery	1,104	1,307	1,406	1,427	1,391	1,285	1,139	1,028	994	982	910	929
Shortage/Surplus (MU)	126	-43	-89	-64	-131	-180	-165	26	166	93	24	3

- 4.37 The Petitioner has considered the aforesaid energy to be met through short term procurement from FY 2019-20. For the purpose of short term purchase cost, the average Exchange annual rate of short term purchase for FY 2017-18 has been considered.
- 4.38 Accordingly, the power purchase cost through Short term sources for FY 2019-20 is tabulated below:

Table 4- 14: Short term power purchase for FY 2019-20

Sl.No.	Source	Energy Purchased	Cost per Unit	Total Cost
		(MU)	(Rs./unit)	(Rs.Cr.)
1	2	3	4	5=3*4
A	Short Term Purchase	672	4.16	279

- 4.39 The Petitioner requests the Hon’ble Commission to allow the aforesaid cost in the ARR of the Petitioner.

Renewable Purchase Obligation (RPO):

- 4.40 Regulation-27 of DERC Business Plan Regulations, 2017 specifies the target for Renewable Purchase Obligation from FY 2017-18 to FY 2019-20 as under:

"27. TARGET FOR RENEWABLE PURCHASE OBLIGATION

(1) 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 2017-18 to FY 2019-20 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 Renewable Purchase Obligation shall be as follows:

Sr. No.	Distribution Licensee	2017-18	2018-19	2019-20
1	Solar Target (Minimum)	2.75%	4.75%	6.75%
2	Total	11.50%	14.25%	17.00%

"

4.41 Accordingly, the cost of REC purchase for meeting Solar and Total RPO for FY 2019-20 is tabulated below:

Table 4- 15: Cost on account of RPO

Particulars	Solar	Non-Solar	Total
Sales (MU)	12666		
Hydro (MU)	1602		
Base for RPO (MU)	11,064		
Target (%)	6.75%	10.25%	17.00%
Target (MU)	747	1134	1881
Arrangement (MU)	46	562	608
Shortfall (MU)	701	572	1273
REC @Forbearance /kwh	1	1.13	1.06
REC Cost (Rs. Cr.)	70	65	135

4.42 Transmission Loss and Transmission Charges:

- Intra-State Transmission: The Intra-State Transmission Loss during FY 2019-20 has been considered @ 0.98%, i.e., approved intra-state transmission loss.
- Inter-State Transmission: The Inter-State Transmission Loss during has been considered @ 3% due to augmentation of large ISTS network and closure of BTPS.
- Transmission Charges: For estimation of Inter-State and Intra-State Transmission Charges, the Petitioner has considered the transmission charges estimated by the Hon'ble Commission for FY 2018-19 in Tariff Order dated March 31, 2018. The Intra-State and Inter-State Transmission losses and Charges projected for FY 2019-20 is tabulated below:

Table 4- 16: Transmission Loss and Transmission Charges projected for FY 2019-20

S. No	Particulars	FY 2019-20
1	2	3
A	Transmission losses (MU)	
i	Inter-State Transmission	353
ii	Intra-State Transmission	137
iii	Total Transmission losses (MU)	490
B	Transmission Charges (Rs. Crore)	1025

Energy Balance:

4.43 Based on the above discussion, the energy balance for FY 2019-20 is tabulated below:

Table 4- 17: Energy Balance projected for FY 2019-20

S. No	Particulars	UoM	FY 2019-20
1	Total energy available (excluding BTPS, SGS & RE)	MU	11,712
2	Inter-State Transmission Losses	%	3%
		MU	353
3	Energy available from BTPS, SGS,ST & RE	MU	3,213
4	Energy available at State Transmission Periphery	MU	14,571
5	Energy Requirement		
6	Energy sales	MU	12,666
7	Distribution loss	%	9.50%
8	Energy requirement at distribution periphery	MU	13,995
9	Intra-State Transmission Loss	%	0.98%
		MU	137
10	Energy Requirement at State Transmission Periphery	MU	14,133
11	Energy Surplus	MU	439

Sale of surplus power:

4.44 The Petitioner has considered the aforesaid excess energy to be sold through short term sale during FY 2019-20. For the purpose of short term sale rate, the average Exchange Annual Rate of Short Term sale for past 3 years has been considered. Accordingly, the short term sale for FY 2019-20 is tabulated below:

Table 4- 18: Revenue from sale of surplus power during FY 2019-20

S. No	Source	Energy sold (MU)	Cost per Unit (Rs./unit)	Total revenue (Rs.Cr.)
1	2	3	4	5=3*4
A	Short Term Sale	439	2.46	

Rebate on Power Purchase and Transmission Charges:

- 4.45 The Petitioner has considered receiving rebate on power purchase cost from generating stations and Transmission Charges during FY 2019-20 as under:

Table 4- 19: Rebate during FY 2019-20

S. No	Particulars	Total Charges (Rs. Cr.)	Rebate (Rs. Cr.)
1	2	3	4=2%*3
A	Purchase from Long Term sources	6116	122
B	Transmission sources	1025	21
C	Total		143

Total Power Purchase Cost:

- 4.46 The total power purchase cost during FY 2019-20 is tabulated below:

Table 4- 20: Total Power Purchase Cost during FY 2019-20

S. No	Station	Quantum (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Total Cost (Rs. Cr.)	TC/Unit
1	Total Long Term (A)	14253	2222	3918	6140	4.31
2	Short Term Purchase (B)	672			279	4.16
3	Short Term Sale (C)	439			108	2.46
4	Transmission Charges (D)		1025		1025	
5	REC Cost (E)			135	135	
6	Less: Rebate				143	
7	Net PP Cost @ Discom periphery	13995			7329	5.24

- 4.47 The Petitioner requests the Hon'ble Commission to allow the power purchase cost during FY 2019-20 as per the aforesaid table.

Re-allocation of Power Stations

- 4.48 The Hon'ble Commission has specified in its Regulation 121 (4) of Tariff Regulations, 2017 regarding re-allocation of power as follows:

" 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."

- 4.49 As per Tariff Order of the Hon'ble Commission the difference between the average revenue, Power Purchase cost and gap across the Discoms is tabulated below:

Table 4- 21: Gap between Average PP Cost and Average Billing Rate

Particulars	BRPL	BYPL	TPDDL
Avg. Power Purchase Cost (Rs./kwh)	4.07	3.18	3.91
Average Billing Rate (Rs./kwh)	7.56	7.51	7.71
Gap (Rs./kwh)	3.49	4.33	3.80

- 4.50 The Petitioner requests the Hon'ble Commission to balance the said gap and re-allocate the Power Portfolio as per applicable Regulations.

Few possible solutions to balance the gap:

- 4.51 In order to balance the gap and to make level playing field across the Discoms, the Petitioner requests the Hon'ble Commission to increase allocation from cheap stations i.e. Sasan, Rihand, Singrauli etc. to the Petitioner and decrease allocation from costly stations i.e. PPCL(Bawana), Dadri-I, Dadri-II, GT and APCPL-Jhajjar.
- 4.52 It is pertinent to mention that the Gas turbine (GT) State generating station is not directly physically connected to the Petitioner network, it is directly connected with Other Distribution Company of Delhi. This has led to wide variation in over-drawl / under-drawl in the Petitioner's area which is affecting the Scheduling of the Petitioner. Hence, the Petitioner requests the Hon'ble Commission to allocate entire Petitioner's share of GT station to the concern Discom directly (physically) connected with it.

Operation and Maintenance (O&M) Expenses

4.53 As regards, O&M Expenses, DERC Tariff Regulations, 2017 states as under:

“87. The Utilities shall be allowed Operation and Maintenance expenses on normative basis including expenses for raising the loan for funding of Working Capital and Regulatory Asset as specified by the Commission in the Business Plan Regulations for the respective Control Period:

Provided that the Normative O&M expenses for the respective Control Period shall not be trued up;

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.

88. Escalation to be allowed for adjustment towards increase in inflation, consumer price index (CPI), wholesale price index (WPI) etc. shall be as specified in the Business Plan Regulations for the respective Control Period.

89. Normative Operation and Maintenance expenses of a new Generating Entity shall be as per the norms approved by the CERC in Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 as amended from time to time, for respective year unless specifically approved by the Commission.

90. Normative Operation and Maintenance expenses of existing Generating Entity shall be as specified in the Business Plan Regulations for the respective Control Period.

91. The Commission shall specify the target for Normative Operation and Maintenance expenses of the Transmission Licensee in the Business Plan Regulations for the respective Control Period.

Provided that the Commission may specify Normative Operation and Maintenance expenses target of a Transmission Licensee on the basis of number of Bays and Circuit Kilometres.

92. Normative Operation and Maintenance expenses of a Distribution License shall consist of:

- (a) Employee Expenses;*
- (b) Administrative and General Expenses; and*
- (c) Repair and Maintenance Expenses.*

93. Normative Operation and Maintenance expenses of a Distribution Licensee for a Control Period shall be derived on the basis of audited Operation and Maintenance expenses for last five (5) completed Financial Years vis-a-vis normative Operation and Maintenance expenses allowed by the Commission during the corresponding period based on the following parameters:



- (a) Load growth,
 (b) Consumer growth,
 (c) Commercial loss,
 (d) Distribution loss,
 (e) Inflation,
 (f) Efficiency,
 (g) Capital base and,
 (h) Any other factor.”

4.54 Regulation-23 of DERC Business Plan Regulations, 2017 states as under:

“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 8: O&M Expenses for BRPL for the Control Period

Particulars	Unit	2017-18	2018-19	2019-20
66 kV Line	Rs. Lakh/ Ckt. Km	3.454	3.648	3.853
33 kV Line	Rs. Lakh/ Ckt. Km	3.454	3.648	3.853
11 kV Line	Rs. Lakh/ Ckt. Km	1.001	1.058	1.117
LT lines system	Rs. Lakh/ Ckt. Km	5.170	5.46	5.766
66/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	0.933	0.986	1.041
33/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	0.933	0.986	1.041
11/0.415 kV DT	Rs. Lakh/ Ckt. Km	2.209	2.333	2.464

...

- (2) The Distribution Licenses 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.
- (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 collected for the same year.
- (4) Impact of any Statutory Pay revision on employee's cost as may be applicable on case to case basis shall be considered separately, based on actual payment made by the Distribution Licensees and

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shall be allowed by the Commission after prudence check at the time of true up of ARR for the relevant financial year.”

- 4.55 The Petitioner vide letter dated June 2, 2017 submitted the estimated line length and power transformation capacity before the Hon'ble Commission from FY 2016-17 to FY 2021-22. The Petitioner has, therefore, applied the norms specified for FY 2019-20 in the Business Plan Regulations, 2017 on the line length and power transformation capacity estimated for FY 2019-20 as tabulated below:

Table 4- 22: O&M Expenses estimated during FY 2019-20 (Rs. Cr.)

S. No	Assets/ lines	Quantity	Units	Norms	Amount
1	11 kV lines	6,851	Rs. Lakh/ Ckt. Km	1.117	76.5
2	33 kV lines	1,212	Rs. Lakh/ Ckt. Km	3.853	46.7
3	66 kV lines				
4	LT lines system	11,394	Rs. Lakh/ Ckt. Km	5.766	657.0
5	11/0.415 kV DT	5,143	Rs. Lakh/ Ckt. Km	2.464	126.7
6	33/11 kV grid sub-station	6,867	Rs. Lakh/ Ckt. Km	1.041	71.5
7	66/11 kV grid sub-station				
8	Total				978.4

- 4.56 The Petitioner requests the Hon'ble Commission to allow the O&M Expenses as stated above in the ARR.

Additional Expenses

- 4.57 As regards additional expenses, 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;
...”

- 4.58 As regards projection of O&M Expenses, Regulation-87 of DERC Tariff Regulations, 2017 states as under:

“87....

Provided that the Normative O&M Expenses for the respective Control Period shall not be trued up;

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."

- 4.59 Further Regulation-23 (4) of DERC Business Plan Regulations, 2017 states as under:

"23. Operation and Maintenance Expenses

...

(4) Impact of any statutory pay revision on employee's cost as may be applicable on case to case basis shall be considered separately, based on actual payment made by the Distribution Licensees and shall be allowed by the Commission after prudence check at the time of true up of ARR for the relevant financial year."

- 4.60 Accordingly, the Petitioner has considered an escalation factor of 5.61% (as per DERC Business Plan Regulations, 2017) over FY 2017-18 to arrive at the additional O&M Expenses for FY 2019-20 as under:

Table 4- 23: Additional O&M Expenses estimated for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20
1	Impact on account of Minimum Wages	44.8
2	Impact on account of GST	16.6
3	Impact on account of 7 th Pay*	61.9
4	SMS Charges	0.7
5	Property Tax	3.0
6	Water Charges	2.4
7	Legal Fees	13.6
8	Legal Expenses	1.1
9	Loss on Retirement of Assets	20.0
10	Impact on account of revision in Bonus to contractual employees	1.4
11	DSM Charges	3.6
12	Ombudsman Expenses	0.06
13	Incremental License fees to be paid on assets	2.80
14	Geo-Spatial Fees	0.33
15	Total	172.3

* Payment towards Leave Salary & Pension contribution on a/c of 7th Pay not escalated for FY 2019-20

- 4.61 The Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR of FY 2019-20.

Capital Expenditure and Capitalisation

- 4.62 As regards, Capital Investment, Regulation-24 (1) of DERC Business Plan Regulations, 2017 states as under:

“24. Capital Investment Plan

(1) The tentative Capital Investment Plan in terms of Regulation 4 (4) of the DERC (terms and conditions for determination of tariff) Regulations, 2017 for the Distribution Licensee shall be as follows:

Table 12: Capitalisation for BRPL for the Control Period (in Rs. Cr.)

Particulars	2017-18	2018-19	2019-20	Total
Capitalization	425	439	449	1313
Smart Meter	87	87	87	261
Less: Deposit Work	40	41	42	123
Total	472	485	494	1451

“

- 4.63 Accordingly, the Petitioner has considered the gross capitalisation of Rs. 536 Crore including consumer contribution (Deposit work) during FY 2019-20.

Consumer Contribution

- 4.64 The Hon’ble Commission in Regulation-24 (1) of DERC Business Plan Regulations, 2017 has estimated Rs. 42 Crore on account of capitalization of deposit works, i.e., consumer contribution during FY 2019-20. Accordingly, the Petitioner has considered the same for the purpose of computation of Regulated Rate Base for FY 2019-20.

- 4.65 The average balance of consumer contribution during FY 2019-20 is tabulated below:

Table 4- 24: Consumer contribution for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20
A	Opening balance	741.1
B	Additions during the year	42.0
C	Closing balance	783.1
D	Average Consumer Contribution	762.1

Grants

- 4.66 The Hon’ble Commission in Regulation-24 (1) of DERC Business Plan Regulations, 2017 has not estimated any receipts of grants during FY 2019-20. Accordingly, the Petitioner has not considered any grants for the purpose of computation of

Regulated Rate Base for FY 2019-20.

Table 4- 25: Grants for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20
A	Opening balance	-
B	Additions during the year	-
C	Closing balance	-
D	Average Grants	-

Depreciation

4.67 The Hon'ble Commission in DERC Tariff Regulations, 2017 has specified different rates of depreciation depending upon the class and life of assets. Unlike the previous Regulations, DERC Tariff Regulations, 2017 do not contain the concept of Advance Against Depreciation. As per DERC Tariff Regulations, 2017, the assets shall attract a higher rate of depreciation till completion of 12 years of useful and after 12 years whereas the remaining depreciation shall be uniformly distributed over the remaining useful life.

4.68 Since FY 2017-18 is the first Financial Year for which these Regulations are applicable, the Petitioner has worked out the depreciation by applying these class-wise rates based on the useful life of the existing assets. Accordingly, the average rate of depreciation comes to be 4.76%. The Petitioner has applied rate of 4.76% on the average GFA estimated for FY 2019-20. However, the depreciation rate of 4.76% so computed, may undergo change at the end of FY 2018-19 based on actual capitalization.

4.69 As discussed in Para- 3A.111 (Chapter-3A), the working of 4.76% has been done by analysing the details of each asset and the Petitioner will submit the computation towards working of 4.76% if and when Hon'ble Commission directs.

4.70 The depreciation during FY 2019-20 is tabulated below:

Table 4- 26: Depreciation for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Gross Fixed Assets (GFA)		
i	Opening Balance	7088.0	
ii	Additions during the year	536.0	Para-4.63
iii	Closing Balance	7624.0	i+ii



S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
B	Consumer Contribution		
iv	Opening Balance	741.1	Table 4.24
v	Additions during the year	42.0	
vi	Closing Balance	783.1	iv+v
C	GFA net of consumer contribution		
vii	Opening Balance	6346.9	i-iv
viii	Additions during the year	494.0	ii-v
ix	Closing Balance	6840.9	vii+viii
D	Average rate of depreciation	4.76%	
E	Depreciation	314.2	F=(vii+viii)/2 x D

4.71 The Petitioner requests the Hon'ble Commission to allow the depreciation as computed above in the ARR.

Advance Against Depreciation

4.72 DERC Tariff Regulations, 2017 does not provide for Advance Against Depreciation. Hence, the Petitioner has not considered any Advance Against Depreciation during FY 2018-19 and FY 2019-20.

Means of finance for new investments

4.73 The Petitioner has considered the funding of capitalisation through consumer contribution, debt and equity. The consumer contribution has been considered first for financing of capitalisation and then the rest capitalisation has been considered to be funded in debt-equity ratio of 70:30. The means of finance for capitalization during FY 2019-20 is tabulated below:

Table 4- 27: Means of Finance for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Capitalisation during the year	536.0	Para-4.63
B	Means of finance		
i	Consumer contribution	42.0	Table-4-24
ii	Grants	0	Table 4-25
C	Net	494.0	(A-i-ii)
i	Internal Accruals	148.2	C x 0.3
ii	Debt	345.8	C x 0.7

Working Capital

- 4.74 The Working Capital for FY 2019-20 has been calculated in accordance with Regulation-84 (4) of DERC Tariff Regulations, 2017.
- 4.75 For the purpose of computation of working capital during FY 2018-19, the Petitioner has considered power purchase cost same as that considered in the Tariff Order for FY 2018-19.
- 4.76 For FY 2019-20, the Petitioner has considered the power purchase cost projected/ estimated for FY 2019-20.
- 4.77 The Working Capital Calculation FY 2019-20 is tabulated below:

Table 4- 28: Working Capital for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Receivables from sales of electricity	9424.3	
B	Receivables equivalent to 2 months of revenue from wheeling charges and sale of electricity	1,570.7	(A)/ 12 X 2
C	Less: Net purchase expenses (incl. Transmission Charges)	7,328.7	
D	Less: One month power purchase expenses (incl. Transmission Charges)	610.7	(C)/12
E	Total Working Capital	960.0	(B-D)
F	Less: Opening Working Capital	941.7	
G	Change in Working Capital	18.3	(E-F)

- 4.78 The Petitioner requests the Hon'ble Commission to consider the working capital as stated above while computation of ARR.

Regulated Rate Base (RRB)

- 4.79 Based on the above discussions / computations, the Regulated Rate Base (RRB) during FY 2019-20 is tabulated below:

Table 4- 29: Regulated Rate Base for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Opening RRB	4372.9	
B	RRB-for the year	179.8	B=i-ii-iv



S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
i	Investments capitalised during the year	536.0	Para-4.63
ii	Depreciation for the year	314.2	Table 4-26
iii	Advance against depreciation	0	
iv	Consumer contribution etc. during the year	42.0	Table 4-24
v	Change in working capital	18.3	Table 4-28
C	Closing RRB	4571.1	C=A+B+v
D	Regulated Rate Base (i)	4481.1	D=A+B/2+v

Equity and Debt

- 4.80 The Hon'ble Tribunal has directed the Hon'ble Commission to consider the repayment of loan for computation of average loan balance for the year. Accordingly, the Petitioner has considered repayment as 1/10th of opening balance of loan.
- 4.81 In accordance with Proviso to Regulation-70 of DERC Tariff Regulations, 2017, the Petitioner has considered the funding of working capital through 100% debt.
- 4.82 Accordingly, the average equity and average debt for FY 2019-20 is tabulated below:

Table 4- 30: Equity and Debt for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Equity		
i.	Opening Equity	2030.9	
ii.	Additions during the year	148.2	
iii.	Repayment/ Routing		
iv.	Closing Equity	2179.1	i+ii
v.	Average Equity	2105.0	$v=(i+iv)/2$
B	Debt		
vi.	Opening Debt	2380.0	
vii.	Additions during the year	345.8	
viii.	Working Capital	18.3	
ix.	Repayment during the year	238.0	$ix=vi/10$
x.	Closing Debt	2506.2	$vi+vii+viii-ix$

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
xi.	Average Debt	2443.1	$x=(vi+x)/2$

Weighted Average Cost of Capital

- 4.83 As regards computation of WACC, Regulation-70 of DERC Tariff Regulations, 2017 states as under:

“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;

...

rd is the Cost of Debt;

re is the Return on Equity.”

- 4.84 As regards rate of interest, Regulation-22 (1) of DERC Business Plan Regulations, 2017 states as under:

“22. MARGIN FOR RATE OF INTEREST ON LOAN

(1) Margin for rate of interest for the Control Period in terms of Regulation 4(2) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee shall be allowed as the difference in weighted average rate of interest on actual loan as on 1st April 2017 and 1 (one) year Marginal Cost of Fund based Lending Rate (MCLR) of SBI as on 1st April 2017:

Provided that the rate of interest on loan (MCLR plus Margin) shall not exceed approved base rate of return on equity for wheeling business i.e., 14.00%.”

- 4.85 Accordingly, the Petitioner has considered the rate of interest on debt during FY 2018-19 and FY 2019-20 equivalent to 14% as per DERC Business Plan Regulations, 2017.
- 4.86 The Petitioner in accordance with Regulation 72 of DERC Tariff Regulations, 2017 has also considered the rate of Return on Equity on pre-tax basis using Corporate Tax rate as the effective tax rate.

4.87 The WACC during FY 2019-20 has been computed below:

Table 4- 31: Weighted Average Cost of Capital (WACC) for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
		(Rs. Cr.)	
1	2	3	4
A	Equity	2105.0	Table 4-30
B	Debt	2443.1	
C	Total	4548.1	(A+B)
D	Cost of Debt	14%	
E	Return on Equity	16%	
F	MAT Rate	21.34%	
G	Rate of RoE (pre-tax)	20%	E/(1-F)
F	Weighted Average Cost of Capital	16.93%	((B/C)*D)+((A/C)*G)

Return on Capital Employed (RoCE)

4.88 The Petitioner has computed RoCE during FY 2019-20 as under:

Table 4- 32: RoCE for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	RRB (i)	4481.1	Table-4-29
B	WACC	16.93%	Table-4-31
C	RoCE	758.9	(A*B)

Non-Tariff Income

4.89 The Non-Tariff Income and income from other business during FY 2019-20 has been considered equivalent to actual NTI during FY 2017-18 as shown in Table-3A-37 of the Petition.

Table 4- 33: Non-Tariff Income for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	Non-Tariff Income	128.1	Table-3A-37

Carrying cost on revenue gap

4.90 Regulation 22 of the DERC Business Plan Regulations, 2017 provides that the rate of interest on loan shall not exceed approved base rate of return on equity for wheeling business i.e., 14%.

4.91 Accordingly, the Petitioner has considered the rate of carrying cost as 14%.

Aggregate Revenue Requirement

4.92 Based upon the above discussion, the Aggregate Revenue Requirement during FY 2019-20 is tabulated as under:

Table 4- 34: Aggregate Revenue Requirement for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20	Remarks/ Reference
1	2	3	4
A	Net Power Purchase Cost including Transmission and SLDC Charges	7328.7	Table 4.20
B	O&M Expenses	978.4	Table 4.22
C	Additional O&M Expenses	172.3	Table 4.23
E	Depreciation	314.2	Table 4.26
F	Return on Capital Employed (RoCE)	758.9	Table 4.32
G	Sub-total	9552.4	G= Sum (A to F)
H	Less: NTI	128.1	Table 4.33
I	Aggregate Revenue Requirement	9424.3	I=G-H

Revenue Available towards ARR

4.93 The Revenue available towards ARR is tabulated as under:

Table 4- 35: Revenue towards ARR for FY 2019-20 (Rs. Cr.)

S. No	Particulars	FY 2019-20
1	Revenue Realized	10788.6
2	RA Surcharge @ 8%	739.5
3	PT Surcharge @ 3.8%	347.8
4	Total Revenue realized	9701.3
5	Less: Electricity Duty	400.0
6	Revenue available towards ARR	9301.3

Revenue (Gap)/ Surplus

4.94 The Revenue (Gap)/ Surplus for FY 2019-20 is as under:

Table 4- 36: Revenue (Gap) for FY 2019-20 (Rs. Cr.)

S. No	Particulars	Submission	Reference
A	ARR for FY 2019-20	9424.3	
B	Revenue available towards ARR	9301.3	
D	Revenue (Gap)/ Surplus	(123.1)	C=B-A




Chapter – 5



TARIFF PROPOSAL FOR FY 2019-20

Spaw



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Background

- 5.1 Under Section 62 (1) of the 2003 Act, determination of tariff for Electricity Distribution Business/ Retail Tariff is the sole prerogative of the Hon'ble Commission. Therefore, in the treatment of Revenue Gap as proposed by the Petitioner, the Hon'ble Commission has the final say while finalizing tariff for Wheeling of Electricity and Retail Supply.
- 5.2 Despite continuous yearly tariff determination exercises undertaken by the Hon'ble Commission, there remains a huge unrecovered Regulatory Assets which is yet to be realized in terms of recovery through tariffs.
- 5.3 As is evident from the Petitioner's own past experience, the increase in Regulatory Assets has been mainly on account of increase in power purchase expenses. A comparison of truing-up exercise with ARR determination exercise clearly shows that the Distribution Cost has been reduced at the time of truing-up. Further, the Hon'ble Commission is yet to implement the directions issued by Hon'ble Tribunal in several Judgments. The revenue surplus estimated in ARR vis-à-vis revenue gap upto FY 2016-17 actually trued-up by the Hon'ble Commission itself reflects the reality as under:

Table 5. 1: Truing-up vis-à-vis ARR determination exercise

ARR from FY 2007-08 to FY 2016-17:

S. No	Particulars	ARR				
		PP Cost	Dist. Cost	Total	Revenue	Revenue Surplus
1	FY 2007-08	2298	490	2788	3005	217
2	FY 2008-09	2390	597	2987	3274	287
3	FY 2009-10	2473	687	3160	3682	521
4	FY 2010-11	2479	1082	3561		
5	FY 2011-12	4527	870	5397	4780	-618
6	FY 2012-13	4891	923	5814	6105	291
7	FY 2013-14	5217	914	6131	6995	864
8	FY 2014-15	5944	1687	7631	7636	5
9	FY 2015-16	6583	1381	7964	8042	78
10	FY 2016-17 #	6583	1381	7964	8042	78
11	Total	43385	10012	53397	51561	1723

Note #: There was no Tariff Order for FY 2016-17. Hence the numbers are assumed same as per the last Tariff Order.



Truing-up from FY 2007-08 to FY 2016-17:

S. No	Particulars	Truing-up				
		PP Cost	Dist. Cost	Total	Revenue	Revenue Gap
1	FY 2007-08	2566	462	3028	2894	-134
2	FY 2008-09	2616	454	3069	3109	40
3	FY 2009-10	3558	794	4352	3408	-943
4	FY 2010-11	4081	1155	5236	3930	-1306
5	FY 2011-12	5615	494	6109	4573	-1536
6	FY 2012-13	5621	772	6393	6049	-345
7	FY 2013-14	5873	721	6573	6877	304
8	FY 2014-15	6781	1414	8195	7599	-596
9	FY 2015-16	6177	1367	7544	8147	603
10	FY 2016-17	6719	1025	7743	8130	387
11	Total	49607	8658	58242	54716	-3526

As evident from above, the power purchase cost, which is uncontrollable, has always increased (except for FY 2015-16) at the time of truing-up; whereas Distribution cost, which was controllable, has continuously reduced at the time of truing-up.

- 5.4 The Petitioner has endeavoured to raise loans to fund the revenue gap on account of increase in power purchase cost and to the extent of Regulatory Asset recognised. The Regulatory Assets are nothing but cost incurred (primarily power purchase cost) in the previous years by the Petitioner as approved by Hon'ble Commission, which is yet to be recovered through tariff. The Petitioner is continuously requesting the Hon'ble Commission to amortise the Regulatory Assets.
- 5.5 Despite the Petitioner's best efforts in raising monies, the lenders have now toughened their stance on further lending to the electricity distribution sector including the Petitioner. A newspaper article dated May 12, 2016 suggests that the Reserve Bank of India has cautioned banks from lending more to power distribution companies /Discoms. Copy of the newspaper article is annexed as **Annexure 3**.
- 5.6 In view of the above, it is all the more necessary that the Revenue Gap is amortised. In that backdrop, the Petitioner is proposing amortisation of Revenue Gap in the following two parts:
- Revenue Gap upto FY 2017-18 to be recovered through a suitable surcharge on the Regulatory Assets including carrying cost as explained in para 5.9.



- b. Suitable cost reflective tariffs to take care of entire estimated standalone revenue gap during FY 2019-20.

Revenue (Gap)/ Surplus of DISCOM upto FY 2017-18

5.7 Revenue (Gap)/ Surplus till FY 2017-18 is tabulated below:

Table 5. 2 : Revenue (Gap)/ Surplus of till FY 2017-18 (Rs. Crore)

S. No.	Particulars	FY 2017-18
A	RA Creation	
1	Opening RA for FY 2017-18	4,258
2	Revenue Gap during FY 2017-18	680
3	Rate of carrying cost	14%
4	Carrying cost accrued during the year	643
5	Amortisation through 8% surcharge	687
6	Amortisation of carrying cost	428
7	Closing RA for FY 2017-18 on stand-alone basis	4,467
8	Add:	
a	Impact of ATE Directions (including CC upto FY 2017-18)	10,987
b	Impact of Review Petition (including CC upto FY 2017-18)	707
c	Impact of past claims (including CC upto FY 2017-18)	3,088
9	Total closing RA for FY 2017-18	19,249

- 5.8 Without prejudice to the Writ Petition (C) No. 104 of 2014 filed before Hon'ble Supreme Court of India, the Petitioner requests the Hon'ble Commission to adjust 8% surcharge so as to ensure recovery within the time-frame specified in the amortization plan submitted before Hon'ble Supreme Court of India.
- 5.9 Further, the Petitioner requests the Hon'ble Commission to allow the carrying cost on Regulatory Assets recognized till FY 2017-18 as per directions given by Hon'ble Tribunal in Appeal 153 of 2009 and O.P. 1 of 2011, through a separate surcharge.

Revenue at Existing Tariff for FY 2019-20

- 5.10 The methodology adopted for computation of revenue at existing tariffs for FY 2019-20 has been detailed in Chapter IV of this Petition.
- 5.11 The revenue estimated on account of sales to various consumer categories during FY 2019-20 has been tabulated below:

Table 5. 3: Revenue estimated during FY 2019-20 (Rs. Crore)



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
1	DOMESTIC	1087.97	3367.65		4455.63
1.1	INDIVIDUAL CONNECTIONS				
A	Up to 2 kW Sanctioned Load	190.26	749.86		940.12
	0-200 units		241.43		
	201-400 units		288.49		
	401 – 800 units		168.75		
	801-1200 Units		33.28		
	Above 1200 Units		17.91		
B	Between 2kW and 5 kW Sanctioned Load	457.87	1323.35		1781.22
	0-200 units		173.65		
	201-400 units		428.10		
	401-800 units		515.33		
	801-1200 Units		153.93		
	Above 1200 Units		52.35		
C	5 kW - 15kW Sanctioned Load	162.70	614.56		777.26
	0-200 units		5.75		
	201-400 units		22.69		
	401-800 units		109.51		
	801-1200 Units		137.93		
	Above 1200 Units		338.68		
D	5 kW - 15kW Sanctioned Load	195.76	414.77		610.53
	0-200 units		14.71		
	201-400 units		58.29		
	401-800 units		135.88		
	801-1200 Units		92.02		
	Above 1200 Units		113.87		
E	15 kW - 25kW Sanctioned Load	20.04	59.05		79.09
	0-200 units		0.18		
	201-400 units		0.60		
	401-800 units		3.79		
	801-1200 Units		7.07		
	Above 1200 Units		47.42		
F	Above 25kW Sanctioned Load	22.49	77.67		100.16
	0-200 units		0.03		
	201-400 units		0.10		
	401-800 units		0.59		
	801-1200 Units		1.25		
	Above 1200 Units		75.71		



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
1.2	SINGLE DELIVERY POINT FOR GROUP HOUSING SOCIETY (GHS)	31.08	91.89		122.96
	Supply at 11kV		91.89		
1.3	Hospitals/Worship	4.79	29.72		34.52
1.4	DVB Staff	2.99	6.78		9.77
2	NON-DOMESTIC	816.06	2855.55	44.97	3716.58
2.1	NON- DOMESTIC LOW TENSION (NDLT)				
2.1(a)	Up to 10 kW	246.08	506.15		
2.1(b)	10 kW/11kVA - 140 kW/150 kVA	321.04			
	Normal		948.75		
	Peak		71.89		
	Off Peak		16.16		
2.1(c)	Greater than 140 kW / 150 kVA (400 volts)	15.88			
	Normal		61.74		
	Peak		24.99		
	Off Peak		5.86		
2.2	NON-DOMESTIC HIGH TENSION (NDHT)	0.00			
	For supply at 11 kV and above	233.06			
	Normal		740.08		
	Peak		370.34		
	Off Peak		109.60		
	Voltage Rebate				
3	INDUSTRIAL	108.71	385.21	5.53	499.46
3.1	Small Industrial Power (SIP) [less than 200kW/215 kVA]				
3.1(a)	Up to 10 kW	8.20	23.56		
3.1(b)	10 kW/11kVA - 140 kW/150 kVA	81.77	269.29		
	Normal		227.23		
	Peak		33.46		
	Off Peak		8.60		
3.1(c)	Greater than 140 kW / 150 kVA (400 volts)	2.15			
	Normal		7.57		
	Peak		1.85		
	Off Peak		0.39		
3.2	Industrial Power on 11 kV SIP Consumers				



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
3.3	Large Industrial Power (LIP)	16.60			
	Normal		51.26		
	Peak		23.31		
	Off Peak		7.98		
	Voltage Rebate				
4	AGRICULTURE	4.17	3.75		7.92
5	MUSHROOM CULTIVATION	0.02	0.03		0.05
6	PUBLIC LIGHTING	0.00	88.53	0.00	88.53
6.1	Metered				
A	Street Lighting	0.00	21.06		21.06
B	Signals and Blinkers	0.00	0.08		0.08
6.2	Unmetered				
A	Street Lighting	0.00	67.33		67.33
B	Signals and Blinkers	0.00	0.06		0.06
7	DELHI JAL BOARD (DJB)	37.94	152.79	1.12	191.85
7.1	Supply at LT	15.07	49.98		65.06
7.1(a)	Up to 10 kW	1.60	5.32		6.92
7.1(b)	10 kW/11kVA - 140 kW/150 kVA	12.97			12.97
	Normal		41.43		41.43
	Peak		0.67		0.67
	Off- Peak		0.27		0.27
7.1©	Greater than 140 kW / 150 kVA (400 volts)	0.50			0.50
	Normal		1.71		1.71
	Peak		0.39		0.39
	Off Peak		0.19		0.19
7.20	Supply at 11 kV and above	22.87	102.81		125.68
	Normal		65.84		65.84
	Peak		24.72		24.72
	Off Peak		12.25		12.25
8	DIAL	15.54	151.75	2.79	170.08
	Normal		80.45		
	Peak		49.47		
	Off Peak		21.83		
9	RAILWAY TRACTION	0.00		0.00	0.00



	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr.)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)
	Normal		0.00		
	Peak		0.00		
	Off Peak		0.00		
10	DMRC	4.67	71.30	3.16	79.13
	Normal		43.46		
	Peak		24.28		
	Off Peak		3.56		
	Voltage Rebate		0.00		
11	ADVERTISEMENTS AND HOARDINGS	0.32	1.56		1.87
	Normal		1.56		
	Peak		0.00		
	Off Peak		0.00		
12	Temporary	20.55	111.02		131.57
13	E-Rikshaw	0.00	5.33		5.33
	LT	0.00	5.33		
	HT	0.00			
14	Own Consumption	0.00	0.00		0.00
15	Net Metering	0.00	0.00		0.00
	Grand Total	2,095.96	7,194.49	57.56	9348.01

Revenue (Gap)/ Surplus for FY 2019-20 at Existing Tariffs

5.12 The Revenue (Gap)/ Surplus for FY 2019-20 at Existing Tariffs is tabulated below:

Table 5. 4: Revenue (Gap)/ Surplus at Existing Tariff for FY 2019-20 (Rs. Crore)



S. No	Particulars	FY 2019-20	Remarks/ Reference
A	Revenue Requirement for the year (excludes carrying cost)	9424	Table-4-33
B	Revenue at existing tariff	9301	Revenue estimated to be billed through tariff X Collection Efficiency of 99.50% less carrying cost.
C	Revenue (Gap)/ Surplus for the year	-123	B-A

Pension Trust Surcharge:

5.13 The Hon'ble Commission introduced a separate surcharge of 3.7% in its Tariff Order dated 31.08.2017 for recovery of amount payable to Pension Trust and directed the Petitioner as follows:

"6.2. A total amount of Rs. 299 Cr. has to be paid to the Pension Trust in FY 2017-18 by the Petitioner. The Petitioner shall submit reconciliation of payment which has already been made to Pension Trust during FY 2017-18 and the balance amount to be paid within one month of the issuance of this Tariff Order. Based on the reconciliation statement the Petitioner is directed to pay the balance amount out of (Rs. 299 Cr. – already paid during FY 2017-18) in 7 (seven) equal monthly instalments to pension trust. Any under / over recovery on account of payment to the Pension Trust shall be trued up by the Commission at the time of True Up of ARR of FY 2017-18."

5.14 As per the Tariff Order, a total amount of Rs.299 Cr. was payable to pension trust during FY 2017-18 by the Petitioner. Till the issue of the Tariff Order dated 31.08.2017, the Petitioner had already accounted for payment of Rs.104.72 Cr. to Pension Trust. Therefore, the balance amount of Rs.194.28 Cr. was supposed to be collected against the Pension Trust Surcharge and subsequently transferred to Pension Trust. However, during FY 2017-18, the Petitioner could only recover amount of Rs.133.35 Cr. through the Pension Trust surcharge, leaving a shortfall of Rs.60.93 Cr. to be recovered through future tariff. A reconciliation in this respect is tabulated hereunder:

Table 5. 5: Shortfall through recovery of Pension Trust Surcharge FY 2017-18.

S.No.	Particulars	UoM	Amount
1	Collection in respect of Pension Trust Surcharge	Rs. Crore	133.35
2	Total Payable (Upto Mar 2018) as per Tariff Order	Rs. Crore	194.28

S.No.	Particulars	UoM	Amount
3	Amount Paid to Pension Trust	Rs. Crore	194.28
4	Recoverable from Future Tariff/True up / Shortfall	Rs. Crore	60.93
5	Rate of carrying cost	%	14%
6	Carrying cost accrued during FY 2017-18 (for half year)	Rs. Crore	4.27
7	Carrying cost accrued during FY 2018-19	Rs. Crore	8.53
8	Total shortfall recoverable through surcharge	Rs. Crore	73.73

- 5.15 The Hon'ble Commission had specified in the aforementioned Tariff Order that any shortfall with regards to the collection through the pension trust surcharge shall be allowed to be trued-up during the true-up of expenses for FY 2017-18.
- 5.16 In view of the above, the Petitioner requests the Hon'ble Commission to kindly allow recovery of the aforesaid shortfall along with applicable carrying cost through the Pension Trust surcharge on FIFO basis i.e. first the Petitioner ought to be allowed to recover total shortfall of Rs. 73.73 Cr. and only then subsequent recoveries through the pension trust surcharge to be allowed to be deposited with Pension Trust. Hon'ble Commission may adjust the present surcharge of 3.8% (as provided for in Tariff Order dated 28.03.2018) appropriately so as to enable recovery of the shortfall indicated above.



Tariff Proposal:

5.17 The revenue deficit at existing tariff proposed for FY 2019-20 is Rs. 123.1 Crore.

5.18 The reasons for such deficit are listed as under:

- a. Adverse consumer mix which has resulted in a lower distribution margin at the hands of the licensee as compared to its peers;
- b. High power purchase cost due to recent CERC Tariff Orders;
- c. Cheaper power from NHPC assumed to be re-allocated back to BYPL w.e.f. 31.03.2018;
- d. Reallocation of costly power to BRPL.
- e. Reduction of Sanctioned Load by consumers.
- f. Tariffs being not reflective of their cost of supply, which make big consumer susceptible to open access, adversely impacting remaining low end LT consumers;

5.19 To meet the revenue requirements, it is proposed that the Hon'ble Commission may determine a suitable cost reflective tariff.

Table 5. 6: Tariff Revision Proposed

S. No	Particulars	Amount (Rs. Cr.)	Remarks/ Reference
A	Revenue (gap)/ surplus during FY 2019-20	-123.1	Table-4-37
B	Reason for revenue gap		
i	Power Purchase	7329	1. Power Purchase Cost estimated as per Petitions filed by Various Gencos 2. Realistic rate of sale of surplus power considered 3. Cheaper power from NHPC re-allocated back to BYPL
ii	O&M Expenses	978	Table-4-21
iii	RoCE	759	Table-4-31
iv	Depreciation	314	Table-4-25
C	Earlier revenue gap proposed to be liquidated during FY 2019-20	Recovery of Rs. 19249 Cr. of RA till FY 2017-18 and Rs. 3027 Cr. of carrying cost estimated to be incurred during FY 2019-20	1. Without <i>prejudice</i> , existing 8% surcharge to be suitably increased for principal recovery of RA within stipulated time as per plan proposed before Hon'ble SC.



S. No	Particulars	Amount (Rs. Cr.)	Remarks/ Reference
			2. Carrying cost ought to be allowed as a separate surcharge on revenue instead of allowing in tariff as per requirements of Financial Institutions.
D	Tariff Hike Proposed (%)	Suitable cost reflective tariff.	
		Suitable surcharge for recovery of entire RA within 7 Years and carrying cost	



Cost of Service Model

5.20 As regards ratio of allocation of ARR into Wheeling and Retail Supply, Regulation 32 of DERC Business Plan Regulations, 2017 states as under:

“32.Ratio of Allocation of ARR into Wheeling & Retail Supply

The ratio of allocation of ARR into Wheeling & Retail Supply Business in terms of the Regulation 4(9) (e) of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 shall be as follows:

Table 17: Retail Business

Particulars	BRPL	TPDDL	BYPL
Cost of Power Purchase	100%	100%	100%
Inter-State Transmission Charges	100%	100%	100%
Intra-State Transmission Charges	100%	100%	100%
SLDC fees and charges	100%	100%	100%
Operation & Maintenance Costs	40%	38%	38%
Depreciation (including AAD)	21%	23%	19%
Return on Capital Employed	26%	28%	28%
Income Tax	26%	28%	28%
Non Tariff Income	85%	60%	85%

Table 18: Wheeling Business

Particulars	BRPL	TPDDL	BYPL
Operation & Maintenance Costs	60%	62%	62%
Depreciation (including AAD)	79%	77%	81%
Return on Capital Employed	74%	72%	72%
Income Tax	74%	72%	72%
Non Tariff Income	15%	40%	15%

....”

5.21 In accordance with the aforesaid ratios, the Petitioner has allocated the ARR into Retail and Wheeling Business as per the Table given below:

Table 5. 7: Allocation of ARR into Retail and Wheeling Business

S. No	Particulars	Retail	Wheeling	Total
		Rs. Cr.	Rs. Cr.	Rs. Cr.
1	Cost of Power Purchase	7329	0	7329
2	Operation & Maintenance Costs	391	587	978
3	Depreciation (including AAD)	66	248	314
4	Return on Capital Employed	197	562	759



S. No	Particulars	Retail	Wheeling	Total
		Rs. Cr.	Rs. Cr.	Rs. Cr.
	Additional expenses / other expenses	146	26	172
5	Non -Tariff Income	109	19	128
6	Total	8021	1403	9424

5.22 Accordingly, the Petitioner requests the Hon'ble Commission to consider the aforesaid bifurcation.



Proposal on Tariff Structure

- 5.23 The Hon'ble Commission in Tariff Order dated March 28, 2018 has rationalized the Tariff.
- 5.24 While doing so, the Hon'ble Commission has assumed a sanctioned load of 10538 MW for all consumers during FY 2018-19.
- 5.25 As compared to the projected sanctioned load, the Petitioner estimates the sanctioned load of 9195 MW and 9392 MW for FY 2018-19 and FY 2019-20 respectively.
- 5.26 The Petitioner serves the largest percentage of Domestic consumers in Delhi. The Petitioner observed almost 63% of the total sales during FY 2019-20 on account of domestic consumers.
- 5.27 In view of the above, the Petitioner proposes the Hon'ble Commission to determine a suitable cost reflective tariff, so as to amortize the projected Revenue Gap.
- 5.28 Further, the Petitioner proposes to suitably adjust the 8% surcharge so that the principal amount as per the recovery plan and carrying cost accrued during FY 2019-20 are recovered.



Expected Revenue with tariff revision proposed

5.29 The expected revenue from existing tariff and revised revenue as per proposal is tabulated below:

Table 5. 8: Expected revenue category-wise (Rs./ Unit)

S. No	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)	Hike in Tariff %	Revised Rev Proposed (Rs. Cr.)
1	DOMESTIC	1087.97	3367.65		4455.63	To meet the above revenue gap, the retail tariff ought to be determined in such a manner that after considering a collection efficiency of 99.5%, there ought not to be any revenue gap during FY 2019-20.	
1.1	INDIVIDUAL CONNECTIONS						
A	Up to 2 kW Sanctioned Load	190.26	749.86		940.12		
	0-200 units		241.43				
	201-400 units		288.49				
	401 – 800 units		168.75				
	801-1200 Units		33.28				
	Above 1200 Units		17.91				
B	Between 2kW and 5 kW Sanctioned Load	457.87	1323.35		1781.22		
	0-200 units		173.65				
	201-400 units		428.10				
	401-800 units		515.33				
	801-1200 Units		153.93				
	Above 1200 Units		52.35				
C	5 kW - 15kW Sanctioned Load	162.70	614.56		777.26		
	0-200 units		5.75				
	201-400 units		22.69				
	401-800 units		109.51				
	801-1200 Units		137.93				
	Above 1200 Units		338.68				
D	5 kW - 15kW Sanctioned Load	195.76	414.77		610.53		
	0-200 units		14.71				
	201-400 units		58.29				
	401-800 units		135.88				
	801-1200 Units		92.02				
	Above 1200 Units		113.87				
E	15 kW - 25kW Sanctioned Load	20.04	59.05		79.09		
	0-200 units		0.18				
	201-400 units		0.60				



S. No	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)	Hike in Tariff %	Revised Rev Proposed (Rs. Cr.)
	401-800 units		3.79				
	801-1200 Units		7.07				
	Above 1200 Units		47.42				
F	Above 25kW Sanctioned Load	22.49	77.67		100.16		
	0-200 units		0.03				
	201-400 units		0.10				
	401-800 units		0.59				
	801-1200 Units		1.25				
	Above 1200 Units		75.71				
1.2	SINGLE DELIVERY POINT FOR GROUP HOUSING SOCIETY (GHS)	31.08	91.89		122.96		
	Supply at 11kV		91.89				
1.3	Hospitals/Worship	4.79	29.72		34.52		
1.4	DVB Staff	2.99	6.78		9.77		
2	NON-DOMESTIC	816.06	2855.55	44.97	3716.58		
2.1	NON- DOMESTIC LOW TENSION (NDLT)						
2.1(a)	Up to 10 kW	246.08	506.15				
2.1(b)	10 kW/11kVA - 140 kW/150 kVA	321.04					
	Normal		948.75				
	Peak		71.89				
	Off Peak		16.16				
2.1(c)	Greater than 140 kW / 150 kVA (400 volts)	15.88					
	Normal		61.74				
	Peak		24.99				
	Off Peak		5.86				
2.2	NON-DOMESTIC HIGH TENSION (NDHT)	0.00					
	For supply at 11 kV and above	233.06					
	Normal		740.08				
	Peak		370.34				
	Off Peak		109.60				
	Voltage Rebate						



S. No	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)	Hike in Tariff %	Revised Rev Proposed (Rs. Cr.)
3	INDUSTRIAL	108.71	385.21	5.53	499.46		
3.1	Small Industrial Power (SIP) [less than 200kW/215 kVA]						
3.1(a)	Up to 10 kW	8.20	23.56				
3.1(b)	10 kW/11kVA - 140 kW/150 kVA	81.77	269.29				
	Normal		227.23				
	Peak		33.46				
	Off Peak		8.60				
3.1(c)	Greater than 140 kW / 150 kVA (400 volts)	2.15					
	Normal		7.57				
	Peak		1.85				
	Off Peak		0.39				
3.2	Industrial Power on 11 kV SIP Consumers						
3.3	Large Industrial Power (LIP)	16.60					
	Normal		51.26				
	Peak		23.31				
	Off Peak		7.98				
	Voltage Rebate						
4	AGRICULTURE	4.17	3.75		7.92		
5	MUSHROOM CULTIVATION	0.02	0.03		0.05		
6	PUBLIC LIGHTING	0.00	88.53	0.00	88.53		
6.1	Metered						
A	Street Lighting	0.00	21.06		21.06		
B	Signals and Blinkers	0.00	0.08		0.08		
6.2	Unmetered						
A	Street Lighting	0.00	67.33		67.33		
B	Signals and Blinkers	0.00	0.06		0.06		
7	DELHI JAL BOARD (DJB)	37.94	152.79	1.12	191.85		
7.1	Supply at LT	15.07	49.98		65.06		
7.1(a)	Up to 10 kW	1.60	5.32		6.92		
7.1(b)	10 kW/11kVA - 140 kW/150 kVA	12.97			12.97		



S. No	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)	Hike in Tariff %	Revised Rev Proposed (Rs. Cr.)
7.1©	Normal		41.43		41.43		
	Peak		0.67		0.67		
	Off- Peak		0.27		0.27		
	Greater than 140 kW / 150 kVA (400 volts)	0.50			0.50		
7.20	Normal		1.71		1.71		
	Peak		0.39		0.39		
	Off Peak		0.19		0.19		
7.20	Supply at 11 kV and above	22.87	102.81		125.68		
	Normal		65.84		65.84		
	Peak		24.72		24.72		
	Off Peak		12.25		12.25		
8	DIAL	15.54	151.75	2.79	170.08		
	Normal		80.45				
	Peak		49.47				
	Off Peak		21.83				
9	RAILWAY TRACTION	0.00		0.00	0.00		
	Normal		0.00				
	Peak		0.00				
	Off Peak		0.00				
10	DMRC	4.67	71.30	3.16	79.13		
	Normal		43.46				
	Peak		24.28				
	Off Peak		3.56				
	Voltage Rebate		0.00				
11	ADVERTISEMENTS AND HOARDINGS	0.32	1.56		1.87		
	Normal		1.56				
	Peak		0.00				
	Off Peak		0.00				
12	Temporary	20.55	111.02		131.57		
13	E-Rikshaw	0.00	5.33		5.33		



S. No	CATEGORY	FIXED CHARGES (Rs.Cr.)	ENERGY CHARGES (Rs.Cr)	TOD Sur+Rebate (Rs.Cr.)	TOTAL (Rs. Cr.)	Hike in Tariff %	Revised Rev Proposed (Rs. Cr.)
	LT	0.00	5.33				
	HT	0.00					
14	Own Consumption	0.00	0.00		0.00		
15	Net Metering	0.00	0.00		0.00		
	Grand Total	2,095.96	7,194.49	57.56	9348.01		

5.30 The revenue gap at current tariff is Rs. 123.1 Crore. To meet the above revenue gap, the retail tariff ought to be determined in such a manner that after considering a collection efficiency of 99.5%, there ought not to be any revenue gap during FY 2019-20.



Ratio of Average Billing Rate to Average Cost of Supply:

5.31 The ratio of Average Billing Rate to Average Cost of Supply at existing tariff and proposed tariff is tabulated below:

Table 5. 9: Ratio of Average Billing Rate to Average Cost of Supply for FY 2019-20

S.No	CATEGORY	Average Cost of Supply	Average Billing rate at current tariff	Hike in Tariff	Average Billing rate as per revised tariff	Ratio of ABR at revised tariff to average cost of supply	Revised Rev Proposed (Rs. Cr.)
1	DOMESTIC	7.44	5.62	To meet the revenue gap, the retail tariff ought to be determined in such a manner that after considering a collection efficiency of 99.5%, there ought not to be any revenue gap during FY 2019-20.		To be determined by the Hon'ble Commission	
2	NON-DOMESTIC	7.44	11.03				
3	INDUSTRIAL	7.44	10.06				
4	AGRICULTURE	7.44	3.17				
5	MUSHROOM CULTIVATION	7.44	2.25				
6	PUBLIC LIGHTING	7.44	5.75				
7	DELHI JAL BOARD (DJB)	7.44	7.89				
8	DIAL	7.44	8.36				
9	RAILWAY TRACTION	7.44	0.00				
10	DMRC	7.44	6.68				
11	ADVERTISEMENTS AND HOARDINGS	7.44	10.40				
12	TEMPORARY	7.44	12.97				
13	E-Rickshaw	7.44	5.50				
	Grand Total	7.44	7.38				

Tariff Schedule proposed:

5.32 The Tariff Schedule proposed during FY 2019-20 is tabulated below:

Table 5. 10: Tariff Schedule proposed for FY 2019-20

S. No	Particulars	UoM	Amount	Reference
1	ARR estimated for FY 2019-20	Rs. Cr.	9424.34	Table-4-33
2	Revenue realization estimated for FY 2019-20	Rs. Cr.	9301.27	Table-4-37
3	Revenue actually required for FY 2019-20	Rs. Cr.	9424.34	3=1
4	Collection Efficiency	%	99.5%	Para-4.28
5	Revenue Billed required to be allowed for FY 2019-20 based on projections	Rs. Cr.	9471.70	5=3/ (1-4)

5.33 In view of the above the Petitioner proposes the Hon'ble Commission to determine a suitable cost reflective tariff, so as to amortize the projected Revenue Gap.

