

BEFORE THE HON'BLE DELHI ELECTRICITY REGULATORY COMMISSION

VINNIYAMAK BHAWAN, C BLOCK, SHIVALIK, MALVIYA NAGAR,

NEW DELHI-110017

Petition _____ of 2020

IN THE MATTER OF:-

BSES Yamuna Power Limited ("BYPL")

PETITIONER.....

Shakti Kiran Building, Karkardooma

New Delhi-110 032

AND

IN THE MATTER OF:- Truing up of expenses upto the Financial Year (hereinafter referred to as "FY") FY 2019-20, 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 "**Tariff Regulations, 2017**"), And the Delhi Electricity Regulatory Commission Business Plan Regulations, 2017 (hereinafter referred to as "**Business Plan Regulations, 2017**") And 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 "**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 "**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**").

AND

IN THE MATTER OF:- Annual Tariff Petition and Tariff for FY 2021-22 under Section 62 of the Electricity Act, 2003 read with Regulation 11 & 12 and other relevant provisions under Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter referred to as "**Tariff Regulations, 2017**") And the Delhi Electricity Regulatory Commission Business Plan Regulations, 2019 (hereinafter referred to as "**Business Plan Regulations, 2019**") 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.



PETITION FOR TRUING UP OF EXPENSES UPTO FY 2019-20 AND
ANNUAL TARIFF PETITION FOR FY 2021-22

RESPECTFULLY SHEWETH:

1. BSES Yamuna Power Limited (hereinafter referred to as **“the Petitioner”**), a company incorporated under the Companies Act, 1956, and having its registered office at Shakti Kiran Building, Karkardooma, New Delhi – 110032, 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 2019-20; and
 - b) Annual Tariff Petition for FY 2021-22.

(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, Business Plan Regulations, 2017, DERC Tariff Regulations, 2017, and MYT Regulations 2011 and 2007, the Petitioner is required to file ARR Petition for Tariff for FY 2021-22 and Truing up of Expenses up to FY 2019-20. The Petitioner further submits that vide the present filing 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, variation in sales to meet the performance standards during FY 2019-20 as well as comply with various directives specified by the Hon’ble Commission, which particularly entails expenditure.
4. Aggregate Revenue Requirement/ Annual Tariff Petition of a Distribution Utility 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. Power Purchase Cost including Transmission Charges is one of the major



components of ARR which contributes to almost 70% of the total ARR of a Distribution Utility. 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 the Audit is already being carried by the CAG. Petitioner purchases power from Central Generating Stations at the rate specified by CERC in its various Tariff Orders.

6. The present Petition contains the following chapters:
- i. Chapter 1A – List of Dates & Events
 - ii. Chapter 1B – Executive Summary
 - iii. Chapter 1C – Preamble & Tariff Philosophy
 - iv. Chapter 2A - Performance during FY 2019-20
 - v. Chapter 2B - Compliance to Directives
 - vi. Chapter 3A - Truing Up for FY 2019-20
 - vii. Chapter 3B – True up of Past claims upto FY 2018-19
 - viii. Chapter 4 - Annual Revenue Requirement for FY 2021-22
 - ix. Chapter 5- Tariff Proposal for FY 2021-22

The above chapters are essentially a part and parcel of this Petition (Hereinafter collectively referred to as the “**ARR Petition**”).

7. 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.
8. In Delhi, the Distribution Licensees are required to follow the DERC Tariff Regulations, 2017 and DERC Business Plan Regulations, 2019 while filing the ARR and Tariff Petitions.
9. The Petitioner is filing the present ARR Petition to ensure prompt determination of truing-up of expenses upto FY 2019-20 and ARR and Tariff for FY 2021-22 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.

10. The Petitioner inter alia seeks:

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

11. This becomes imperative as:

- (e) There is a significant variation in Power Purchase Rate during FY 2019-20 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 with the fact that a cost-reflective tariff has not been provided to the Petitioner in the past ever since 2007. The Hon'ble Commission in its Statutory Advice to the Government of National Capital Territory of Delhi ("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 (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 besides statutory dues has been constrained 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 ATE.

12. 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.

It is respectfully submitted that the Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as "the Hon'ble ATE") has in a catena of judgments underscored the necessity for carrying true-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 true-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 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 of the Hon'ble Commission in the present ARR Petition.

FACTORS IMPACTING THE PETITIONER AND THE CONSUMERS:

13. 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 EA 2003 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) 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) Non recognition of Regulatory Asset (RA), in consonance with various judgments of the Hon'ble ATE. 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 decision of the Hon'ble Commission to continue to retain a meager 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.
- i) 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 ATE in its various judgments.
- j) The ability of the Petitioner to liquidate the dues of the generating companies and the transmission licensees is adversely affected owing to the increase of the recognized regulatory assets from Rs. 158.50 crore upto FY 2006-07 to Rs. 2292 Crore upto FY 2018-19;
- k) 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;

- l) Results in a situation where financial institutions are not willing to extend financial assistance to the Petitioner to carry on its licensed business.
- m) The following Appeals on various issues are pending before Hon'ble SC filed by the Hon'ble Commission or DISCOMs 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 inasmuch 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) Following Appeals are pending adjudication before the Hon'ble ATE.

S. No	Tariff Orders/Orders	Date of Tariff Orders/ Other Orders	Appeal before Hon'ble ATE	Present Status
1.	True up for FY 2013-14, Aggregate Revenue Requirement and Distribution Tariff (Wheeling and Retail supply) for FY 2015-16	29.09.2015	Appeal No. 297 of 2015	Pending
2.	Order in Petition No. 14 of 2014 – In the matter of implementation of Hon'ble ATE judgment dated 30.10.2009 in Appeal No. 37 of 2008	17.07.2014	Appeal No. 230 of 2014	Pending
3.	Suo-moto Order in Petition No. 14 of 2014 – In the matter of implementation of Hon'ble ATE judgment dated 30.10.2009 in Appeal No. 37 of 2008	20.04.2015	Appeal No. 155 of 2015	Pending



S. No	Tariff Orders/Orders	Date of Tariff Orders/ Other Orders	Appeal before Hon'ble ATE	Present Status
4.	True up for FY 2012-13 and Aggregate Revenue Requirement and Distribution Tariff (Wheeling and Retail supply) for FY 2014-15	23.07.2014	Appeal No. 236 of 2014	Pending
5.	True up for FY 2011-12 Aggregate Revenue Requirement and Distribution Tariff (Wheeling and Retail supply) for FY 2013-14	31.07.2013	Appeal No. 265 of 2013	Pending
6.	Review of the judgment dated 02.03.2015 passed by the Hon'ble ATE in Appeal No. 177 and 178 of 2012.	02.03.2015	R.P. No. 17 of 2015 in A.No 177 & 178 of 2012	Pending
7.	True up of expenses upto 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 True up of expenses for FY 2015-16	31.08.2017	70 & 71 of 2018	Pending
8.	True up of FY 16-17 and ARR for FY 18-19.	28.03.2018	214 of 2018	Pending
9.	True up of FY 17-18 and ARR for FY 19-20	31.07.2019	DFR 2333/2019	Pending

It is respectfully submitted that the present Petition is without prejudice to the rights and contentions of the Petitioner in the aforesaid cases pending before the higher Courts.

14. The Petitioner has filed a Petition 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 28.08.2020 in Petition no. 02 of 2020 on 1 issue.
15. The Hon'ble Commission is mandated in law to decide the present 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.

16. The filing of the Petition should not be treated as curtailing any right or claim of Petitioner (BYPL), which it is permitted to recover in terms of its License and Orders of the Hon'ble Commission, Hon'ble ATE (including the principle of parity / equality in treatment of DISCOMs) and or any other proceedings relevant to the entitlement of the Petitioner.
17. 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.
18. The Petitioner is filing the present Petition to ensure prompt determination of tariff as to seek the truing up of expenses upto FY 2019-20 and ARR and Tariff for FY 2021-22.

PRAYERS AND RELIEF SOUGHT:

1. 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 2019-20 and financial impact for past claims upto FY 2018-19 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 2019-20 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 2021-22; 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 Chapter – 5;
 - G. Defer and/or carry forward the compliance of RPO for FY 2019-20 as



submitted in Para No. 3A. 115 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. Grant consequential relief in Appeal No. 147 of 2009, Appeal No. 37 of 2008, Appeal No. 62 of 2012 and Appeal No. 178 of 2012 and RP No. 713 of 2015; Appeal 103 of 2017 and Appeal No. 110 of 2014; Appeal No. 153 of 2009, Appeal No. 52 of 2008, Appeal No. 14 of 2012 and Appeal No. 235 of 2014 in terms of the judgments of the Hon'ble Appellate Tribunal for Electricity;
- J. Give effect to any order/direction/ judgment as issued by the Hon'ble Tribunal and grant reliefs in terms of Para 16 hereinabove;
- K. 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
- L. Condone any inadvertent omissions/ errors/ rounding off difference/ shortcomings; and
- M. 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:

Brajesh Kumar
Regulatory Affairs
Authorised Signatory
BSES Yamuna Power Limited



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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
ARR	Aggregate Revenue Requirement
AT & C	Aggregate Technical and Commercial
ATE	Appellate Tribunal for Electricity
BBMB	<u>Bhakra Beas Management Board</u>
BEST	M/s Brihanmumbai Electric Supply & Transport Undertaking
BYPL	M/s BSES Yamuna 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
CERC	Central Electricity Regulatory Commission
CESC	M/s Calcutta Electricity Supply Company
CESU	<u>M/s. Central Electricity Supply Utility</u>
CFL	Compact Florescent Lamp
CGRF	Consumer Grievance Redressal Forum
CGS	Central Generating Stations
CISF	Central Industrial Security Force
CKM	Circuit Kilometers
CPI	Consumer Price Index
CPRI	Central Power Research Institute
CTC	Cost to the Company
CSERC	Chhattisgarh State Electricity Regulatory Commission
CSPDCL	Chhattisgarh State Power Distribution Co. Ltd
DA	Dearness allowance
DDA	M/s Delhi Development Authority
DERC	Delhi Electricity Regulatory Commission
DIAL	M/s. Delhi International Airport Limited
DISCOM	Distribution Company
DJB	M/s. Delhi Jal Board



Abbreviation	Full form
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
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
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
GoI	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
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
IEX	Indian Energy Exchange
IP Station	M/s Indraprastha Station
IPPAI	Independent Power Producers Association of India
IPGCL	M/s Indraprastha Power Generation Co. Ltd
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



Abbreviation	Full form
kV	Kilo Volt
kVAh	Kilo Volt Ampere hour
kVArh	Kilo Volt Ampere Resistance hour
kW	Kilo Watt
kWh	Kilo Watt Hour
LDC	Load Despatch 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
MoP	Ministry of Power
MRBD	Meter Reading and Bill Distribution
MSEDCL	Maharashtra State Electricity Distribution Co. Ltd
MU	Million Units
MVA	Million Volt Ampere
MW	Mega Watt
MYT	Multi Year Tariff
NABL	<u>National Accreditation Board for Testing and Calibration Laboratories</u>
NCT	National Capital Territory
NDPL	M/s North Delhi Power Limited
NGO	Non-Government Organisation
NHPC	M/s National Hydroelectric Power Corporation Ltd.
NJPC	<u>Nathpa Jhakri Power Corporation Ltd.</u>
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
PPCA	Power Purchase Cost Adjustment
PPCL	M/s Pragati Power Corporation Ltd.
PTC	Power Trading Corporation



Abbreviation	Full form
RA	Regulatory Asset
R & M	Repair and Maintenance
RE	Renewable Energy
REC	Rural Electrification Corporation
REL	M/s Reliance Energy Limited
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
SBI - PLR	State Bank of India - Prime Lending Rate
SBI – MCLR	State Bank of India – Marginal Cost of funds based Lending Rate
SCADA	Supervisory Control And Data Acquisition
SCOD	Scheduled Commercial Operation Date
SERC	State Electricity Regulatory Commission
SGS	State Generating Stations
SJVNL	M/s Satluj Jal Vidyut Nigam Limited
SLDC	State Load Dispatch Centre
SMS	Short Message Service
Sq. Kms	Square Kilometers
SoP	Standard of Performance
SVRS	Special Voluntary Retirement Scheme
TANGEDCO	Tamil Nadu Generation and Distribution Corporation
T&D	Transmission and Distribution
THDC	Tehri Hydro Development Corporation Ltd.
TNERC	Tamil Nadu Electricity Regulatory Commission
TPDDL	Tata Power Delhi Distribution Limited
TRANSCO	Transmission Company
T.O.	<u>Tariff</u> Order
UERC	Uttarakhand Electricity Regulatory Commission
UPERC	Uttar Pradesh Electricity Regulatory Commission
UI	Unscheduled Interchange
VRS	Voluntary Retirement Scheme
WACC	Weighted Average Cost of Capital
WPI	Whole Sale Price Index
Y-o-Y	Year on Year



Chapter – 1A

LIST OF DATES & EVENTS



1A.1 BACKGROUND

1A.1.1 BSES Yamuna Power Limited (hereinafter referred to as “the Petitioner”), a company incorporated under the Companies Act, 1956, and having its registered office at Shakti Kiran Building, Karkardooma, New Delhi – 110032, 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 Govt. of NCT of Delhi. The company spans across an area of 200 sq. km. serving to Central and East part of Delhi.

1A.1.2 The present petition is being filed for:

- a) Truing up of Expenses upto FY 2019-20; and
- b) Annual Tariff for FY 2021-22

1A.1.3 The present Petition contains the following chapters:

- c) Chapter 1A – List of Dates & Events
- d) Chapter 1B – Executive Summary
- e) Chapter 1C – Preamble & Tariff Philosophy
- f) Chapter 2A - Performance during FY 2019-20
- g) Chapter 2B - Compliance to Directives
- h) Chapter 3A - Truing Up for FY 2019-20
- i) Chapter 3B – True up of Past claims upto FY 2018-19
- j) Chapter 4 - Annual Revenue Requirement for FY 2021-22
- k) Chapter 5- Tariff Proposal for FY 2021-22

The above chapters are essentially a part and parcel of this Petition (Hereinafter collectively referred to as the “**ARR Petition**”).

1A.1.4 In accordance with the Electricity Act, 2003 (hereinafter referred to as “**2003 Act**”), the License conditions, Business Plan Regulations, 2017, and Tariff Regulations, 2017 the Petitioner is required to file Petition for ARR & Tariff for FY 2021-22 and Truing up of Expenses upto FY 2019-20.



1A.2 LIST OF DATES AND EVENTS

Dates	Events
On or about 20.11.2001	Delhi Government, 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 ("Transfer Scheme"). The Delhi Government issued notification No. F.II (118)12001-Power containing Policy Directions under Section 12 of the Reforms Act 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. Delhi Government issued an Information Memorandum to the six prequalified entities which were shortlisted on the basis of the criteria specified in the RFQ. Delhi Government 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. TRANSCO and three DISCOMs filed a joint Petition No. 4 of 2001 before the Ld. Delhi Commission ("Joint Petition"), pursuant to the Transfer Scheme and the Policy Directions
09.03.2001	Hon'ble Commission notified Delhi Electricity Regulatory Commission Comprehensive(Conduct of Business) Regulations, 2001.
22.02.2002	Prior to privatization, Hon'ble Delhi 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 realized from DISCOMs.
26.06.2002	GoNCTD notified Delhi Electricity Reform Transfer Scheme (Amendment) Rules, 2002.
27.06.2002	Share Acquisition Agreements and Shareholders Agreements executed between selected bidders and three DISCOMs.



Dates	Events
01.07.2002	This is the effective date of privatization of DISCOMs. BRPL / BYPL 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	The Electricity Act, 2003 notified by Ministry of Power(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 Electricity 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 Act.
21.07.2006	The Petitioner challenged the Tariff Order dated 09.06.2004 wherein the Hon'ble Commission, as recorded by the Hon'ble APTEL, had directed the Petitioner to create a Regulatory Asset in its books. The Hon'ble APTEL by its judgment dated 21.07.2006 in Appeal No. 155, 156 & 157 of 2005 set aside the findings of Hon'ble Commission whereby Hon'ble Commission deferred the payments of Petitioner's legitimate dues by creating Regulatory Asset. The APTEL 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 to arrange power for themselves which, prior to this date was being undertaken by DTL. On this date, the Hon'ble Commission also passed a detailed order assigning the existing PPAs (entered into by the DVB / DTL) amongst the distribution licensees of Delhi.
30.05.2007	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	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 APTEL in Appeal 36/ 37 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 APTEL in Appeal 142 / 147 of 2009. TPDDL carried this Order before APTEL in Appeal 153 of 2009.



Dates	Events
06.10.2009& 30.10.2009	Hon'ble APTEL 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, Distribution loss and AT&C losses, Capital expenditure and capitalisation, Employee expenses, Non-inclusion of Reactive Energy Charges, Disallowance of R&M and A&G expenses, Lower approval of interest rates for loans. This judgment was carried by the Hon'ble Commission to the Hon'ble Supreme Court in Civil Appeal No. 884 / 980 of 2010. Through there is no stay by the Hon'ble Supreme Court, many parts of this judgment are yet to be implemented by the Hon'ble Commission.
30.07.2010	The Hon'ble APTEL pronounced judgment in Appeal 153 of 2009 (TPDDL Vs DERC) inter-alia holding four issues in favor of TPDDL. The Hon'ble Commission carried this judgment in Appeal before the Hon'ble Supreme Court in CA no. 6006 of 2012. However, the said civil appeal was dismissed by the Hon'ble Supreme Court on the ground of delay.
15.10.2010	Statutory advice was issued by the Hon'ble Commission under section 86(2) (iv), stating, inter-alia 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) (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 'N.K.Garg Vs. NCW', no Tariff Order was passed for the FY 2010-11.



Dates	Events
12.07.2011	Hon'ble APTEL 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 the Hon'ble Commission to the Hon'ble Supreme Court in Civil Appeal 9003 / 9004 of 2011. Through there is no stay by the Hon'ble Supreme Court, many parts of this judgment are yet to be implemented by the Hon'ble Commission.
26.08.2011	Tariff Order issued by Hon'ble Commission for FY 2011-12. This was carried by the Petitioner in Appeal before APTEL in Appeal No. 61 / 62 of 2012.
02.12.2011	Hon'ble Commission notified DERC (Terms and conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulation, 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. upto 31.03.2016.
02.12.2011	Letter Ref.No.3/Tariff/DERC/2011-12/OPANO.3214/5215/522 issued by Hon'ble Commission assuring a roadmap for liquidation of revenue gap.
01.02.2012	BSES Companies filed Original Petition No. 1 and 2 of 2012 under Section 121 of the Act before APTEL.
05.07.2012	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 APTEL in Appeal Nos. 142&147 of 2009 and also stay of the proceedings of O.P. Nos. 1&2 of 2012.
13.07.2012	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 APTEL 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	Hon'ble Supreme Court passed in IA No. 5 inCA No. 980 of 2010 and IA No. 3-4 in CA No. 9003-04 of 2011 directing that the APTEL 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	Hon'ble Commission issued Tariff Order for ARR for FY 2013-14 and True up FY 2011-12. This was subsequently challenged before APTEL by the Petitioner in Appeal 265 / 266 of 2013.



Dates	Events
14.11.2013	The Hon'ble APTEL pronounced judgment in O.P. No. 1 and 2 of 2012.
23.07.2014	Hon'ble Commission issued Tariff Order for ARR for FY 2014-15 and True up FY 2012-13. This was subsequently challenged before APTEL by the Petitioner in Appeal 235 / 236 of 2014.
28.11.2014	Hon'ble APTEL 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 and on 10 in favor of the Commission. The Petitioner has filed an Appeal before the Supreme Court in CA 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	Hon'ble APTEL 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 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	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 APTEL 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 2011 Tariff Regulations to FY 2016-17.
31.08.2017	Hon'ble Commission passed ARR and Tariff for FY 2017-18. The Petitioners carried the matter in Appeal before the APTEL 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 the Hon'ble Commission, which came to be allowed vide order dated 22.03.2018.



Dates	Events
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 (Terms and Conditions for Determination of Tariff) Regulations 2017.
27.03.2018	Hon'ble Commission passed order for reallocation of power for FY 2018-19.
28.03.2018	Hon'ble Commission passed ARR and Tariff for FY 2018-19. The Petitioner carried the matter in Appeal No. 193 and 214 of 2018 before APTEL. The Petitioner has also filed a Review Petition being Petition number 30 / 31 of 2018 before the Hon'ble Commission.
18.09.2018	Hon'ble Commission passed Order in Petition No. 44/45 of 2018 allowing the power purchase cost from Anta, Auraiya, Dadri Gas stations for FY 2012-13 to 2015-16.
29.11.2018	The Petitioner filed a Petition for approval of Truing up of Expenses upto FY 2017-18, ARR and for FY 2019-20. This Petition was subsequently numbered as Petition No.08/2019.
30.09.2019	The Hon'ble APTEL pronounced Judgment in TPDDL's Appeal 246 of 2014, wherein the Hon'ble APTEL has directed the Hon'ble Commission to allow capitalization on actual basis as physical verification of exercise is pending for very long period which is adversely affecting cash flow of the Petitioner.
31.07.2019	The Hon'ble Commission passed ARR and Tariff for FY 2019-20. The Petitioner has carried the matter before APTEL. The Petitioner has also filed a Review Petition before the Hon'ble Commission which yet to be listed by Hon'ble Commission.
05.12.2019	The Petitioner filed Petition for approval of Truing up of Expenses upto FY 2018-19. This Petition was subsequently numbered as Petition No. 02/2020
13.12.2019	The Hon'ble Commission issued Review Order on Petition no. 31 of 2018 filed by the Petitioner on 15 issues
14.02.2020	The Petitioner filed revised Petition for approval of ARR for FY 2021-22. This Petition was subsequently numbered as Petition No. 02/2020 together with the True Up Petition upto FY 2018-19 filed by the Petitioner
28.08.2020	The Hon'ble Commission passed ARR and Tariff for FY 2020-21. The Petitioner has carried the matter before APTEL. The Petitioner has also filed a Review Petition before the Hon'ble Commission which yet to be listed by Hon'ble Commission.



Chapter – 1B

EXECUTIVE SUMMARY



1B. EXECUTIVE SUMMARY**Introduction**

- 1.1 The Petitioner has filed this Petition for Approval of True up upto FY 2019-20 and ARR of FY 2021-22 as per Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017.
- 1.2 The Executive Summary contains the summary of the Petition filed by the Petitioner for True upto FY 2019-20 and ARR of FY 2020-21.
- 1.3 Aggregate Revenue Requirement (ARR) and Tariff for FY 2020-21 shall be determined based on the provisions of Tariff Regulations, 2017 and Business Plan Regulations, 2019. ARR broadly has the following components:
 - a) Power Purchase Cost including transmission charges
 - b) Normative Operation and Maintenance (O&M) expenses, Statutory Levies, Water Charges and Taxes, etc.
 - c) Return on Capital Employed
 - d) Depreciation
 - e) Income Tax.
 - f) Non-tariff Income, etc.
- 1.4 Depreciation and RoCE are to be trued up based on the actual capital expenditure and actual capitalization vis-à-vis capital investment plan (capital expenditure and capitalization) approved by the Commission - Controllable parameters.
- 1.5 Variation in revenue / expenditure on account of uncontrollable sales / power purchase respectively – Uncontrollable parameters.

1. True up for FY 2019-20**Energy Sales and Revenue**

- 2.1 The Petitioner submitted that its sale of energy in FY 2019-20 is 6658 MU as tabulated below:



Table 1.1:Category Wise Sales (MU) FY 2019-20

S. No.	Category	Actual
A	Domestic	4057
B	Non Domestic	1737
C	Industry	373
D	Public Lighting	93
E	Agriculture & Mushroom Cultivation	0
F	DMRC	150
G	DJB	150
H	Others*	98
Total		6658

*Includes enforcement, Own consumption, Temporary Supply, net metering and Advertisement & Hoardings etc

- 2.2 The Petitioner realised revenue amounting to Rs. 4,818 Cr. (excluding 8% Surcharge, 3.80% Pension Surcharge, LPSC and Electricity Tax).

AT&C Loss for FY 2019-20

- 2.3 The actual AT&C loss along with Distribution loss and Collection Efficiency for FY 2019-20 is tabulated as under:

Table 1.2:AT&C Loss for FY 2019-20 (%)

S. No	Particulars	Actuals
1	Distribution Losses	7.30%
2	Collection Efficiency	98.55%
3	AT&C Loss level	8.65%

Power Purchase Requirement:

- 2.4 The Petitioner purchases almost 70% 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.
- 2.5 The summary of actual power purchase quantum procured by the Petitioner during FY 2019-20 is as follows:



Table 1.3: Power Purchase Quantum for FY 2019-20 (MU)

S. No	Particulars	Amount
A	Power Purchase:	
I	Gross Power Purchase Quantum	8938
II	Power sold to other sources	1502
III	Net Power Purchase	7435
B	Transmission Loss:	
I	Total transmission loss (Inter State & Intra State)	257
C	Net power available after Transmission Loss*	7179

*Excluding Open Access

Power Purchase Cost:

2.6 The actual power purchase cost claimed during FY 2019-20 is tabulated below:

Table 1.4: Power Purchase Cost for FY 2019-20 (Rs. Cr.)

S. No.	Particulars	Submission
A	Power Purchase Cost	
i	Gross Power Purchase Cost	3,587.58
ii	Power sold to other sources	522.26
iii	Net Power Purchase Cost	3,065.32
B	Transmission Charges	
i	Inter-state transmission charges	446.62
ii	Intra-state transmission charges	111.22
iii	Other Transmission charges	66.59
iv	Total Transmission charges	624.43
C	Rebate	
i	Power Purchase Rebate	7.27
ii	Rebate on Transmission Charges	
iii	Total rebate	7.27
D	Add: Net Metering	1.77
E	Add: Self Generation (Roof Top Solar)	0.14
F	Net Power Purchase including Transmission charges before incentive & net of rebate	3,684.39

O&M Expenses:

2.7 The Petitioner has computed the O&M expenses for FY 2019-20 as per Business



Plan Regulations, 2017 as shown below:

Table 1.5: O&M expenses for FY 2019-20

Particulars	Capacity as on 31.03.2020	O&M expenses per unit		O&M expenses
66 kV Line (ckt. km)	225	Rs. Lakh/ckt. km	4.931	11.1
33 kV Line (ckt. km)	394	Rs. Lakh/ckt. km	4.931	19.4
11kV Line (ckt. km)	2953	Rs. Lakh/ckt. km	2.071	61.2
LT Line system (ckt. km)	5560	Rs. Lakh/Ckt. km	9.247	514.1
66/11 kV Grid S/s (MVA)	1765	Rs. Lakh/MVA	1.166	20.6
33/11 kV Grid S/s (MVA)	2056	Rs. Lakh/MVA	1.166	24.0
11/0.415 kV DT (MVA)	3455	Rs. Lakh/MVA	2.561	88.5
Total				738.8

Other Statutory levies/ Other Miscellaneous Expenses:

- 2.8** The Petitioner has claimed certain amount on account of statutory levies/Taxes and miscellaneous expenses which are uncontrollable in nature and not covered in the above normative O&M expenses during FY 2019-20 as shown below:

Table 1.6: Other uncontrollable costs/ miscellaneous expenses

S. No	Particulars	Amount (Rs. Cr.)
A	Arrears paid on account of 7 th Pay Commission revision	62.7
B	Impact of Revision in Minimum Wages	31.0
C	GST Charges	23.5
D	Legal Expenses	19.1
E	Loss on Sale of Retired Assets	17.7
F	Property Tax	1.2
G	Water Charges	0.2
H	SMS Charges & Short Code	0.5
I	Ombudsman Fees	0.1
J	DSM charges	0.8
Total		156.7

Non-Tariff Income:

- 2.9** The Petitioner has deducted the following items for the purpose of computation of Non-Tariff Income:

- a. Late Payment Surcharge (LPSC)



- b. Rebate on power purchase and Transmission Charges
 - c. Write-back of Miscellaneous expenses
 - d. Short term gain
 - e. Transfer from consumer contribution for capital works
 - f. Bad debts recovered
 - g. Commission on Electricity Duty
- 2.10 The Non-Tariff Income claimed by the Petitioner in True-up of FY 2019-20 is Rs. **73 Cr.**

Income from other business:

- 2.11 The summary of total income received from other business and proposed to be retained by the Petitioner is tabulated below:

Table 1.7: Other Business Income during FY 2019-20 (Rs. Crore)

S. No	Particulars	Total Income	Consumer's Share	Petitioner's Share
A	Pole Rental Income	3.72	2.23	1.49
B	Total	3.72	2.23	1.49

Capital Expenditure & Capitalisation

- 2.12 Actual capitalization and de-capitalisation as per the Audited Accounts for FY 2019-20 has been considered to derive the closing balance of GFA as under:

Table 1.8: Gross Fixed Assets for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	Opening GFA	3743.56
B	Capitalisation during the year	247.20
C	De-capitalisation	40.77
D	Closing GFA	3949.98
E	Average GFA	3846.77

Funding of Capitalisation



- 2.13 The financing of Capitalisation (net of de-capitalisation and consumer contribution) through debt and equity in the ratio of 70:30 as shown below:

Table 1.9: Financing of Capitalisation for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	Total Capitalisation	247.20
B	De-capitalisation	40.77
C	Consumer Contribution	17.02
D	Balance Capitalisation	189.41
E	Debt	132.58
F	Equity	56.82

Consumer Contribution and Grants:

- 2.14 The average consumer contribution and Grants for FY 2019-20 is tabulated below:

Table 1.10: Consumer contribution and Grants for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	Opening Balance	305.83
B	Additions during the year	17.02
C	Closing Balance	322.85
D	Average Consumer Contribution	314.34

Depreciation:

- 2.15 The average rate of Depreciation for FY 2019-20 based on the Audited Accounts of the Petitioner is tabulated below:

Table 1.11: Computation of avg. rate of Depreciation for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20
A	Opening GFA as per audited accounts	3714.15
B	Closing GFA as per audited accounts	3920.57
C	Average of GFA	3817.36
D	Depreciation as per Audited Accounts	193.58
E	Average depreciation rate (%)	5.07%

Table 1.12: Depreciation for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20
A	Average GFA	3846.77
B	Average Consumer Contribution and Grants	314.34



S. No	Particulars	FY 2019-20
C	Average GFA net of consumer contribution & Grants	3532.42
D	Average rate of depreciation (%)	5.07%
E	Depreciation	179.13

Working Capital

2.16 The Petitioner has computed the Working Capital Requirement for FY 2019-20 is tabulated below:

Table 1.13: Working Capital Requirement (Rs. Crore)

S. No	Particulars	Amount
A	Annual Revenues from Tariff & Charges	5090.7
A1	Receivables equivalent to two months average	848.4
B	Power Purchase Expenses	3684.4
B1	Less: 1/12th of power purchase expenses	307.0
C	Working Capital	541.6
D	Opening Working Capital	496.3
E	Change in Working Capital	45.1

Regulated Rate Base (RRB)

2.17 The Regulated Rate Base (RRB) for FY 2019-20 has been computed as below:

Table 1.14: Regulated Rate Base for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	RRB Opening	2,549.24
B	Δ AB (Change in RRB)	30.62
C	Investments Capitalized	206.43
D	Depreciation (incl AAD)	179.13
E	Add: Depreciation on De-capitalised Assets	20.35
F	Consumer Contribution	17.02
G	Change in WC	45.07
H	RRB Closing	2,624.94
I	RRB (i)	2,609.62

Weighted Average Cost of Capital (WACC) and Return on Capital Employed (RoCE)



- 2.18 The Petitioner has considered the actual rate of interest of capex loans during 2019-20 i.e. and RoE at 16% (post tax) for computation of WACC as under:

Table 1.15: Weighted Average Cost of Capital (WACC) (Rs. Crore)

S. No	Particulars	Amount
A	Average Equity	1207.11
B	Average Debt	1379.22
C	Return on Equity	16.00%
D	Income Tax Rate (%)	17.47%
E	Grossed up Return on Equity	19.39%
F	Rate of Interest	13.06%
G	Weighted average cost of Capital (%)	16.01%

- 2.19 Based on the aforesaid submissions, the RoCE for FY 2019-20 is computed as below:

Table 1.16: RoCE for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	Weighted Average Cost of Capital (WACC) (%)	16.01%
B	RRB (i)	2,609.62
C	RoCE	417.91

Additional return due to T&D loss and Collection Efficiency overachievement during FY 2019-20

- 2.20 For FY 2019-20, the Petitioner has claimed the overachievement as detailed below;

Table 1.17: Overachievement incentive sought on Collection Efficiency for FY 2019-20 (Rs. Cr.)

S.No	Particulars	UoM	FY 2019-20
A	Amount Billed	Rs Cr	4,888.89
B	Amount Collected	Rs Cr	4,817.81
C	Actual Collection Efficiency	%	98.55%
D	Collection efficiency Prayed to be considered (impact of Force Mejeure event)	%	100.47%
E	Collection Efficiency Target	%	99.50%
F	Total Financial Impact (Incentive) on account of overachievement of Collection efficiency Target	Rs Cr	47.42
G	Incentive Petitioner Share	Rs Cr	35.20



S.No	Particulars	UoM	FY 2019-20
H	Incentive Consumers Share	Rs Cr	12.22

Table 1.18: Overachievement incentive sought on Distribution Loss for FY 2019-20 (Rs. Cr.)

S.No	Particulars	UoM	FY 2019-20
A	Energy Purchased at distribution Periphery	MU	7,182.21
B	Distribution Loss target for previous Year i.e. FY 2018-19	%	11.69%
C	Distribution Loss target for Current Year i.e. FY 2019-20	%	10.50%
D	Loss target - 50%*(previous year target - current year target)	%	9.91%
E	Actual Distribution loss for FY 2019-20	%	7.30%
F	Average Power Purchase cost for FY 2019-20	Rs/KWh	5.13
G	Total Financial Impact on account of overachievement of Distribution Loss Target	Rs. Cr.	117.88
H	Impact of Financial benefit to be retained by Petitioner	Rs. Cr.	71.28
I	Impact of Financial benefit to be passed on to consumer	Rs. Cr.	46.60

Annual Revenue Requirement and Revenue (Gap)/ Surplus for FY 2019-20:

2.21 The Based on the above submissions, the Annual Revenue Requirement for FY 2019-20 sought for True-up is tabulated below:

Table 1.19: Annual Revenue Requirement for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amount
A	Power Purchase including Transmission & SLDC Charges	3684
B	O&M Expenses	739
C	Other Expenses/ Statutory levies	157
D	Depreciation	179
F	Return on Capital Employed (RoCE)	418
I	Sub-total	5177
J	Less: Non-Tariff Income	73
K	Less: Income from other business	1
L	Less: Income from Open Access	11
M	Aggregate Revenue Requirement	5091



2.22 Revenue Available to meet ARR is tabulated as under:

Table 1.20: Revenue Available to meet ARR

Particulars	Amt (Cr.)
Revenue Collected from Consumers	4188
Less: Incentive on overachievement of T&D Loss Targets (Petitioner share)	71
Less: Incentive on overachievement of Collection Efficiency Target (Petitioner share)	35
Less: Incentive on Surplus Sale Rate	2
Less: Carrying cost on RA	228
Revenue Available towards ARR	4482

2.23 The Revenue (Gap) during FY 2019-20 is tabulated as under:

Table 1.21: Revenue (Gap) for FY 2019-20 (Rs. Crore)

S. No	Particulars	Amt (Cr.)
A	ARR for FY 2019-20	5091
B	Revenue available towards ARR	4482
C	Revenue (Gap)/ Surplus	(609)

Past period true-ups:

2.24 In its Petition, the Petitioner has divided the claims in Chapter 3B pertaining to true-up pending with respect to past period into three parts:

- Direction of Hon'ble ATE given in various Judgments not yet implemented - Rs. 9,100 Cr.
- Claims on account of arithmetical/computational errors and omissions sought in Review Petitions – Rs. 2,135 Cr.
- Previous claims which merit reconsideration by the Hon'ble Commission – Rs. 5,318 Cr.

1. ARR and Tariff for FY 2021-22

Energy Sales:

3.1 For projection of Sales for FY 2021-22, following approach is adopted by the Petitioner:



- a) Step 1 - Firstly, Petitioner has considered the Adjusted Trend Analysis Method which could have been considered in case of normal scenario i.e. without the impact of COVID19 and lockdown.
- b) Step 2 - After projecting the sales in Step 1 the consumer categories were identified and factoring was done to the extent where activities were affected post unlock period till October 2020 and accordingly adjusted in sales of, 11 KV Worship/Hospital Non Domestic, Industrial and DMRC categories which was mainly affected due to COVID-19.
- c) Step 3 – for projecting the sales for FY 2021-22, the category wise sales projected in Step 1 is compared with Step 2, considering the base year as FY 2019-20 as FY 2020-21 is exceptionally an abnormal year due to COVID-lockdown in peak consumption period.
- 3.2 The Petitioner has applied the above methodology to estimate energy sales during FY 2021-22.
- 3.3 The Petitioner has considered the Distribution Loss @ 8.75% and Collection Efficiency @ 99.50% for FY 2019-20 as specified by the Hon'ble Commission in Business Plan Regulations, 2019.

Table 1.22: Distribution Loss Target and Collection Efficiency for FY 2019-20

Sl. No	Particulars	%
A	Distribution Loss	8.75%
B	Collection Efficiency	99.50%

Power Availability and Purchase:

- 3.4 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 energy requirement has been estimated as tabulated below:

Table 1.23: Energy Requirement for FY 2021-22

S. N	Particulars	Unit	Quantity
A	Energy sales	MU	6362
B	Distribution Loss	%	8.75%
C	Energy Requirement	MU	6972



S. N	Particulars	Unit	Quantity
D	Distribution Loss	MU	610

3.5 The Power Purchase costs from various sources including from short term sources have been summarized in the following table:

Table 1.24: Total Power Purchase Cost for FY 2021-22

S. No	Source	Quantity	Amount	Average Cost
		(MU)	(Rs. Crore)	(Rs./ kWh)
A	Power Purchase from CSGS	7,656	2,825	3.69
B	Inter-State Loss & Charges	206	510	
C	Cost towards REC		19	
D	Power Available at Delhi Periphery	7,450	3,354	4.50
E	Power Purchase from SGS*	658	387	5.89
F	Intra-State Losses & Charges including SLDC Charges	74	257	
G	Shortfall to be met at DISCOM Periphery	310	109	3.50
H	Total Power available to DISCOM	8,344	4,106	4.92
I	Sales	6,362		
J	Distribution Loss	610		
K	Less: Normative rebate		63	
L	Required power for the DISCOM	6,972	3,721	5.34
M	Total Sale of Surplus Power	1,372	322	2.35

* includes SGS/BTPS/Renewable etc.

O&M Expenses:

3.6 The Petitioner has computed the normative O&M expenses for FY 2021-22 as per Business Plan Regulations, 2019 as tabulated below:

Table 1.25: O&M Expenses during FY 2021-22

Particulars	Avg. Capacity as on 31.03.2022	Rates	O&M expenses
66 kV Line (ckt km)	254	5.043	13
33 kV Line (ckt km)	448	5.043	23
11kV Line (ckt km)	3036	2.114	64
LT Line system (ckt km)	5729	9.524	546
66/11 kV Grid S/s (MVA)	1878	1.201	23



Particulars	Avg. Capacity as on 31.03.2022	Rates	O&M expenses
33/11 kV Grid S/s (MVA)	2230	1.201	27
11/0.415 kV DT (MVA)	3620	2.631	95
Total O&M Expenses			790

Additional Expenses on account of O&M

- 3.7 In terms of Regulation 11(9) of the Tariff Regulations 2017, the Distribution Licensee shall submit the ARR which shall contain actual and expected additional expenses on account of O&M beyond the control of Licensee for the previous year and ensuing year respectively. Accordingly, the additional O&M expenses estimated during FY 2021-22 is Rs. 189 Cr.

Capitalisation:

- 3.8 The Petitioner has considered the gross capitalisation of Rs. 430 Crore during FY 2021-22 as approved by the Hon'ble Commission in the Business Plan Regulations, 2019.

Depreciation:

- 3.9 The Hon'ble Commission in the Tariff Regulations 2017 has specified the rates and methodology for computation of depreciation from FY 2017-18 onwards. Accordingly, the Petitioner has computed the depreciation as under:

Table 1.26: Computation of rate of Depreciation for FY 2021-22 (Rs Cr)

S. No.	Particulars	Amount
1	Opening GFA for FY 19-20 as per Audited Accounts	3714.15
2	Closing GFA for FY 19-20 as per Audited Accounts	3920.57
3	Average GFA as per Books of Accounts	3817.36
4	Revised depreciation computed based on Tariff Regulations 2017	193.58
5	Average rate of depreciation (%)	5.07%

- 3.10 The Petitioner has considered capitalisation during FY 2020-21 and FY 2021-22 as approved by the Hon'ble Commission in the Business Plan Regulations, 2019.



3.11 Accordingly, the computation of depreciation for FY 2021-22 is calculated as below:

Table 1.27: Depreciation for FY 2021-22 (Rs. Crore)

S.No.	Particulars	Amount
A	Opening GFA for FY 2020-21	3,950
B	Addition during FY 2020-21	408
C	Opening GFA for FY 2021-22	4,358
E	Additions during the year	430
F	Closing GFA for FY 21-22	4,788
G	Average GFA	4,573
H	Less: Average Consumer Contribution	383
I	Average GFA net of CC	4,190
J	Average rate of depreciation	5.07%
K	Depreciation for FY 2021-22	212
L	Opening Accumulated Depreciation for FY 21-22	1,702
M	Closing Accumulated Depreciation for FY 21-22	1,914

Working Capital:

3.12 The Petitioner has computed the working capital requirement for FY 2021-22 as per Regulation 84 (4) of Tariff Regulations, 2017 as below:

Table 1.28: Working Capital for FY 2021-22 (Rs. Crore)

S.No	Particulars	Amount	Remarks/Ref.
A	Annual Revenue Requirement	5370	
B	Receivables equivalent to 2 months average billing	895	A/6
C	Net Power Purchase expenses	3721	
D	Power purchase expenses for 1 Month	310	C/12
E	Total Working Capital	585	B-D
F	Opening Working Capital	426	As per T.O. dated 28.08.2020
G	Change in WC	159	E-F

Regulated Rate Base (RRB):

3.13 Based on the above discussions the RRB for FY 2021-22 has been computed as below:

Table 1.29: Regulated Rate Base for FY 2021-22 (Rs. Crore)

Sr. No.	Particulars	Amount
A	Opening GFA	4,358



Sr. No.	Particulars	Amount
B	Opening Accumulated Depreciation	1,899
C	Opening Consumer Contribution	359
D	Opening Working Capital	426
E	Accumulated Depreciation on De-capitalised Assets	162
F	Opening RRB	2688
G	Investment during the year	170
H	Net Capitalisation	430
I	Depreciation	212
J	Consumer Contribution	48
K	Change in Working Capital	159
L	Regulated Rate Base - Closing	3017
M	RRB (i)	2932

Weighted Average Cost of Capital

3.14 The rate of interest on debt for FY 2021-22 has been considered as 12% (7.75% - SBI MCLR as on 01st April, 2020 plus 4.25% - Margin) as per Business Plan Regulations, 2019

3.15 Rate of Return on Equity has been considered as 16% post tax as per Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2019.

Return on Capital Employed (RoCE)

3.16 The Petitioner has computed RoCE for FY 2021-22 as under:

Table 1.30:RoCE for FY 2021-22 (Rs. Crore)

S. No.	Particulars	Submission
A	WACC	15.54%
B	RRB (i)	2,932
C	RoCE	455

ARR for FY 2021-22:

3.17 The Petitioner has sought the ARR for FY 2021-22 as under:

Table 1.31:Aggregate Revenue Requirement for FY 2021-22 (Rs. Crore)

S.No.	Particulars	Amount
A	Power Purchase Cost including Transmission Charges	3721



S.No.	Particulars	Amount
B	O&M Expenses	790
C	Additional O&M Expenses	265
D	Depreciation	212
E	Return on Capital Employed (RoCE)	455
F	Less: Non-Tariff income	73
G	Aggregate Revenue Requirement excl. Carrying Cost on RA	5370

Tariff Proposal and Treatment of Revenue Gap:

Revenue Gap:

3.18 In its Petition, the Petitioner has computed the revenue based on category-wise existing excluding 8% surcharge, Electricity Tax, LPSC and Pension surcharge as under:

Table 1.32: Revenue (Gap)/ Surplus at Existing Tariff for FY 2021-22 (Rs. Crore)

S. No	Particulars	Amount
A	Aggregate Revenue requirement for the year	5370
B	Revenue available for the year	4222
C	Revenue (Gap)/ Surplus for the year	(1148)

2. Tariff Proposal

4.1 The revenue deficit at existing tariff proposed for FY 2021-22 is Rs. (1148) Crore.

4.2 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 and transmission cost due to increased costs as anticipated by Gencos & Transcos in their respective petitions before CERC;
- Tariffs being not reflective of their cost of supply, which make big consumer susceptible to open access, adversely impacting remaining low end LT consumers;
- Increase in uncontrollable O&M Expenses due to statutory pay revision of employees.



Tariff Hike Proposed

S. No	Particulars	Amount (Rs. Crore)	Remarks
A	Revenue (gap)/ surplus during FY 2019-20	(1148)	E – D
B	Details		
I	Power Purchase	3721	Power Purchase Cost estimated as per bills and tariff orders of GENCO's and Transco's resulting into increase in Fixed cost.
li	O&M Expenses including other Expenses/ Statutory Levies	1055	Additional O&M expenses beyond the control of Petitioner considered
lii	RoCE/ Finance Charge/ Income Tax	455	Impact of Implementation of Hon'ble ATE Judgment considered.
Iv	Depreciation	212	Impact of Implementation of Hon'ble ATE Judgment considered.
C	Non Tariff Income	73	
D	ARR	5370	B – C
E	Revenue Available to meet ARR	4222	
F	Tariff Hike Proposed (%)	Suitable Cost-reflective Tariff	1. Without pre-judice, existing 8% surcharge to be suitably increased for principal recovery of RA within stipulated time as per plan proposed before Hon'ble SC. 2. Carrying cost ought to be allowed as a separate surcharge on revenue instead of allowing in tariff as per requirements of Financial Institutions.

Other tariff Rationalization Proposal:

In its Petition, the Petitioner has proposed the following tariff rationalisation measures:

- Time bound recovery of Regulatory Assets/ Revenue Gap:
- Monthly PPAC:
- Cross subsidy as per Tariff Policy



- iv. Tariff Simplification
- v. Commission to be provided on collection of Pension Trust Surcharge
- vi. GoNCTD Subsidy amount to be passed on the basis of Direct Benefit Transfer (DBT)
- vii. Waiving of the processing fee on account of digital payment
- viii. Levy of Disconnection penalty on account of non-payment of dues by defaulting consumers
- ix. Tariff of Electric Vehicle

The Petitioner has submitted with a prayer to allow the true up of FY 2019-20, ARR for FY 2021-22 and other proposals as submitted in chapter – 5.





Chapter – 1C

PREAMBLE AND TARIFF PHILOSOPHY



PETITION FOR TRUING-UP UPTO FY 2019-20
AND
ANNUAL TARIFF PETITION FOR FY 2021-22

1. In accordance with the Electricity Act, 2003 (hereinafter referred to as “**the 2003 Act**”), the License conditions, DERC Business Plan Regulations, 2019, DERC Tariff Regulations, 2017, and DERC MYT Regulations 2011 and 2007, the Petitioner is required to file ARR Petition for Tariff for FY 2021-22 and Truing-up upto FY 2019-20. 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 2020-21 as well as comply with various directives specified by the Hon’ble Commission, which particularly entail expenditure.
2. 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.
3. The Power Purchase Cost including Transmission Charges is one of the major components of ARR which contributes to almost 70% 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.
4. 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.



5. In Delhi, the Distribution Licensees are required to follow the DERC Tariff Regulations, 2017 and DERC Business Plan Regulations, 2019 while filing the ARR and Tariff Petitions.
6. 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 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."

7. 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.
8. 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.”

9. Projections for ensuing year are done on the basis of certain assumptions which are outlined below:
 - a. Sales to various consumer categories are 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, 2019.
 - 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, 2019. The various expenses linked to Capital expenditure are also projected accordingly.
 - g. Income Tax is projected on the basis of the provisional amount of the Distribution taxable Incomes and Expenses determined by the Hon'ble Commission for the various years of the Control Period.

10. 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.

11. Clause 24 of the License Conditions of Petitioner issued by the Hon'ble Commission also provides for the provision of revenue calculation and tariffs.
12. Accordingly, the Petitioner is filing the present ARR Petition to ensure prompt determination of truing-up of expenses up to FY 2019-20 and ARR and Tariff for FY 2021-22 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:-

- a. 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:

- a. There is a significant variation in Power Purchase Rate during FY 2019-20 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.
- b. 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 resulting in failure to service debt, as it is suffering inadequate tariff hikes, under investment in distribution network and regulatory uncertainty.



- c. 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.
 - d. The Petitioner has been and is in a situation where its financial health and ability to pay for power procurement (which constitutes about 80% 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").
 - e. 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.
 - f. 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.
13. Further there have been several Judgments of the Hon'ble Tribunal which have not been implemented or complied with by this Hon'ble Commission in determining the tariff. In terms of settled law of binding nature of Hon'ble Tribunal's judgments on the Hon'ble Commission, consequential impact of the following judgments and directions contained therein requires to be granted to the Petitioner herein :
- a) Judgment dated November 11, 2011 passed in O.P. No. 1 of 2011;
Delay granting consequential impact: [3317] days
 - b) Judgment dated July 12, 2011, October 6, 2009, November 28, 2014, March 2, 2015 and May 15, 2015 in Appeal No. 147 of 2009, Appeal



No. 37 of 2008, Appeal No. 62 of 2012 and Appeal No. 178 of 2012 and RP No. 13 of 2015 respectively in the matter of BSES Yamuna Power Limited vs. Delhi Electricity Regulatory Commission & Others.;

Delay granting consequential impact: [2204] days

- c) Judgment dated October 31, 2017 in Appeal No. 178 of 2012, in the matter of a Clarification Application filed by this Hon'ble Commission.

Delay granting consequential impact: [1136] days

- d) Judgment dated May 15, 2017 read together with February 23, 2015 in Appeal 104 of 2017 and Appeal No. 111 of 2014 respectively in the matter of BSES Yamunai Power Limited vs. Delhi Electricity Regulatory Commission pertaining to the issue of consumer contribution.

Delay granting consequential impact: [2036] days

- e) Judgment dated July 30, 2010, May 31, 2011, November 28, 2013 and September 30, 2019 in Appeal No. 153 of 2009, Appeal No. 52 of 2008, Appeal No. 14 of 2012 and Appeal No. 246 of 2014 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. It is trite law that The Commission has to treat all the distribution licensees on the same scale and no one of them can be either victimized or favoured on account of the stands or pleas taken by them during the tariff hearings, as held by the Hon'ble Tribunal in the Judgment dated 30.10.2009 in Appeal No.36 of 2008 (Para 56).

Delay granting consequential impact: [2569] days

14. 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. 105 of 2019, 214 of 2018, 70/71 of 2018, 290 of 2015, 156 of 2015, 236 of 2014, 231 of 2014 and 265 of 2013 and R.P. No. 17 of 2015 in Appeal No. 178 of 2012 pending adjudication before the Hon'ble Tribunal.

15. 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.

UNDERLYING PRINCIPLES:

- 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, 2019;
 - 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.

16. 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:

17. 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.

GENERAL LEGAL SUBMISSIONS:

- 18. 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.

19. It is most respectfully submitted that the principle of judicial discipline requires that the judgments of the higher Appellate authorities should be followed scrupulously and unreservedly by its subordinate authorities. If the Subordinate authority refuses to carry out the directions or to follow the dictums issued by the superior Tribunal in the exercise of Appellate powers, the result would be chaos in the administration of the justice. In fact, it will be destructive of one of the basic principles of the administration of the justice. This principle of law has been upheld in a catena of judgments, viz.:

Supreme Court Judgments:

- (2004) 5 SCC 1-Tirupati Balaji Developers (P) Ltd V State of Bihar;
- (1992) Supp (1) SCC 443-Smt Kausalya Devi Bogra and Ors V Land Acquisition Officer, Aurangabad an Anr;
- (1984) 2 SCC 324 –Union of India v Kamalkshi Finance Corporation
- (2013) 2 SCC 398-Kishore Samrite Vs State of UP and Ors;

Hon'ble Tribunal's Judgments:

- Judgment dated 27.02.2013 in Appeal 184 of 2011 (Para 39)
- Judgment dated 30.01.2013 in Appeal 55 of 2012 (Para 37)
- Judgment dated 31.01.2013 in Appeal 59 of 2012 (Para 32)

20. It is trite law that mere filing of an appeal does not amount to automatic stay of a judgment and these Judgments have to be implemented. It is further submitted that mere filing of the Appeal without getting stay of the operation of the judgment of the Hon'ble Tribunal and mere proposal to file the Appeal before the Hon'ble Supreme Court could not be the ground for refusal to implement the judgment of the Hon'ble Tribunal. This principle has been laid down in the following judgments:

- Atma Ram Properties (P) Ltd. vs. Federal Motors Pvt. Ltd. reported as (2005) 1 SCC 705 (Paras 9 & 10)
- Madan Kumar Singh vs. District Magistrate Sultanpur reported as (2009) 9 SCC 79 (Para 14)
- Thirunavukkarasu Mudaliar (Dead) by LRs. vs. Gopal Naidu (Dead) by LRs.



reported as (2006) 12 SCC 390 (Para 26)

21. It is further submitted that any action or omission by a subordinate authority/court which negates or violates or refuses to give effect to a direction given by a superior court/tribunal has been repeatedly held to be a denial of justice which is destructive of basic principles in the administration of justice and majesty of courts. This aspect has been dealt by the Hon'ble Supreme Court in various decisions in detail. Those decisions are as under:
- Bhopal Sugar Industries Ltd. vs. ITO, Bhopal reported as AIR 1961 SC 182 (Paras 7-10 and 12)
 - RBF Rig Corp. vs. Commissioner of Customs reported as (2011) 3 SCC 573 (Paras 17-19, 23-27)
 - Smt. Kausalya Devi Bogra vs. Land Acquisition Officer reported as (1984) 2 SCC 324 (Paras 6-8 & 14)
22. It is well settled that the direction of the appellate court is certainly binding on the courts subordinate thereto. Judicial discipline required and decorum known to law warrants that appellate directions should be taken as binding and followed. The mere fact that the order of the appellate authority is not "acceptable" to the subordinate authority cannot and should not be the ground for not following the said directions. 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.
23. 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.
24. The Petitioner is filing the present Petition to ensure prompt determination of tariff as to seek the truing up of expenses up to FY 2019-20 and ARR and Tariff for FY 2021-22. 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.





CHAPTER -2A

PERFORMANCE DURING FY 2019-20

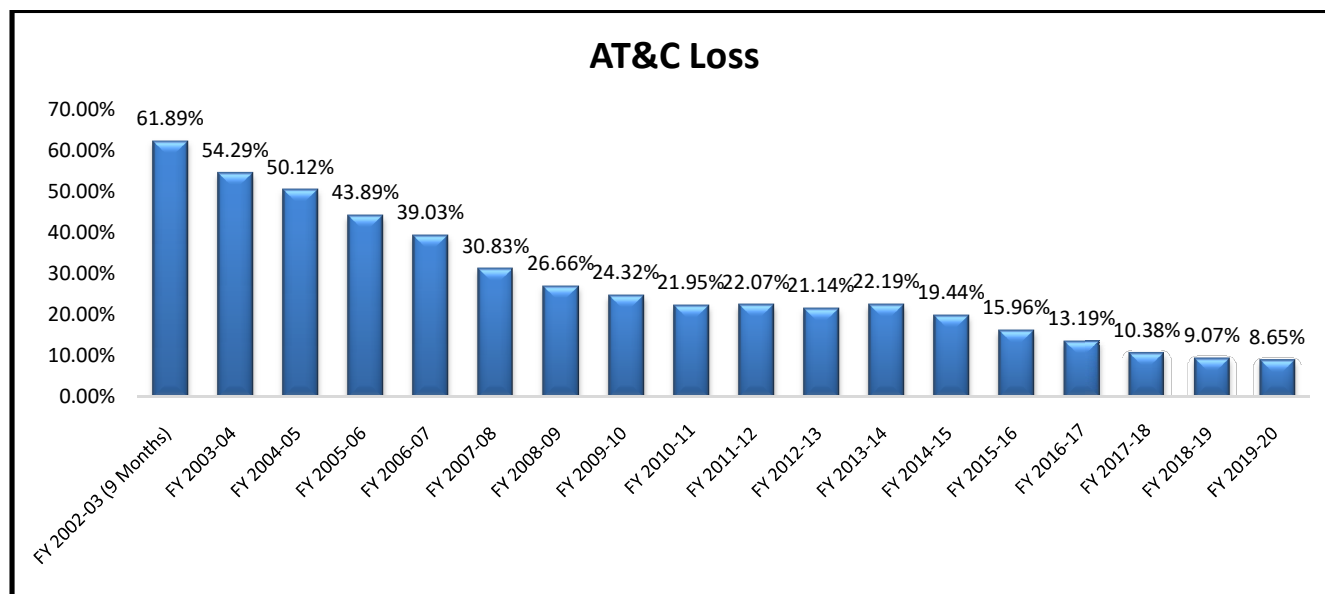


2A. PERFORMANCE DURING FY 2019-20**2A.1 AT&C Loss Reduction**

2A.1.1 During FY 2019-20, the Petitioner has significantly reduced the AT&C Loss by 4.82% over the previous year's loss levels of 9.07%(Trued-up by Hon'ble Commission in Tariff Order dated 28.08.2020) in FY 2020-21. The actual loss level for FY 19-20 is 8.65%. In absolute terms, the AT&C Loss reduction in percentage points is 0.42%.

2A.1.2 The Petitioner has shown exemplary performance in the loss reduction with an average reduction of 3.13% per annum in absolute terms since July 2002. The reduction is amongst the highest average loss reduction rate achieved by any power distribution utility in the country.

2A.1.3 Further, it is noteworthy that the AT&C Losses are reduced from a level of over 61.89% in FY 2002-2003 to 8.65% at the end of FY 2019-20s. The graph below shows a steep and consistent decline in the AT&C loss levels in last 16 years indicating considerable results from various loss reduction initiatives taken from time to time:

Figure 1: AT&C Loss levels since FY 2002-03

2A.1.4 As shown above, there is a tremendous reduction of 53.24 percentage points in AT&C loss levels signifying the Petitioner's commitment to achieve the loss reduction objective.



2A.2 Performance Standards

2A.2.1 The achievement against set performance levels in DERC (Supply Code and Performance Standards) Regulations, 2017) for the period FY 2019-20 is summarized as below:

I. Power Supply Failure

- a) **Continuous power failure affecting individual consumer and group of consumer upto 100 connected at Low voltage supply:** The Petitioner has been able to achieve compliance of 99.34% against Hon'ble Commission's benchmark of 95%.
- b) **Continuous power failure affecting more than 100 consumers connected at Low voltage supply:** - The Petitioner has been able to achieve compliance of 100% against Hon'ble Commission's benchmark of 95%.
- c) **Continuous power supply failure requiring replacement of distribution transformer:** - The Petitioner has been able to achieve compliance of 99.85% against Hon'ble Commission's benchmark of 95%.
- d) **Continuous power failure affecting consumers connected through High Voltage Distribution System (HVDS):-** : The Petitioner has been able to achieve compliance of 97.57% against Hon'ble Commission's benchmark of 95%.
- e) **Continuous scheduled power outages:-** The Petitioner has been able to achieve compliance of 99.85% against Hon'ble Commission's benchmark of 95%.
- f) **Replacement of burnt meter or stolen Meter:-** The Petitioner has been able to achieve compliance of 99.97% against Hon'ble Commission's benchmark of 95%.
- g) **Scheduled Outage:-** The Petitioner has been able to achieve compliance of 100% in 'maximum duration in single stretch' and 99.52% in 'Restoration of supply by 6 PM' against Hon'ble Commission's benchmark of 95%.
- h) **Faults in street light maintained by the Licensee:-** The Petitioner has been able to achieve compliance of 99.65% against Hon'ble Commission's



benchmark of 90%.

- i) **Percentage billing mistakes:** The Petitioner has been able to be under the limit of 0.0017% against the Hon'ble Commission's benchmark of limit of 0.2%.

Table 2.2: Performance during FY 2019-20

S N	Service Area	Overall Standards of Performan ce	Total Cases Received/ Reported (A)	Complaints Attended (B)		Standard of Performan ce achieved (C)%
				Within Specified Time	Beyond specified time	
1	Power Supply Failure					
(i)	Continuou s power failure affecting individual consumer and group of consumer upto 100 connected at Low voltage supply, excluding the failure where distributio n transform er requires replaceme nt.	At least 95% calls received should be rectified within prescribed time limits	446388	443455	1837	99.34%



S N	Service Area	Overall Standards of Performan ce	Total Cases Received/ Reported (A)	Complaints Attended (B)		Standard of Performan ce achieved (C)%
				Within Specified Time	Beyond specified time	
1	Power Supply Failure					
(ii)	Continuou s power failure affecting more than 100 consumers connected at Low voltage supply excluding the failure where distributio n transform er requires replaceme nt.		7135	6982	147	97.86%
(iii)	Continuou s power supply failure requiring replaceme nt of distributio n transform er.		85	85	0	100.00%
(iv)	Continuou s scheduled power outages	At least 95% of cases resolved within time limit	3877	3871	6	99.85%



S N	Service Area	Overall Standards of Performan ce	Total Cases Received/ Reported (A)	Complaints Attended (B)		Standard of Performan ce achieved (C)%
				Within Specified Time	Beyond specified time	
1	Power Supply Failure					
(v)	Replacem ent of burnt meter or stolen Meter		21639	21633	0	99.97%
(vi)	Continuou s power failure affecting consumers connected through High Voltage Distributio n System (HVDS) and not covered under (i) & (ii) above	At least 95% calls received should be rectified within prescribed time limits	371	362	8	97.57%
Period of Scheduled Outage						
2	Maximum duration in a single stretch	At least 95% of cases resolved within time limit	3333	3333	0	100.00%
	Restoratio n of supply by 6:00 PM		3333	3317	16	99.52%
3	Faults in street light maintaine d by the Licensee	At least 90% cases should be complied within prescribed time limits	43748	43596	152	99.65%



S N	Service Area	Overall Standards of Performan ce	Total Cases Received/ Reported (A)	Complaints Attended (B)		Standard of Performan ce achieved (C)%
				Within Specified Time	Beyond specified time	
1	Power Supply Failure					
	Reliability Indices					
			No. of bills served during the Year	Bills with mistakes		Standard of Performan ce achieved (C)%
7	Percentag e billing mistakes	Shall not exceed 0.2%	20684169	343		0.0017%

2A.3 Peak Demand:

2A.3.1 The Petitioner has successfully met the peak demand of 1439 MW during FY 2019-20 as against the 1561 MW in FY 2018-19.

2A.4 Growth in Consumer Base:

2A.4.1 Total number of consumers being served by the Petitioner at the end of FY 2019-20 was 17.31 lakh as against 16.86 lakh consumers served at the end of FY 2018-19 thereby exhibiting significant annual growth of 2.69%. Considering the area of 200 sq. km., the Petitioner's consumer density is one of the largest among the private distribution utility in the country.

2A.5 Improvement in Distribution Network:

2A.5.1 To maintain service quality, strengthening, upgrading and modernizing the distribution network is a consistent effort put by the Petitioner. There has been a commensurate increase in the distribution network capacity across all levels EHV/HT/LT for improving the services and supply reliability. This is despite regular



challenges with respect to space constraints & other hindrances in the license area being served by the Petitioner.

2A.5.2 The network augmentation during FY 2019-20 is tabulated below:

Table No 2.3: Network Augmentation during FY 19-20

Particulars	Addition during the year
No. of Power Transformers	2
EHV Capacity (MVA)	19
Shunt Capacitors (MVar)	40
No. of Distribution Transformers*	54
Distribution Transformer Capacity** (MVA)	90
No. of 11 kV feeders	49
Length of 11 kV cables (Ckt.kms.)	59
Total No. of LT feeders	275
Length of LT lines laid (Ckt.kms.)	65
(*) Includes HVDS DT (Nos.)	
(**) Includes HVDS DT Capacity (MVA)	

on gross addition basis

2A.6 Initiatives Undertaken

2A.6.1 Technical Initiatives

1. Technical Initiatives for enhancing power reliability

- Remote substation health monitoring.
- Use of ester oil and thermally upgraded kraft paper in distribution transformers.
- On-line underground cable partial discharge measurement.
- Lightning arrester health monitoring system.
- Installation of two-tier sub-station.
- Installation of bridge mounted distribution transformer.
- Incorporation of 2 MVA, 1.6 MVA DTs and 1 MVA micro substation for space constraint area.



2. Technical initiatives specific for Loss Reduction

- Intelligent Group Metering Solution: Each group meter consists of 9, 1 Ph meter, intelligent relay units, remote energy display unit, data concentrator unit and data transfer over GPRS. The system provides data availability on the web portal on a pre-defined schedule or on demand.

3. Technical Initiatives for Cost Optimization:

Improved Maintenance Practices with regular use of: -

- Implementation of Meter Data Management (MDM) system to capture online metering information for GPRS leased AMR meters.
- Automated Meter Reading is installed in 70% of KCC consumers, i.e. 4600 AMR installed, out of the total consumer base of 6500.

4. Other Technical Advancements

- Introduction of the Auto-switch capacitor bank for Automatic Power Factor improvement.
- Installation of FPIs in the overhead HVDS network.
- Introduction of resin encapsulated straight through joints.
- Installation of Hybrid switch gears in grid substations.
- Network analysis through CYME-DIST software (Power engineering software).
- GIS digitization for EHV HT, LT network up to the consumer end.
- Installation of Li-ion battery bank.
- Cable entry sealing systems in Grid Sub Station.
- Transformer HT Terminal Protecting Kits.
- Thermal Imaging Camera for LT Circuit inspection.



- Pilot project of energy storage at the distribution sub-stations.
- Pilot project of Smart Meters: 3 Phase Smart Meters at consumer premises along with communication infrastructure based on RF mesh, Android based consumer portal for real time energy data access to consumers.

5. Implementation of Roof Top Solar (Net Metering)

- Roof top solar systems through net metering is an ideal mechanism for customers to adopt green energy and reduce impact on the environment, and in turn helps DISCOM in alleviating local congestion at the LT level and meeting renewable purchase obligations. The Company is acting as a nodal agency for promotion and implementation of solar rooftop systems as per recent MNRE guidelines.
- A total of 522 nos. of solar roof top power generation systems have been energized till March 31, 2020, with a cumulative capacity of 22.5 MWp. During low consumption periods, the systems can feed to the grid any surplus energy generated which can be utilized by the DISCOM for serving local loads.
- Out of 522 solar systems, 218 numbers were connected in FY 2019-20 alone with a solar capacity of 4.77 MWp.
- Major installations of solar roof top power generation systems connected FY 2019-20 and their solar installation capacities are as follows:
 - Delhi Sachivalaya, New Delhi : 1000 KWp
 - Delhi Jal Board, Sonia Vihar : 1613 KWp
 - Water Treatment Plant, Gokul Puri : 1667 KWp
 - BAPS Swaminarayan Sanstha NH24 : 900 KWp
 - Welspun Delhi Meerut Expressway Pvt. Ltd. : 1000 KWp
 - Yamuna Sport Complex : 400 KWp
- Various programs have been undertaken for promoting renewable energy



through Solar Rooftop Systems. It is running various programs to promote solar rooftop systems in its licensee area. Some of them are summarized below:

- Awareness Campaigns: Various campaign are running which covers RWAs, Schools and Institutions Solar Awareness campaign for customers.
- Solarize New Delhi Campaign: Solarize New Delhi which is being driven by the US Department of State, uses a strategic approach that integrates the DISCOM as a campaign sponsor by engaging RWAs and entities in going for solar rooftop installations through area focused awareness campaigns.
- Engaging Stakeholders for the development of various business models for increasing solar rooftop adoption. This is being done by engaging Council on Energy, Environment and Water (CEEW), which is a not for profit organization and has suggested various business models involving DISCOMs to facilitate the adoption of solar rooftop systems.

6. Electric Vehicles

- The Petitioner has been actively involved in various forums and is committed towards the policy objectives as set under the Delhi Electric Vehicles (EV) policy and GoI Charging Infra Guidelines and standards. The Petitioner is proactively pursuing development of EV charging infra in its area for the accelerated proliferation of EVs.
- In this pursuit, we have tied up with M/s. EV Motors for the installation of an EV charging station at 11kV sub-station Swati Apartment, Patparganj. There would be 3 nos of charging station (72kW, 30kW & 10kW of capacity; 10kW chargers will be installed in the future) & 4 nos of car parking space will be utilized. The proposed charging station will cater to the charging of EVs for dedicated fleet operator & public charging needs as well.
- For the Deployment of EV charging & battery swapping stations, the Petitioner has partnered with Ola Electric and has signed a MoU with them. The site is being finalized for the project. For the purpose of installing EV



chargers in its area, the Petitioner has also signed the MoU with M/s. Electromobillitat.

7. GreenTechnology

- BioDegradable Ester oil have been used in Distribution Transformers.
- Li-ION Battery in place of lead acid batteries installed at East of Loni Road Grid S/S.

8. Metering Pilots

- **Pilot project of Smart Meters:** 3 Phase Smart Meters at consumer premises along with communication infrastructure based on RF mesh, Android based consumer portal for real time energy data access to consumers.
- **Power Quality Monitoring:** Four meters have been installed at various Grid S/S to measure Real Time Power Quality parameters including harmonic profile.

2A.6.2 Safety and Quality Initiatives:

Safety is given highest level of importance in Company. In this regard, Company pursues number of initiatives for monitoring, implementing and taking corrective actions for safety improvements, covering all manpower. Some of the key initiatives are:

1. Safety Initiatives

- Implementation of the Integrated Management System by merging three existing standards namely ISO 9001, ISO 14001 and OHSAS 18001, which is more effective to improve the quality.
- Safety Awareness programs were organized in all 14 divisions at a large scale under the aegis of 49th National Safety Week celebration in the month of March 2020. Grand finale of the program in a glittering function was held in presence of Shri Ravindra Gupta, Chief Electrical Inspector -CEA at Hindi Bhavan, ITO.



- A case study on major safety initiatives taken by the Petitioner has been published in the souvenir by Institution of Engineers (India), ITO, New Delhi.
- Modular Fire Extinguishers (automatic operation) have been installed for more than 280 outdoor transformers installed at vulnerable locations in the Petitioner.
- As a part of fire safety initiative, internal fire safety audit of all the stores in the Petitioner has been implemented as a quarterly practice.
- Safety training module has been developed for various categories like lineman/ALM, zonal in-charges, telephone operators, etc.

2. Consumer Safety Awareness

- Organized safety campaigns at 45 locations to spread awareness about electrical safety among the consumers.



- A speaker vehicle was deployed during National Safety Week in March 2020 to spread awareness on electrical safety among all consumers in all the divisions. Pamphlets on electrical safety were also distributed among the consumers.





- Electrical Safety training camps for women were organized at 4 locations along with CSR team. There were over 146 participants.
- Electrical Safety training imparted to 250 neighbourhood electricians. The list of electricians trained in electrical safety is annexed on company's website.

3. Safety Trainings

- Onsite training on handling of fire equipment to 754 employees at the corporate office and division/zone sites under the ambit of the Fire Safety Week from April 14 to April 20, 2019.
 - Safety training imparted to 460 field staff comprising zonal in charges, linemen and helpers during the financial year 2019-20.
 - IMS lead auditor certification training for QMS, EMS, OHSAS was conducted. The certificate has been awarded to 21 employees from different functions of your Company.

4. Quality Initiative

Digitalization:

- All Quality Inspection and assurance process for Elect and Civil CAPEX projects are digitalized on in house developed QMS Quality Management System with seamless integration with GIS, SAP and iOMS, for Transparency, accountability & responsibility.



- Digitalization of 5S audit process: An in house portal has been developed for digitalization of 5S audit Process.
- Digitalization of Horizontal deployment of KAIZEN: Complete process has been digitalized on existing in house developed KAIZEN portal.

Mobility:

- Existing key Quality process migrated on in house developed mobile applications to facilitate Quality Managers to make process more efficient, transparent with Spontaneous capturing & storing of data on server from the field locations.

GPS Technology:

- Incorporation of GPS enabled Cable Location tracer to Digital capturing and human intervention free transferring of 3D coordinate of underground cable location.
- The Petitioner has published its first Sustainability Report in accordance to GRI-4, NVG BRR, UNSDG.
- The Petitioner's alignment to United Nation Sustainability Goal.

BYPL alignment to United Nation Sustainable Development Goal			
SUSTAINABLE DEVELOPMENT GOALS		BYPL alignment with UN SDG 2030	
1 NO POVERTY	• Skill development program for unskilled workers • Job opportunities for local communities • National Business Pledge for CSR	6 CLEAN WATER AND SANITATION	• Environment awareness drives/ rallies • Ensuring Clean Drinking water and House keeping for all personnel • Swachh Bharat Abhiyan Grit • NAVODATA 5S
2 ZERO HUNGER	• Vocational / Computer training • Mahila Shiksha Kendra • Surplus Food Distribution	7 AFFORDABLE AND CLEAN ENERGY	• 24x7 Electricity • Lowest Bill • Renewable Power Purchase Agreement • Solar Micro Grid • E Vehicle & Charging Station • Digi Sewa Kendra
3 GOOD HEALTH AND WELL-BEING	• Golden Peacock Occupational Health & Safety Award • Dispensaries and Panel of Doctors for Employees & stakeholders • Health check up Camp for community • Hospital, Path Lab, Employment • OHSAS 18001:2007	8 DECENT WORK AND ECONOMIC GROWTH	• Skill development for unskilled workers • Use of ISO 9001:2015, ISO 14001:2015, ISO 45001:2018, ISO 26001:2014, ISO 27001:2017, ISO 50001:2018, ISO 22000:2018, ISO 28001:2017, ISO 29001:2018, ISO 31000:2018, ISO 33000:2018, ISO 34000:2018, ISO 35000:2018, ISO 36000:2018, ISO 37000:2018, ISO 38000:2018, ISO 39000:2018, ISO 40000:2018, ISO 41000:2018, ISO 42000:2018, ISO 43000:2018, ISO 44000:2018, ISO 45000:2018, ISO 46000:2018, ISO 47000:2018, ISO 48000:2018, ISO 49000:2018, ISO 50000:2018, ISO 51000:2018, ISO 52000:2018, ISO 53000:2018, ISO 54000:2018, ISO 55000:2018, ISO 56000:2018, ISO 57000:2018, ISO 58000:2018, ISO 59000:2018, ISO 60000:2018, ISO 61000:2018, ISO 62000:2018, ISO 63000:2018, ISO 64000:2018, ISO 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ISO 828000:2018, ISO 829000:2018, ISO 830000:2018, ISO 831000:2018, ISO 832000:2018, ISO

journey of performance to excellence and we received an overwhelming response.

Winners of Tagline Contest 2020



- Publication of Company Vision Mission and Value: A special drive was launched for wide publication and promotion of organization Vision Mission and values among the stake holders. Wide spread awareness through outreach programs, Distributing Table Top Standee for TMC and SMC. Providing Posters/Banners across the offices of the Petitioner. Centralized Screen Saver display for all systems.
- **SGA Projects:**The Petitioner embarked on the journey of SGA Activities in 2014 with three focus areas -5S, Quality Circle & KAIZEN. The aim was to foster and develop a strong and robust Quality culture in the organization through Quality Concepts and techniques.
- 5S was implemented in total 60 locations of the Petitioner covering 18 EHV Grids, Transformer workshop and 2 C&M Main Stores under 5S Implementation.
- As the Petitioner's aim is SAFETY FIRST, the Petitioner took the initiative to elevate existing 5S locations to 6S where 6TH S denote Safety Compliance. One Pilot project at Shankar Road Quality Office is under 6S implementation under the guidance of QCFI 6S experts.
- Quality Circle advanced training programs was conducted for 28 Numbers of teams with respect to QC methodology and QC Tools & Techniques to assist them in smooth execution of their projects.
- Quality Day Celebration 2019: Celebrated on 5th Dec 2019 with small exhibition



of technology driven quality having attendees more Than 400. Representation of all workforce cadre TMC , SMC , MMC, JMC up to ALM i/c AMC and outsourced.



- BestPractice Knowledge Sharing at various platform ex.CBIP, NPCL.



- Quality and Navodaya Reach Out Program: 101 program organized with participation of 3500 employees to promote and build quality conscious work culture.
- Quality & Navodaya Training: Training imparted 1300 Man days (Quality 300 Man days + Navodaya 1000 Man days)

2A.6.3 CustomerCentric Initiatives

1. **InformativeWebsite:** Your Company's website provides a large gamut of internet



based applications for reading bills, making payments, energy calculator and many more options for customer convenience. To enhance the Customer Satisfaction, a option to view & download the last 12 bills in 'pdf' format along with MDI record added in "My Account" section on BSES website in the financial year 2019-20.

2. **Additional Payment Avenue:** Your Company has added many e-payment avenues i.e., UPI, Bharat Bill Payment System, Paytm, Phone Pe, Amazon Pay etc. with existing payments options of Cash counters, online payments, Cheque Drop box, Kiosk machines. We have tie-up with the Punjab National Bank for facilitating consumers for electricity bill payment.
3. **Introduction of BSES App:** Your Company has launched BSES App for registration of No current supply complaint, new connection request, address change, load change, name change & category change request, options for bill view with past history & option for payment of the bill. This App also helps in verifying the credentials of your Company representative visiting consumer premises. Mobile App can be downloaded from Google Play store and BSES Delhi website.
4. **Utkrisht Sehbhagi Meetings:** Your Company is conducting regular meetings with our various representatives of Utkrisht Sehbhagi to involve them in key areas like loss reduction, enforcement raids, tariff hearings etc. The focus has been on winning customer confidence through better communication, coupled with increased outreach programs to instil confidence in our consumers for easy accessibility / ready comfort.
5. **Upgraded Call Centre:** It is a single point contact for many options such as Billing / Meter issues, Power supply related issues, Reporting power theft & many more through latest technologies like multilingual, IVRS based Call centre. In-house Call Centre has been established at Shankar Road for Emergency & Street light complaints registration.
6. **Reaching out to Consumers:** Your Company share important news/information with our consumers through print media, awareness programs, Nukkad Natak, Energy Conservation Drive, Sanjha Prayas Camps & other special initiatives.
7. **Multiple contact points for Customers:** A consumer can reach us through various mediums for queries or redressal of complaints/request such as Customer Help



Desks (CHDs), SMS, WhatsApp, Website, Letter/Email to Customer Care Department, Toll free Helpline No. 19122 and mobile application for easy access with BSES account on the mobile handset.

8. **SMS Service:** Your Company provides facility for registration of various types of customer complaints through SMS. It also provides the information to customers about the status of expected resolution time in case of No current through SMS.
9. **Seva Kendra:** For the convenience of our customers, your Company have Seva Kendra, wherein a customer request for New Connection, Load Change, Name Change, Category Change & Address Correction gets processed. The customer just needs to book an appointment through different modes like Call Centre, website & Mobile App. This service was launched on the lines of Passport Kendras in which a consumer is supposed to visit once and present his documents. The Application is processed electronically and there is minimal movement of paper.
10. **Implementation** of IOMS (Intelligent Outage Management system): IOMS is successfully implemented at your Company for faster identification and resolution in case of a power interruption.
11. **Energy Efficient Devices promotion:** The campaign was undertaken by selling LED, Energy efficient fans, LED tube lights and 5 Star ACs at a subsidised rate to customers. **Campaign against Theft:** The campaign was undertaken to create awareness among school children in high loss areas, about electricity theft, energy conservation and electrical safety.
12. **Lok Adalat:** 07 Nos opportunities have been given to consumers to settle their enforcement bills in order to liquidate pending enforcement dues.
13. **Vigilance helpline number** has been started for registering complaints about corruption, around 30 complaints were registered.
14. **WhatsApp number** started for registering theft leads from consumers, 313 Complaints received through WhatsApp number. Summer helpline for outages started to cater peak summer traffic.
15. **Electricity Bill on WhatsApp:** Our consumers can see the copy of the last bill through WhatsApp in a 'pdf' format and can make online payment of the bill through the link on WhatsApp.



16. Chatbot: The world has started moving towards “Artificial Intelligence” and the Petitioner also wants to be a step ahead in taking customer-centric initiatives and to be recognized as an organisation supporting innovative measures. Your Company has introduced a computer program which conducts a conversation called “Chatbot”.
17. Chatbots are typically used in dialogue systems for various practical purposes including customer service or information acquisition. Chatbot service is available for our consumers on the BSES website & Facebook.
18. Capturing consumer feedback on Tablet: With the view to capture walk-in consumer feedback, a tablet has been provided with a digital feedback form in all Customer Care Centres.
19. VoiceBot: The next level of innovation is going hand-in-hand with the latest technology. We introduced an interactive VoiceBot facility, where customers can access various services of the Company by just giving a voice command on their smart phones.
20. Queue Management System (QMS): Queue management system (QMS) has been installed at 14 Customer Care Centres for handling the customer traffic.
21. Payment of Electricity Bill without Paper Bill: Now our consumers can make the payment at the division cash counters without paper bill by just sharing the CA number with the cashier and the payment will be processed.
22. Info Guide: Your Company has published info guide for its esteemed customers, it carries details of key contacts, various processes, service timelines, escalation matrix and information about customer centric initiatives taken by the company.
23. Celebration of World Health Day: Your Company organized a medical check-up Camp for its “Utkrisht Sehbhagis” and consumers at each of its three circles – South East, North East & Central. More than 100 Utkrisht Sehbhagis and RWA members availed the benefits of the medical camp. All Utkrisht Sehbhagis and consumers highly appreciated this noble initiative undertaken by the Company.
24. Trained Neighbourhood Electricians: 240 Neighbourhood Electricians of East and Central Delhi were trained by your Company. Details of these Electricians have been uploaded on Company’s website & BSES Mobiapp so that our consumers can



avail the services of these electricians.

2A.6.4 KeyProcess Improvements

Focus has been on winning customer confidence through better processes, which results in reduction of complaints and substantial improvements in all key customer satisfaction.

Commercial side: Meter to cash processes - The focus areas have been as follows:

1. Quality meter reading through direct downloading thereby eliminating manual intervention and better algorithms rationalized meter reading codes and improved monitoring.
2. Regular auditing of billing software and error fixing.
3. Improved the working of the meter management group

Key improvements are as follows:

1. Download percentage for electronic meters has increased.
2. Percentage of provisional bills reduced.
3. Bill amendments reduced.
4. ABR Analysis: Detailed analysis of category wise ABR on a monthly basis for
5. impact analysis of tariff, PPAC and other components are put in place.
6. Ease of Doing Business:
 - o New Connection (Online Web Based Application Request).
 - o Online Demand Note Payment.
7. Sanjha Prayas & Pragati: Consumer Awareness & Education Camps continued and augmentation with a more structured approach with a view to enhancing consumer perception.
8. Red Bills: Red bills served to consumers having outstanding dues to distinguish defaulters at first instance.
9. SMS/Tele calling: Tele calling is based on consumer categorization. Specific focus was laid on consumers who generally pay bills on time, first time defaulters and who always pay after due date. SMS sent twice a week in the last quarter of the year.



10. Customer Convenience: Online Demand Note payment facility is implemented.
Reward for Paying Consumers: Lucky draw for “Zero Balance Scheme 2016” where twenty-three lucky winners were selected by our “Utkrisht Sehbhagi” through a lucky draw by using especially designed software developed by our IT department. The prizes to the lucky winners shall be distributed.
11. Twitter, Facebook & YouTube: Your Company has initiated Twitter, Facebook and you tube in order to build connect with its consumers which shall help in branding and update the consumer about the Company.
12. Credit Rating: Consumers rated on the basis of their payment history, for clustering different categories of consumers and taking necessary action based on this.
13. POS: swipe machines allotted at collection centres to facilitate consumers for payment and also promote cashless transaction.
14. Payment through CA: Enabling payment of bill at cash counters by CA nos, eliminating the requirement of the bill.
15. Street light complaint through BSES App: Excess given to consumers for complaint registration.
16. Location of nearest customer care centre can be tracked by BSES App.
17. Automatic operation of RMU through the control centre (SCADA).
18. Digitisation/ App development: To support digitization and to ease the process with a facility to update details on spot, following Mobile Apps are developed:
 - A. Surveillance App;
 - B. MMG App along with feedback through Happy code;
 - C. Enforcement App;
 - D. DSS TF Engg App;
 - E. Online vendor registration; and
 - F. Recovery App.
19. Improvisation of Queue Management System: To capture actual reasons for walk-in, the restructuring of the queue management system along with consumer feedback has been done.
20. IVRS call for intimation to the consumer for energy payment before and after the



due date.

21. Out Bond Call for taking feedback from consumers after installation of meters in case of New Connection.
22. Restructuring of MR exception to capture field issues during meter reading, so that action can be taken pro-actively to facilitate the consumer.
23. DT Tracking Module (DTM): A single platform to track major activities related to business parameters (Provisional, Not Downloaded, Energy Defaulters, Enforcement Defaulters) and theft and surveillance leads.
24. Robotic Process Automation (RPA): A process to extract and auto allocation of defaulters to field executive and updating same in DTM for further closure.
25. POS for Bill Delivery: To capture digital proof of bill delivery along with the facility of bill payment and data enrichment.
26. Self-Meter Reading: A platform where a consumer can submit his/her meter reading through BSES MobiApp along with the photographs, and the same reading is migrated to SAP for billing.
27. Improvement in MobiApp:
 - Meter testing request generation with the charging of testing fees.
 - Availability of payment receipt and the provision of forwarding to consumer's Email ID for records.
 - Viewing of demand note along with online payment option.
 - To enhance the customer satisfaction, reduction of walk-in for the duplicate bill and queries pertaining to load change w.r.t MDI, an option to view the details of the last 12 bills along with MDI record is added in "My Account" section.
 - To enhance customer convenience and reduce the walk-in at the Customer Help Desk, an option to register meter shifting request through "My Account" has been added.
 - Option for booking the appointment of Seva Kendra services on Saturdays added and Improvising request status remarks for New and Existing Connections.
 - Recharge option for smart meter (Pre-Paid meter) has been added.



28. Standardization of procedures for:

- New Connection (Domestic, Non-Domestic, Industrial)
- Temporary Connection
- IGMS metering
- Energy & PD dues recovery
- Enforcement Dues Recovery
- Dues Transfer Process
- LPSC waiver guidelines
- Bill amendment Guidelines
- DTM - Activity Closure
- Queue Management System (QMS)
- Enforcement App
- KYC Process
- Burnt meter replacement guidelines
- Cheque bounce process
- Seal Management
- User Manual for report extraction from BIW
- Meter movement to LAB
- KCC New Connection process

2A.6.5 CSR INITIATIVES – “A RESPONSIBLE CORPORATE CITIZEN”

EDUCATION FOCUSED CSR INITIATIVES:

1. **Vocational Training:** Your Company supported vocational training (SASHAKTprogramme) programmes with NGO partners like Sofia Educational and Welfare Society (SOFIA) in Central Delhi. In the financial year 2019-20, your Company has supported vocational trainings for 400 men and women. Additionally, 280 students have been provided with tuition facilities free of cost.
2. **Mahila Shiksha Kendras (MSK):** Your Company in association with NGO partner Dhanpatmal Virmani Education Trust and Management Society (DVET&MS) has



conducted various Women Literacy Programs through 50 MSK in low income residential clusters of East and Central Delhi. In the financial year 2019-20, your company has enabled 3000 women to read and write.

3. **Self Defence Training:** To curb the rising incidence of crimes against women, your Company has partnered with the Delhi Police Special Unit for Self-Defence Trainings for Women and Children (SPUWAC). Trainers from SPUWAC provided 10 day certificate training for girls of Government schools in Daryaganj and Yamuna Vihar.

Since 2013, Your Company has covered over 25 schools to support this life skill training. This year, we have enabled 856 girls with the life skill training from five Government schools.

4. **Financial Literacy & Inclusion:** Your Company supported financial literacy camps with NGO partners like Society for Advancement of Village Economy (SAVE) to facilitate financial inclusion through the provision of two essentials i.e. literacy and easy access in the community of Daryaganj and Yamuna Vihar. Your Company enabled 1058 people to understand financial instruments.
5. **DESKIT distribution:** Your Company in association with NGO partner Roshni has provided Deskits to 300 students from five EDMC schools in Mayur Vihar.

HEALTHCARE FOCUSED CSR INITIATIVES:

1. **Diagnostic Health Camps:** Your Company in association with NGO partner PHD Rural Development Foundation (PHDRDF), Direct and SOFIA conducted health initiatives like Mobile Health Camps, Clinics and Awareness Camps for a number of ailments like Myalgia, Infection, General Weakness, Dyspepsia, URTI etc. In financial year 2019-20, your Company provided free consultation and medicines to 22489 men, women and children at 178 free mobile health camps.
2. **Eye Screening Camps:** Your Company in association with NGO partner ICARE Eye Hospital (unit of NGO Ishwar Charitable Trust) Noida. In the financial year 2019-20, Company conducted 20 eye camps at 9 Company locations providing free eye consultation, reading glasses and medicines. These were provided to 8012 men and women at the 20 free eyecare camps.



3. **Suraksha – Safe Delhi Programme:** Your Company in association with NGO SOFIA Educational and Welfare Society. In the financial year 2019-20, your Company has installed 164 fire extinguishers at 82 places of worship besides providing small fire extinguishers at all the 50 Mahila Shiksha Kendras as well. Also, over 250 men and women have been provided training directly, whereas over 5750 people were informed about the safety programme and fire extinguishers.
4. **Blood Donation Camps:** Your Company with various blood banks, Red Cross Society and Government Hospitals conducted Blood Donation camps and in the financial year 2019-20, 253 men and women have directly benefited from this initiative.
5. **Sanitation:** Your Company upgraded sanitation facilities and undertook the construction of a toilet block and water counter at Raja Harishchandra Mukti Dham in Saboli Nand Nagri, which directly benefited over 300 men and women per month.
6. **Treatment of children with Clubfoot:** Your Company, in association with Cure International India Trust (CIIT), is supporting treatment of 150 children with clubfoot at CIIT's clinics at Chacha Nehru Bal Chikitsalaya and LNJP Hospital in Delhi.
7. **Wear Mask and Beat Corona:** Considering the Covid-19 outbreak in India, your Company supported Healthy Aging India (HAI) in its campaign "Wear Mask and Beat Corona". In the financial year 2019-20, over 667 men and women have benefited from this intervention.

2A.7 Human Resources & Performance Management

During the financial year, interventions with regards to capability building were aligned as per the business and operational needs of the Company.

1. TRAINING AND WORKSHOP

- Learning & Development team of the Company imparted a total of 3751 man-days of training, conducting a total of 158 programs in the financial year 2019-20.
- With an objective to ensure uninterrupted power supply to customers & to train the employees about new electrical safety procedures/ equipment, 1362 man-days of technical training and 492 man-days of safety training were imparted to employees and contractual staff. Also based on specific training needs,



technical/functional workshops were conducted for the employees of Business, Operations, C&M and Quality Department.

- Your Company has collaborated with the Bureau of Energy Efficiency and Energy Efficiency and Renewable Energy Management Centre for the implementation of a training program under “Capacity building of DISCOMs”. A series of Certification programs on Demand Side Management and energy efficiency in the business were held in collaboration with Bureau of Energy Efficiency (BEE) and PWC.
- Workshop on Energy Conservation Building Code (ECBC) was conducted in collaboration with Energy Efficiency & Renewable Energy Management
- Your Company as an organization values integrity as one of its core missions and zero tolerance for breach of ethics in an organization is promoted. In this regard we have conducted workshops to spread awareness about ISO 37001 relating to Anti Bribery Management System. This was aimed to spread awareness to prevent, detect and address bribery; cause and effect and consequences of bribery.
- We also conducted cross-functional programs to develop & implement a process of creating awareness about key decisions, regulatory changes, and process related changes among the employees of different departments; cross – functional workshops like Finance for Non-Finance, HR for Line Managers, Technical for non- Technical, Regulatory for Non-Regulatory, workshop for enforcement are conducted.
- Series of workshops were conducted under the programs-
 - Young Leadership Development Program (YLDP) batch two was initiated to empower young leaders to take on cross-functional responsibilities and prepare a second line of leadership in the organization.
 - Program “Innovate 2.0” to enhance the identified competencies for the JMC/MMC cadre.
 - Program “Pragati Ki Aur” was launched for linemen to make them aware of the changing regulatory scenario which will help them to provide quicker resolution to the dawning issues.



- Navdhara” workshop to rejuvenate the 11kV & EHV Breakdown and Grid Operations Teams.
- Workshops on supply code focusing on Customer Centricity and customer excellence were held at all levels for the Customer Care Department. These workshops included both technical/functional and behavioural content required for their respective job profiles.
- Workshop “Anugoonj” was conducted for all Meter Readers and Bill Distributors to understand the concept of change for redeployment in the future.
- Interactive sessions on Gender Sensitivity and the Prevention of Sexual Harassment at workplace were conducted on a regular basis. This is to promote gender neutrality and remove inhibitions and stereotypes amongst employees relating to gender.
- In order to create a healthy, engaging and productive workplace environment, Life Style Management Workshops and Yoga workshops were conducted for the Employees. The workshops were conducted with a focused approach on the prevalent topics like work-life balance, health talks, stress management, parenting, and life after retirement,
- Certification program to develop ‘Lead Auditors’ within the organization for improvement in processes and systems was conducted.
- First- Aid Certification course was also conducted for preparing the employees to deal with emergency situations and provide first aid to the victim.

2. Other HR initiatives

- Sports Events likes Chess, Carrom, Basket Ball, Table Tennis, Volley Ball, Tennis, Lawn Tennis, and Athletics were organized to encourage employees & their family members and to promote active participation by all, in fun and healthy physical activities according to their interests and abilities. Inter-departmental Cricket Tournament was organized for employees.
- Steering and Apex level Grievance Redressal Committees addressed HR related concerns of employees assisted by dedicated Employee Engagement Officer



(EEO) & Nodal Officer assigned for each Circle.

- Internal Complaints Committees (ICCs) at Circle levels were constituted for handling cases related to the Prevention of Sexual Harassment (POSH) at workplace in addition to the present ICC at the Corporate Office.
- Steering Committees for promotion of Sports and Arts & Culture facilitates various sports events throughout the year.
- Retirement farewell functions organized centrally at the Corporate Office, KKD bimonthly in honour of all the retirees and retirement gifts to be given away on the day of retirement of employees at different locations in order to acknowledge the retirees long valuable contribution to the organization.
- Health camps and Health talks were conducted throughout the year at various locations of the company. Also, executive health check-up is facilitated for all executives above 35 years, along with their spouses throughout the year.
- Workshops were conducted under the programs:
 - Career Counseling: A career counseling workshop was conducted for children of employees, studying from 9th to 12th standard.
 - Life Style Management Workshop organized for spouses of male employees.
 - Life after Retirement Workshops: This activity helps the employees nearing their retirement, prepare for the challenges after retirement and to make the life after retirement the best years of their life.
- **Meritorious Children Award:** The children of employees were awarded “Meritorious Children Award” as recognition of their academic achievements in the 10th and 12th standards and awards for their selection into premier institutes were also given away.
- **Summer Sports Training Programme:** For skill development of kids in their chosen sports and Painting Competition for wards of employees from Nursery to 10th Standard organized.



2A.8 Awards And Recognition

The major awards received during the financial year are as follows:

Forum	Category	Award Detail
IMC Chamber of Commerce and Industry	" Business Excellence" in service category	IMC Ramakrishna Bajaj National Quality Award 2019.
British Safety Council	Health, Safety and Wellbeing during the 2019	International Safety Award 2019 for commitment to health and Safety.
India Smart Grid Forum (ISGF)	"Smart Group MeteringSystem for Sustainable andTheft Reduction""Best Smart Grid Project byUtility"	ISGF Innovation Award 2020.
Smart City-Empowering India Awards	"Best Smart Grid Project by a Utility" for its "Energy storage with Solar RooftopMicro Grid Project"	Smart City Empowering India Award 2020.
Quality Circle Forum of India	9 Accolades (7 "ParExcellence Awards" and 2"Excellence Award") forQC/5S Projects	NCQC- 2020.
Indian Chambers ofCommerce (ICC)	"Green Energy Award"	Innovation with Impact Award for DISCOM 2019.
International Convention on QC Concept, Tokyo	'Gold Award' for the QualityCircle team- "SAMADHAN" from Switchgear Workshop	ICQCC 2019.



Forum	Category	Award Detail
Quality Circle Forum of India (QCFI)	Gold Award' for Quality Circle team- "SAMADHAN" from Switchgear Workshop	CCQC 2019.
Institution of Engineers, India	"Innovative Safety Management System"	Safety Innovation Award 2019.
Confederation of Indian Industry (CII)	"Excellence Energy Efficient Unit"	National Award for Excellence in Energy Management 2019.
Confederation of Indian Industry (CII)	5S National Excellence Awards	Gold Category in 5S National Excellence Award 2019.
Indian National Suggestion Scheme's Associations	3 Excellence Awards for KAIZEN Improvement Case Studies	INSSAN- 2019.





Chapter -2B

Compliance to Directives



2B Compliance to Directives

The Hon'ble Commission has given various directives in Tariff Order dated July, 31, 2019.

The Petitioner is hereby submitting the compliance status as follows:

1. Directive to make timely payment of bills/dues to Central and State Generating Stations and Transmission Utilities (Ref: Para 6.1 of the Tariff Order dated 31.07.2019)

The Commission directs the Petitioner to make timely payment of bills/dues to Central & State Generating Stations and Transmission Utilities. No Late Payment Surcharge shall be allowed as a pass through in the ARR, on account of delayed payments.

Compliance:

BYPL has submitted the month wise audited cash flow statement to the Hon'ble Commission. It is evident from the statements that the licensee 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 funds available with the Licensee.

Also, 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 APTEL in the matter of Appeal Nos. 27, 28 & 32 of 2014. Without prejudice to the Petitioner's submissions made in this matter, it is humbly submitted that pursuant to Hon'ble Supreme Court's order dated 23.03.2014, BYPL is making payment to Central and State Gencos and Transmission Utilities against current dues to the extent it is possible. It would not be out of place to re-iterate that these payments are being made against severe odds due to huge persisting accumulated regulatory assets.

2. Directive to directly deposit the amount as per directive (6.2) in the account of Pension Trust (Ref: Para 6.2 of the Tariff Order dated 31.07.2019)

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

Compliance:



The Petitioner submits that adherence to the aforesaid Directive is ongoing and is being complied with.

3. **Directive to pension trust to intimate the total amount collected and adjust any surplus/gap in its claim for the subsequent year (Ref: Para 6.4 of the Tariff Order dated 31.07.2019)**

The Commission directs the Pension Trust to intimate the total amount collected through Pension Trust surcharge and adjust any surplus/gap in its claim for the subsequent year.

Compliance:

Not applicable to BYPL.

4. **Directive to restrict cost of expensive power to the cost of regulated cheaper power (Ref: Para 6.4 of the Tariff Order dated 31.07.2019)**

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.

Compliance:

The petitioner submits that the said directive is being complied with.

5. **Directive to borne transmission charges in case power is regulated by DTL/Interstate Transmission Licensee (Ref: Para 6.5 of the Tariff Order dated 31.07.2019)**

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.

Compliance:

The petitioner submits that the said directive is being complied with.

6. **Directive to ensure availability of power supply for meeting the demand (Ref: Para 6.6 of the Tariff Order dated 31.07.2019)**

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.

Compliance:

The Petitioner submits that adherence to the aforesaid Directive is ongoing and is being complied with.

7. **Directive to ensure cash limit of Rs.4000/- for bill collection at petitioners own collection Centers/mobile vans and Rs. 50,000/- for accepting payment through cash by the consumers at designated scheduled commercial bank branches (Ref: Para 6.7 of the Tariff Order dated 31.07.2019)**

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.

Compliance:

The Petitioner would like to humbly submit that the instant matter is presently sub-judice before Hon'ble APTEL in Appeal 265 of 2013 and Appeal 236 of 2014. Till such time the matter is heard and decided by Hon'ble APTEL, the Petitioner has taken measures to ensure that no cash collection exceeding Rs.4000 and Rs. 50,000 is being accepted at own collection centres/mobile vans and designated scheduled commercial bank branches respectively and is thus complying with the aforementioned directive.

8. **Directive to restrict the adjustment in units billed to a maximum of 1% of total units billed (Ref: Para 6.8 of the Tariff Order dated 31.07.2019)**

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.

Compliance:

The Petitioner submits that adherence to the aforesaid Directive is ongoing and is being complied with.

9. **Directive to survey the electricity connections of hoardings and display at malls**



and multiplexes and ensure the billing in the advertisements/hoarding category
(Ref: Para 6.9 of the Tariff Order dated 31.07.2019)

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 an annual compliance report by 30th April of the next year.



Compliance:

The survey of electricity connections of hoardings and display at malls and multiplexes was not required as the tariff rates applicable to such category is same as advertisements/hoarding category. Further, the Hon'ble Commission vide its letter no. F.No.(545)/tariff-engg./DERC/2018-19/6142/465 dated 15.05.2018 directed not to survey the electricity connections of Hoardings and display at malls and multiplexes.

10. The Commission further directs the distribution licensee as under

- 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 (Ref: Para 6.10 (a) of the Tariff Order dated 31.07.2019)*

Compliance:

The Petitioner submits that adherence to the aforesaid directive is ongoing and is being complied with.

- b. *To maintain toll free number for registration of electricity grievances and to submit the quarterly report (Ref: Para 6.10 (b) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive and quarterly progress report has been submitted to the Hon'ble Commission vide letters having:-

1. Ref No. RA/BYPL/2019-20/13 dated 29.04.2019 (Q4 of FY 2018-19).
2. Ref No. RA/BYPL/2019-20/85 dated 12.07.2018 (Q1 of FY 2019-20).
3. Ref No. RA/BYPL/2019-20/159 dated 22.10.2019 (Q2 of FY 2019-20).
4. Ref No. RA/BYPL/2019-20/223 dated 31.01.2020 (Q3 of FY 2019-20).

- c. *To conduct a safety audit and submit a compliance report within three months (Para 6.10(c) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble commission vide letter ref no. RA/BYPL/2019-20/161 dated 30.10.2019.

- d. *To carry out preventive maintenance as per schedule (Ref: Para 6.10 (d) of the Tariff Order dated 31.07.2019);*





Compliance:

The Petitioner submits that adherence to the aforesaid directive is ongoing and is being complied with.

- 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 (Ref: Para 6.10(e) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble commission vide the following letters;

- i. Letter ref no. RA/BYPL/2020-21/127 dated 18.09.2020.
 - ii. Letter ref no. RA/BYPL/2020-21/128 dated 18.09.2020
 - iii. Letter ref no. RA/BYPL/2020-21/129 dated 18.09.2020
 - iv. Letter ref no. RA/BYPL/2020-21/130 dated 18.09.2020
 - v. Letter ref no. RA/BYPL/2020-21/131 dated 18.09.2020
 - vi. Letter ref no. RA/BYPL/2020-21/132 dated 18.09.2020
 - vii. Letter ref no. RA/BYPL/2020-21/133 dated 18.09.2020
 - viii. Letter ref no. RA/BYPL/2020-21/134 dated 18.09.2020
 - ix. Letter ref no. RA/BYPL/2020-21/135 dated 18.09.2020
 - x. Letter ref no. RA/BYPL/2020-21/136 dated 18.09.2020
 - xi. Letter ref no. RA/BYPL/2020-21/137 dated 18.09.2020
 - xii. Letter ref no. RA/BYPL/2020-21/138 dated 18.09.2020
- f. *To submit the energy audit report in respect of their network at HT level and above within three months (Ref: Para 6.10 (f) of the Tariff Order dated 31.07.2019);*

Compliance:

The energy audit report in respect of their network at HT level and above has been submitted with the Hon'ble Commission vide letter ref no. RA/BYPL/2020-21/165 dated 29.10.2020.

- g. *To submit the Auditor's certificate in respect of Form 2.1(a) on quarterly basis within the next quarter (Ref: Para 6.10 (g) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble commission vide the following letters;

- i. Letter ref no. RA/BYPL/2018-19/74 dated 01.07.2019 (Q4 of FY'18).
- ii. Letter ref no. RA/BYPL/2019-20/83 dated 04.08.2020 (Q1 of FY'19).
- iii. Letter ref no. RA/BYPL/2019-20/84 dated 04.08.2020 (Q2 of FY'19).



- iv. Letter ref no. RA/BYPL/2019-20/85 dated 04.08.2020 (Q3 of FY'19).
 - v. Letter ref no. RA/BYPL/2019-20/86 dated 04.08.2020 (Q4 of FY'19).
- h. *To incorporate the following information in the annual audited financial statements (Ref: Para 6.10(h) of the Tariff Order dated 31.07.2019);*
- 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,*

Compliance

The Petitioner submits that the abovementioned directive will be complied in the specified timeline.

- i. To submit annual auditor certificate in respect of power purchase details of the previous year by 30th July of the next financial year (Ref: Para 6.10(i) of the Tariff Order dated 31.07.2019);

Compliance

The Petitioner submits that abovementioned directive has been complied with and the annual auditor certificate in respect of power purchase details for FY 2018-19 has been submitted with the Hon'ble Commission vide reference no. RA/BYPL/2019-20/86 dated 12.07.2019.

- j. *To submit the reconciliation statement in respect of power purchase cost/Transmission cost on a quarterly basis with respective Generation/Transmission companies (Ref: Para 6.10(j) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble commission vide the following letters;

- I. Letter Ref no. RA/BYPL/2019-20/52 dated 06.06.2019 (Q4 of FY'18-19).



- II. Letter Ref no. RA/BYPL/2019-20/115 dated 21.08.2019 (Q1 of FY'19-20).
- III. Letter Ref no. RA/BYPL/2019-20/171 dated 30.10.2019 (Q2 of FY'19-20).
- IV. Letter Ref no. RA/BYPL/2019-20/233 dated 13.02.2020 (Q3 of FY'19-20).
- V. Mail dated 13.05.2020

- 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 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 paisa/kWh during the financial year. (Ref: Para 6.10(k) of the Tariff Order dated 31.07.2019);*

Compliance

The Petitioner submits that adherence to the aforesaid Directive is ongoing and is being complied with.

- l. To raise the bills for their own consumption of all their installations including offices at zero tariffs to the extent of the normative self consumption approved by the Commission and exceeding the normative limit of self consumption at Non-Tariff Domestic tariff for actual consumption recorded every month (Ref: Para 6.10(l) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner submits that adherence to the aforesaid Directive is ongoing 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 (Ref: Para 6.10(m) of the Tariff Order dated 31.07.2019);*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble Commission vide letters;



- i. Letter Ref no. RA/BYPL/2018-19/26 dated 09.05.2019 (Q4 of FY'18-19).
 - ii. Letter Ref no. RA/BYPL/2019-20/105 dated 31.07.2019 (Q1 of FY'19-20).
 - iii. Letter Refno. RA/BYPL/2019-20/160 dated 30.10.2019 (Q2 of FY'19-20).
 - iv. Letter Refno. RA/BYPL/2019-20/211 dated 15.01.2020 (Q3 of FY'19-20).
 - v. Mail dated 06.05.2020(Q4 of FY 2019-20)
- 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 (Ref: Para 6.10(n) of the Tariff Order dated 31.07.2019)*

Compliance:

The Petitioner has complied with the aforesaid directive. The Information has been submitted with the Hon'ble Commission vide letters;

- i. Letter Ref no. RA/BYPL/2019-20/44 dated 30.05.2019 (Q4 of FY'18-19).
- ii. Letter Ref no. RA/BYPL/2019-20/109A dated 07.08.2019 (Q1 of FY'19-20).
- iii. Letter Ref no. RA/BYPL/2019-20/179 dated 15.11.2019 (Q2 of FY'19-20).
- iv. Letter Ref no. RA/BYPL/2019-20/220 dated 30.01.2020 (Q3 of FY'19-20).
- v. Letter Ref no. RA/BYPL/2020-21/21 dated 05/06/2020 (Q4 of FY'19-20).





Chapter -3A

True-up for FY 2019-20



3A. TRUE UP FOR FY 2019-20**3.1 Background**

- 3.1.1 The Hon'ble Commission has notified the Business Plan Regulations, 2017 on August 31, 2017 for the control period from FY 2017-18 to FY 2019-20 in line with the DERC (Terms and Conditions of Tariff) Regulations, 2017.
- 3.1.2 In terms of Regulation 22 of Tariff Regulations 2017 in line with the DERC Business Plan Regulations 2017, the Hon'ble Commission vide its Tariff Order dated July 31, 2019 has approved the Aggregate Revenue Requirement (ARR) of the Petitioner for FY 2019-20.
- 3.1.3 As the Regulation 13 of Tariff Regulations, 2017 provides for the truing up of previous year's expenses and revenue, based on audited accounts, the Petitioner in this chapter seeks True-up of expenditure and revenue for FY 2019-20.

3.2 Legislative Provisions of Truing-up

- 3.2.1 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.
- 3.2.2 The Hon'ble Commission notified Tariff Regulations, 2017 vide official gazette dated January 31, 2017 which are applicable from February 1, 2017 onwards. Further, the operational norms for Distribution utilities have also been approved by the Hon'ble Commission for the Control Period FY 2017-18 to FY 2019-20 in the DERC Business Plan Regulations, 2017 notified vide gazette notification dated 31.08.2017.
- 3.2.3 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."

- 3.2.4 In accordance with the aforesaid Regulation, truing-up of FY 2019-20 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 DERC Tariff Regulations, 2017.

a) Distribution Loss and Collection Efficiency:

Regulation-8 and 9 of DERC Tariff Regulations, 2017 stipulates target 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:
 $AT\&C\ Loss = [1 - (1 - Distribution\ Loss) * Collection\ Efficiency] * 100$
where, AT&C Loss, Distribution Loss and Collection Efficiency are in (%) percentages.”*

Further, the Petitioner adopted the methodology of computing the Distribution Loss target for FY 2019-20 specified by the Hon’ble Commission in Regulation 25(1) of Business Plan Regulations, 2017 stated 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.

26. TARGET FOR COLLECTION EFFICIENCY

(1) The targets for Collection Efficiency for FY2017-18 to FY2019-20 of the Distribution Licensees shall be 99.50%.

(2) The financial impact on account of Collection Efficiency target shall be computed as per the formula specified in Regulation 163 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee.

(3) The financial impact on account of over-achievement in terms of Regulation 164 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee, from 99.50% to 100% shall be shared equally between Consumers and the Distribution Licensees.”

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, for the purpose of Truing Up, has been considered based on actual Power Purchase cost for FY 2019-20.

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 BYPL 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	4.421	4.669	4.931
2	33 kV Line	Rs. Lakh/ ckt. Km	4.421	4.669	4.931
3	11 kV Line	Rs. Lakh/ ckt. Km	1.857	1.961	2.071
4	LT Line System	Rs. Lakh/ ckt. Km	8.290	8.756	9.247
5	66/11 kV Grid S/s	Rs. Lakh/ MVA	1.045	1.104	1.166
6	33/11 kV Grid S/s	Rs. Lakh/ MVA	1.045	1.104	1.166
7	11/0.415 kV DT	Rs. Lakh/ MVA	2.296	2.425	2.561

Accordingly, the Petitioner has considered normative O&M Expenses, details of which have been elaborated later in this chapter. Further, the additional expenses have also been considered based on the Regulation 45 and Regulation 23 specified in DERC Tariff Regulations, 2017 and DERC Business Plan Regulations, 2017 respectively.

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 2019-20 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 13.06% and ROE at the rate of 16% for computation of WACC during FY 2019-20.

f) Income-tax:

Regulation 72 of 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 2019-20 after grossing-up ROE by MAT rate effectively paid in FY 2019-20.

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 2019-20.

- 3.2.5 The Petitioner vide its letter dated 11.12.2020 submitted the Audited Financial Statement for FY 2019-20 which is also enclosed herewith as **Annexure – 3A.1** for kind consideration of the Hon’ble Commission.
- 3.2.6 Based on the above Regulations, the Petitioner prays for true-up of the financials of the Petitioner for FY 2019-20.

3.3 Energy Sales

- 3.3.1 The actual energy sales during FY 2019-20 was 6657.62 MU including sales on account of enforcement and net metering connections as per Note 63 of audited accounts of FY 2019-20.
- 3.3.2 It is submitted that 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. The Petitioner therefore requests the Hon’ble Commission to carry out the true-up of the variation in the revenue and expenditure for FY 2019-20. The quantum of energy sales is an uncontrollable factor and therefore any variation and its impact thereto ought to be allowed by the Hon’ble Commission.
- 3.3.3 The category-wise monthly bifurcation of energy sales during FY 2019-20 is tabulated below:



Table 3.1 Category-wise monthly bifurcation of energy sales during FY 2019-20 (MU)

S.No	Category	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
A	Domestic	242	383	483	512	453	482	360	233	193	299	218	197	4,057
A.1	Domestic other than A2, A3 & A4	235	373	470	498	441	470	350	227	188	290	212	192	3,946
A.2	Single Delivery Point on 11 KV CGHS	1	2	2	3	2	2	2	1	1	2	1	1	21
A.3	11 KV Worship/Hospital	4	7	8	9	8	8	7	5	4	6	5	3	74
A.4	DVB Staff	1	2	2	2	2	2	1	1	1	1	1	1	16
B	Non Domestic	127	165	180	193	180	183	165	129	106	116	99	95	1,737
B.1	Non Domestic Billed upto July 2019	127	165	180	193									664
	Non Domestic upto 3 KVA Billed w.e.f. Aug 2019					35	36	33	25	19	23	18	18	207
B.2	Non Domestic Above 3 KVA Billed w.e.f. Aug 2019					146	147	132	104	87	93	81	76	865
C	Industrial	31	32	33	37	36	33	32	27	29	30	28	25	373
D	Agriculture & Mushroom Cultivation	0	0	0	0	0	0	0	0	0	0	0	0	0
F	Public utilities	45	29	36	35	35	35	31	34	28	29	29	28	392
F.1	Public Lighting (Metered)	7	6	6	6	5	6	3	9	5	5	6	6	69
F.2	Public Lighting (Un-Metered)	4	2	2	2	2	2	2	2	2	2	2	2	24
F.3	DJB	13	12	13	13	12	13	13	13	12	13	11	11	150
F.4	DMRC	22	8	14	15	15	15	14	10	9	9	10	9	150
G	Temporary Supply	3	4	5	6	5	5	5	4	3	4	4	3	52
H	Advertisement & Hoardings	0	0	0	0	0	0	0	0	0	0	0	0	0
I	Self-consumption	1	1	1	1	1	1	1	1	3	1	1	0	13
J	Enforcement	1	1	1	1	1	2	1	1	1	1	2	1	13
K	E Vehicle at LT	1	1	1	1	1	1	1	2	2	2	2	1	16
L	Net Metering Connection												3	3

S.No	Category	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
	Total	450	616	740	787	713	743	597	430	364	482	383	353	6,658

3.3.4 **Enforcement Sale:** This includes energy sold to consumers/persons booked under sections 126 and/or section 135 of the Electricity Act, 2003 for indulging in misuse and theft of electricity respectively. In its order dated August 26, 2011 in the true-up for FY 2008-09 and FY 2009-10 and ARR for FY 2011-12 the Hon'ble Commission had reduced the MUs in relation to enforcement sale by dividing the enforcement collection by twice the average billing rate instead of single ABR. The approach adopted by the Hon'ble Commission in its said order dated August 26, 2011 was upheld by the Hon'ble ATE in Judgment dated November 28, 2014 (Appeal No. 61 and 62 of 2012) inter-alia as under:

"58. In view of the above discussions the issue is decided as under:

...

2) The Commission has adopted correct approach for computing MUs on account of enforcement

..."

3.3.5 The Petitioner has preferred a Civil Appeal Nos. 4323 & 4324 of 2015 before the Hon'ble Supreme Court from the aforesaid Judgment of the Hon'ble ATE dated November 28, 2014 (Appeal 61 & 62 of 2012) and this Appeal is sub-judice. Without pre-judice to its aforesaid Appeal, and without admitting or waiving any of its contentions against the said Judgment dated November 28, 2014 or the Hon'ble Commission's order dated August 26, 2011 insofar as the decision on enforcement sales are concerned, the Petitioner has computed the enforcement revenue as per the approach of the Hon'ble Commission and is shown in the table below:

Table 3.2 Enforcement Units considered for Truing-up during FY 2019-20

S.No	Particulars	Formula	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
A	Total Units Billed excl. enforcement (MU)	A	449	615	739	786	712	741	596	429	363	481	381	352	6,644
B	Total Amount Billed excl. enforcement *(Rs. Cr)	B	355	457	540	575	514	516	424	327	280	342	284	257	4,871
C	ABR* (Rs./kWh)	$C = B/A * 10$	7.89	7.44	7.31	7.31	7.22	6.96	7.12	7.61	7.70	7.13	7.44	7.29	7.33

S.No	Particulars	Formula	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
D	Twice of average billing rate (Rs./Kwh)	$D = C * 2$	15.78	14.88	14.62	14.62	14.44	13.93	14.24	15.22	15.40	14.25	14.89	14.59	14.66
E	Enforcement Collected* (Rs. Cr)	E	1	1	1	2	2	3	1	1	2	2	2	1	20
F	Units Billed on account of enforcement	$F = E / D * 10$	1	1	1	1	1	2	1	1	1	1	2	1	13

*Net of Non energy, E-tax, LPSC and RA surcharge

3.3.6 Own 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 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 No. 178 of 2012) ruled as under:

"25.5 This issue has also been dealt by us in Appeal no. 195 of 2013 filed by a consumer and the Tribunal decided as under:

"We feel that the Appellant should have installed meters for self consumption in all its offices, call centres, sub-stations, etc. The Respondent no.2 does not need specific instructions for the same. When the Respondent no.2 is including self consumption in its energy sale figures, then it was legally bound to supply electricity for gross consumption only through correct meters. We feel that the State Commission should have allowed self consumption only to the extent of actual consumption for metered installations. The formula proposed by the Respondent no. 2 for calculating own consumption in its installations is for calculating energy consumption for consumers in case of faulty meters. Accordingly, we direct the State Commission to re-determine the self consumption based on the metered data only. We also do not feel that this would result in change in procedure in true up with respect to the MYT order dated 23.02.2008. In the MYT order the consumption is based on the projections. In the MYT order the State Commission has not approved that the self consumption would not be metered and would only be assessed by a formula considering the load, number of days/hours, load factor, etc."



3.3.7 Further, Regulation 23 (2) of Business Plan regulations, 2017 specifies as follows:

"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."

3.3.8 As per Regulation 23(2) of Business Plan Regulations, 2017, the Own Consumption of BYPL for FY 2019-20 is within the specified normative limit. Further, the Hon'ble ATE has directed the Hon'ble Commission to allow the actual self-consumption. Accordingly, the units billed in the Petitioner's own office buildings during FY 2019-20 is 13.29 MU.

Table 3.3 Comparison of Normative Self consumption and actual self-consumption during FY 2019-20

S.No	Particulars	Units (in MU)
A	Units Billed Excluding Self consumption	6,644.33
B	Self-consumption on Normative basis 0.25% of A	16.61
C	Actual Self consumption claimed by Petitioner	13.29

3.3.9 Based on the above submissions, the comparison of actual category-wise energy sale during FY 2019-20 and the category wise sales projected by the Hon'ble Commission while approving the ARR for FY 2019-20 is tabulated below:

Table 3.4 Category-wise energy sales during FY 2019-20 (MU)

S. No	Category	Projections (as per Tariff Order)	Actuals
A	Domestic	4,081	4,057
B	Non Domestic	1,832	1,737
C	Industrial	402	373
D	Agriculture	0.28	0.22
E	Public utilities	369	392
F	Advertisement and Hoardings	1	0.04
G	temporary Supply	46	52
H	Charging Station for E Vehicle	7	16
I	Others*	31	30
Total		6,768	6,658

*Includes Enforcement, Self-consumption, net metering connections etc



3.3.10 In view of the above, it is prayed that the Hon'ble Commission may kindly approve the actual energy sales to various consumer categories as submitted in the above table while truing-up the uncontrollable costs for FY 2019-20.

3.4 Distribution loss for FY 2019-20

3.4.1 The Energy Input considered by the Petitioner for arriving at the distribution loss is net of energy input on account of open access consumers and arriving at a level of 7178.63 MUs for FY 2019-20. The same is tabulated below in Table 3A 6:

Table 3.5 Energy Input considered for the purpose of calculation of Distribution Loss

Particulars	Figures
Energy Input as per SLDC	7,291.09
Less: Energy Input on account of Open Access	112.46
Net Energy input consider for calculation of distribution loss	7,178.63

3.4.2 The Energy Sales considered by the Petitioner for calculation of distribution loss is net of net metering sales (Grossed up value). The same is tabulated below in Table 3A 6.

Table 3.6 Energy Sales considered for Distribution Loss of FY 2019-20

S.No	Particulars	Figures	Remarks
A	Energy Sales	6,657.62	Note 63 of Audited accounts
B	Less Net metering Sales (grossed up)	3.07	Note 63 of Audited accounts
C	Energy Sales considered for calculation of Distribution Loss	6,654.54	A-B

3.4.3 Accordingly, the actual distribution loss for FY 2019-20 is tabulated below in Table 3A 7:-

Table 3.7 Distribution loss for FY 2019-20

S.No	Particulars	UoM	Figure	Remarks/Reference
A	Energy Input	MU	7,178.63	Table 3A 5
B	Energy Billed	MU	6,654.54	Table 3A 6
C	Distribution loss	%	7.30%	(A-B)/A



- 3.4.4 Based on the Distribution Loss Target approved by Hon'ble Commission in Regulation 25(1) of Business Plan Regulations 2017 for FY 2019-20, the Petitioner has computed the impact of overachievement in Distribution loss in line with the provisions contained in Regulation 159 of Tariff Regulations, 2017.

"159. The Financial impact on account of over achievement or under achievement of distribution loss target shall be computed as under:

$$\text{Incentive or penalty} = Q1 * (L1 - L2) * P * 10^6$$

Where,

Q1 = Actual Quantum of energy Purchased at Distribution periphery.

L1 = Distribution Loss Target in %

L2 = Actual Distribution Loss in %

P = Trued up Average Power Purchase Cost (APPC) per unit at distribution periphery in (Rs. /KWh)."

- 3.4.5 Further, in terms of Regulation 25(4) of Business Plan Regulations 2017, the Hon'ble Commission has specified the allocation related to financial impact of overachievement on account of distribution loss target between the Petitioner and Consumers.
- 3.4.6 Accordingly, in terms of Regulation 159 of Tariff Regulations, 2017 and Regulation 25(4) of Business Plan Regulations, 2017, the financial impact of overachievement of Distribution Loss target to be passed on to the Petitioner and Consumers is tabulated below:

Table 3.8 Financial Impact of overachievement in Distribution loss target for FY 2019-20

S.No	Particulars	UoM	Figure	Remarks/Reference
A	Energy Purchased at distribution Periphery	MU	7,178.63	Table 3A 5
B	Distribution Loss target for previous Year i.e. FY 2018-19	%	11.69%	As per BPR
C	Distribution Loss target for Current Year i.e. FY 2019-20	%	10.50%	As per BPR
D	Loss target - 50%*(previous year target - current year target)	%	9.91%	
E	Actual Distribution loss for FY 2019-20	%	7.30%	Table 3A 7
F	Average Power Purchase cost for FY 2019-20	Rs/KWh	5.13	



S.No	Particulars	UoM	Figure	Remarks/ Reference
E	Total Financial Impact on account of overachievement of Distribution Loss Target	Rs. Cr.	117.82	
F	Impact of Financial benefit to be retained by the Petitioner	Rs. Cr.	71.24	
F	Impact of Financial benefit to be passed on to the consumer	Rs. Cr.	46.58	

3.5 Collection efficiency during FY 2019-20

3.5.1 Hon'ble Commission has defined the collection efficiency in its Regulation 5(11) of DERC (Terms & Conditions for determination of Tariff) Regulations, 2017. The extract of Regulation 5(11) of DERC Tariff Regulations 2017 is reproduced below:

"5 (11) Collection efficiency shall be measured as ratio of total revenue realized to the total revenue billed in same year.

Provided that Revenue realised or revenue billed on account of electricity duty, late payment surcharge, any other surcharge shall be excluded from the computation of collection efficiency"

3.5.2 Regulation-26 (1) of DERC (Business Plan) Regulations, 2017 specifies targets for Collection Efficiency from FY 2017-18 to FY 2019-20 at 99.50%. Extract of Regulation 26 of DERC (Business Plan) regulations 2017 is reproduced below:

"26. TARGET FOR COLLECTION EFFICIENCY

(1) The targets for Collection Efficiency for FY2017-18 to FY2019-20 of the Distribution Licensees shall be 99.50%.

(2) The financial impact on account of Collection Efficiency target shall be computed as per the formula specified in Regulation 163 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee.

(3) The financial impact on account of over-achievement in terms of Regulation 164 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for the Distribution Licensee, from 99.50% to 100% shall be shared equally between Consumers and the Distribution Licensees."



- 3.5.3 In the month of March 2020, GoNCTD had imposed restriction on certain activities vide its Notification No. F.51/DGHS/PH-IV/COVID-19/202-215 dated 12.03.2020 and F.51/DGHS/PH-IV/COVID-19/2020/M/PRSECYFW/2447-61 dated 16.03.2020. Further, GoNCTD passed an order no. F.51/DGHS/PH-IV/COVID-19/2020/M/PRSECYHFW/3064-3163 dated 22.03.2020 wherein strict lockdown was imposed on all activities except for the essential activities w.e.f. 23.03.2020 (6:00 Hours) till 31.12.2020 (Midnight). Petitioner vide its letter RA/2019-20/264 dated 24.03.2020 requested the Hon'ble Commission to consider the above situation as a force majeure event and specifically requested to relax the targets for collection efficiency for FY 2019-20, the reasons of which is explained below in subsequent paras. The Hon'ble Commission vide its letter no. F.17(174)/Engg./DERC/18-19/6190/181 dated 08.07.2020 recognized the lockdown situation as a force majeure event and mentioned that the collection efficiency for FY 2019-20 may be considered at the time of true up of FY 2019-20.
- 3.5.4 The FY 2019-20, has been the year of challenge especially in view of spread of COVID-19 pandemic in the 4th Quarter of FY 2019-20. Though, the COVID-19 started in January'2020 worldwide but in India the impact was started seen from the month of beginning of March'2020.
- 3.5.5 Despite the efforts by various government agencies in the initial days of March'2020, the spread of COVID-19 could not be contained and as a precautionary measure all theatres/Cinema Halls, school, colleges were closed down on 12th March, 2020 and shopping malls from 20th March'2020 and subsequently entire Delhi was put under the lockdown w.e.f 23.03.2020 which was beyond anticipation of anyone.
- 3.5.6 In the lockdown, all the activities, except essential services, were put under lockdown like closure of markets, airports, metros, commercial complexes, schools, colleges, places of worship, Industries and all private as well as Government offices. All the activities came to surprisingly stand still and had wide spread impact the on the individuals and the economy.
- 3.5.7 In view of the above unexpected lockdown in March'2020, the consumers especially falling under Industrial & commercial category stopped making the



payments of their due/overdue electricity bills either fully or partially in the critical year end month of the March. Alongside many Govt. consumers also could not pay their due/overdue bills due to their offices closed due to lockdown.

- 3.5.8 Due to this non-payment of electricity dues, there was adverse impact on the collection of the Petitioner in the last month of the FY 2019-20, thus, there was a huge shortfall in due/overdue payments by various categories of consumers and Petitioner's year end collection efficiency got badly impacted for FY 2019-20.
- 3.5.9 Therefore, Petitioner would like to request the Hon'ble Commission to consider the collection efficiency for the month of March'2020 as per the trends of the past years to arrive at the collection efficiency for FY 2019-20 and approve the consequential financial impact, while truing up for FY 2019-20.
- 3.5.10 We wish to present to Hon'ble Commission the trends about March month's collection efficiency for past 2 years as below:

Table 3.9 Calculation of Collection Efficiency for FY 2019-20

March Collection efficiency trend for last 2 years			
Month	Net billed amount (Rs Cr)	Net Collected amount (Rs Cr)	Collection efficiency for the month
March'18	303.48	448.21	147.69%
March'19	298.37	478.62	160.41%
March'20	257.75	302.76	117.46%
Average CE for the month of March for last 2 years			154.00%
Shortfall due to COVID-19 in March'20 w.r.t. Avg			-36.53%
% Impact on Collection Efficiency			-1.93%
Actual Collection Efficiency for FY 2019-20			98.55%



March Collection efficiency trend for last 2 years			
Month	Net billed amount (Rs Cr)	Net Collected amount (Rs Cr)	Collection efficiency for the month
Prayer to Hon'ble Commission for consideration of collection efficiency for FY 2019-20			100.47%

3.5.11 The COVID-19 pandemic has been a Force Majeure situation which is beyond the control of the company. We would like to draw the attention of Hon'ble Commission towards their order No. F.17(174)/Engg./DERC/18-19/6190/181 dated 08.07.2020 wherein the Hon'ble Commission has taken the cognizance of the COVID-19 pandemic situation based on the representation from Petitioner, the relevant extract of the said order is reproduced below:

"Further, the relaxation in target for collection efficiency for F2019-20, if required, may be considered at the time of True-up of Aggregate Revenue Requirement for FY2019-20 subject to prudence check."

3.5.12 Keeping in view the pandemic situation as mentioned above which has adversely impacted Petitioner's collections for the month of March'2020, collection efficiency for the month of March'2020 be considered as average collection efficiency of the past two years as per aforesaid table, to arrive at FY 2019-20 Collection Efficiency achievement as per MYT regulations for computation of collection efficiency for the financial year.

3.5.13 The Petitioner has billed Gross amount of Rs. 5649.34 Crore during FY 2019-20 which includes amount on account of Net Metering sales (grossed up), Electricity Tax, 8% RA Surcharge, and 3.80% Pension Surcharge. The Amount Billed considered for the purpose of computation of AT&C losses during FY 2019-20 is tabulated below:



Table 3.10 Revenue Billed for AT&C Loss True-up for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 19-20	Reference
A	Total Revenue Billed	5,649.34	Note 58 of the Audited Accounts
B	Less Net metering Sale (Grossed up)	1.31	Note 58 of the Audited Accounts
C	Less: Electricity Tax Billed	199.00	Note 58 of the Audited Accounts
D	Less: 8% RA surcharge Billed	380.07	Note 58 of the Audited Accounts
E	Less: 3.80% Pension Surcharge	180.07	Note 58 of the Audited Accounts
F	Revenue Billed for AT&C True up	4,888.89	A-B-C-D-E

3.5.14 The Petitioner has collected the Gross revenue of Rs. 5587.19 Crore during FY 2019-20 which includes collection on account of Net Metering Sale (Grossed up), Electricity Tax, LPSC, 8% RA Surcharge and 3.80% Pension Surcharge. The Revenue Collected considered for the purpose of computation of AT&C losses during FY 2019-20 is tabulated below:

Table 3.11 Revenue Collected for AT&C Loss True-up for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference
A	Total Revenue Collected	5,587.19	Note 58 of the Audited Accounts
B	Less: Net metering (Grossed up)	1.31	Note 58 of the Audited Accounts
C	Less: LPSC	16.55	Note 58 of the Audited Accounts
D	Less: Electricity Tax	196.71	Note 58 of the Audited Accounts
E	Less: 8% RA Surcharge	376.65	Note 58 of the Audited Accounts
F	Less: 3.70% Pension Surcharge	178.16	Note 58 of the Audited Accounts
G	Net revenue Collected	4,817.81	A-B-C-D-E-F

3.5.15 Accordingly, in terms of Regulation 163 of Tariff Regulations, 2017 and Regulation 26(3) of Business Plan Regulations, 2017, the financial impact of overachievement of Collection efficiency target to be passed on to the Petitioner and Consumers is tabulated below:



Table 3.12 Financial Impact of Overachievement of Collection efficiency Target for FY 2019-20

S.No	Particulars	UoM	figures	Remarks
A	Amount Billed	Rs Cr	4,888.89	Table 3A 10
B	Amount Collected	Rs Cr	4,817.81	Table 3A 11
C	Actual Collection Efficiency	%	98.55%	
D	Collection efficiency Prayed to be considered (impact of Force Majeure event)	%	100.47%	Table 3A 9
E	Collection Efficiency Target	%	99.50%	
F	Total Financial Impact (Incentive) on account of overachievement of Collection efficiency Target	Rs Cr	47.42	
G	Incentive Petitioner Share	Rs Cr	35.20	
H	Incentive Consumers Share	Rs Cr	12.22	

3.6 Power Purchase Quantum

- 3.6.1 The Petitioner purchases almost 70% 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 to BYPL as per its orders dated 31-03-2007.
- 3.6.2 The Petitioner vide its below listed letters has already submitted to the Hon'ble Commission the details of monthly invoices of power purchase cost raised by Generating companies and Transmission companies for the period April 2019 to March 2020.

Table 3.13 Correspondences with DERC regarding power purchase bills

S. No.	Months	Letter No.	Date
1	Apr-19	RA/BYPL/2019-20/61	18.06.2019
2	May-19	RA/BYPL/2019-20/98	24-07-2019
3	Jun-19	RA/BYPL/2019-20/114	20-08-2019
4	Jul-19	RA/BYPL/2019-20/138	26-09-2019
5	Aug-19	RA/BYPL/2019-20/165	16-10-2019
6	Sep-19	RA/BYPL/2019-20/205	01-01-2020
7	Oct-19	RA/BYPL/2019-20/236	19-02-2020
8	Nov-19	RA/BYPL/2019-20/236	19-02-2020



S. No.	Months	Letter No.	Date
9	Dec-19	RA/BYPL/2019-20/236	19-02-2020
10	Jan-20	By Mail	26-06-2020
11	Feb-20	By Mail	26-06-2020
12	Mar-20	By Mail	26-06-2020

3.6.3 The Petitioner vide its letter no. RA/BYPL/2020-21/102 dated July 31, 2020 has submitted the Power Purchase Cost Statement for the period April 2019 to March 2020 duly certified by the Statutory Auditor. All the PPAs were submitted to the Hon'ble Commission vide letters dated June 20, 2016 and December 30, 2016 and approved by the Hon'ble Commission vide its letter dated July 06, 2016 and January 27, 2017 respectively.

3.6.4 Further details of PPA have also been submitted through Business plan submissions dated 21.10.2019.

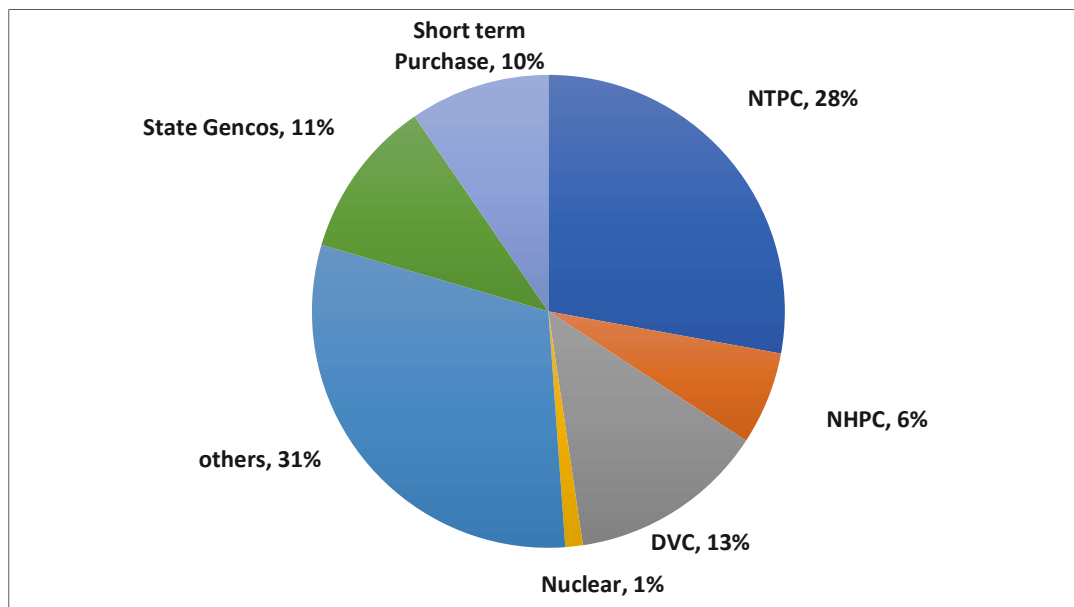


Figure 3.1 Source-wise bifurcation of quantum percentage for FY 2019-20

3.6.5 The summary of actual power purchase quantum procured by the Petitioner during FY 2019-20 is as follows:



Table 3.14 Power Purchase Quantum for FY 2019-20 (MU)

S. No	Particulars	Submission	Remarks/ Ref.
A	Power Purchase:		
i	Gross Power Purchase Quantum	8938	
ii	Power sold to other sources	1502	
iii	Net Power Purchase	7435	i-ii
B	Transmission Loss:		
i	Inter-State Transmission Loss	257	
ii	Intra-State Transmission Loss		
iii	Total transmission loss	257	
C	Net power available after Transmission Loss*	7179	A-B

*Net of 'net metering'

3.6.6 The Petitioner has enclosed the SLDC statement showing the details of DISCOM-wise energy input for FY 2019-20 (enclosed as **Annexure 3A.2**).

3.7 Short term Purchase

3.8.1 During FY 2019-20, the Petitioner has procured a total of 856 MU through Bilateral/Banking/Intrastate/UI under short term purchase. The summary of source-wise details of short term power purchase is tabulated below:

Table 3.15 Details of Short Term Power Purchase

S. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20	
		Energy	(%)	Energy	(%)	Energy	(%)
		(MU)		(MU)		(MU)	
A	Bilateral	27	3%	1	0.1%	5	1%
B	Banking	805	83%	1019	96%	754	88%
C	Exchange	69	7%	8	1%	79	9%
D	Intra-State	10	1%	5	0.4%	0	0%
E	UI	59	7%	31	3%	18	2%
F	Total	970		1064		856	

3.8.2 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 almost 97% of short term energy through Banking and Exchange. The banking transactions involve marginal cost and the prices at exchange are market discovered prices and are determined transparently.

3.8 Short term power sales

3.8.1 During FY 2019-20, the Petitioner has sold total of 1502 MU under short term sale through Bilateral/Banking/Intrastate/UI mode. The source-wise details of sale of surplus power are tabulated below:

Table 3.16 Details of Short Term Power Sales

S. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20	
		Energy	(%)	Energy	(%)	Energy	(%)
		(MU)		(MU)		(MU)	
A	Bilateral	18	2%	77	3%	107	7%
B	Banking	867	74%	1157	46%	816	54%
C	Exchange	275	24%	1245	50%	551	37%
D	Intra-State	1	0%	3	0%	0	0%
E	UI	6	1%	7	0%	28	2%
F	Total	1168.3		2489.2		1502.4	

3.8.2 The total quantum purchased during FY 2019-20 and Plant-wise Petitioner’s share is tabulated below:

Table 3.17 Details of Power Purchase Quantum Station wise for FY 2019-20

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
		MU	MU	MU
Central Sector Generating Stations (CSGS)				
A	NTPC	*	*	
i	Anta Gas			2
ii	Auraiya Gas			6
iii	Dadri Gas			24
iv	Dadri – I			167

S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
		MU	MU	MU
v	Dadri – II			643
vi	Farakka			27
vii	Kahalgaon – I			73
viii	Kahalgaon – II			236
ix	Rihand – I			0
x	Rihand – II			218
xi	Rihand – III			419
xii	Singrauli			479
xiii	Unchahar – I			31
xiv	Unchahar – II			62
xv	Unchahar – III			41
xvi	Aravali Jhajjar			63
	Sub Total			2490
B	NHPC			
i	BAIRASIUL P S			9
ii	SALAL P S			113
iii	CHAMERA I P S			53
iv	TANAKPUR P S			14
v	URI P S			93
vi	DHAULIGANGA PS			43
vii	CHAMERA - II PS			41
viii	DULHASTI PS			66
ix	SEWA-II			21
x	CHAMERA - III PS			34
xi	URI II			59
xii	PARBATI-III			22
Xiii	NHPC Regulation credit			0
	Sub Total			567
C	THDC			
I	Tehri HEP			0
II	Koteshwar			0
	Sub Total			0
D	DVC			
i	Mejia Units -6 (LT-4)			154



S. No	Stations	Total Generation	Energy received at Delhi Periphery	Petitioner Share
		MU	MU	MU
ii	DVC Chandrapur 7 & 8 (LT-3)			476
iii	Mejia Units -7			573
	Sub Total			1203
E	NPCIL			
i	NAPS			0
ii	RAPP			105
	Sub Total			105
F	SJVNL			
i	Naptha-Jhakri			178
	Sub Total			178
G	Others			
i	Tala HEP			20
li	Sasan UMPP			2503
	Sub Total			2523
H	Total CSGS			7067
Delhi Generating Stations				
i	BTPS	*	*	0
ii	Rajghat			-1
iii	Gas Turbine			35
iv	Pragati - I			234
v	Pragati -III, BAWANA			663
	Sub Total			931
Renewables				
i	SECI			42
li	EDWPCL			13
lii	Delhi MSW			29
	Grand Total			8081

*Total generation and energy received at Delhi periphery is to be received from SLDC.



3.8.3 In view of the above, it is prayed that the Hon'ble Commission may kindly consider

the actual gross power purchase quantum of 8081 MU during FY 2019-20 as submitted in the above table.

3.9 Power Purchase Cost

a) Long Term Power Purchase

- 3.9.1 The power purchase cost is primarily based on the tariff determined by the Appropriate Commission under section 62(1)(a) or adopted under Section 63 of the 2003 Act for the supply of electricity from generating companies to distribution licensees. Accordingly, when the generating company is owned and/or controlled by the Central Govt. or is supplying to more than one State, Hon'ble CERC determines/adopts the tariff. In all other cases, it is the Hon'ble Commission which determines/adopts the tariff of the generating companies owned and/or controlled by the GoNCTD. As stated above, the Petitioner has already submitted the monthly invoices raised, to the Hon'ble Commission. The Petitioner has considered the total cost on account of long term sources during FY 2019-20 which includes fixed cost, variable cost, arrears, other charges etc. as scheduling of power is controlled by SLDC.

Merit Order Despatch (MOD) under the control of SLDC:

- 3.9.2 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.
- a) SLDC has clearly intimated that scheduling of central generating stations and other inter-state generating stations is controlled by RLDC and hence DISCOM wise scheduling is not possible.
 - b) The availability of Plants is beyond the control of DISCOMs and the actual availability of Plants differs from the projections. The monthly MOD submitted by the DISCOMs is based on past Month ECR which may not be valid on real time basis.
 - c) Further, in line with the CERC (IEGC) 4th amendment 2016 Regulation, as quoted below:

"The CGS or ISGS may be directed by concerned RLDC to operate its unit(s) at or above the technical minimum but below the normative plant availability factor on account of grid security or due to the fewer



schedules given by the beneficiaries and it is further stated that where the CGS or ISGS, whose tariff is either determined or adopted by the Commission, is directed by the concerned RLDC to operate below normative plant availability factor but at or above technical minimum, the CGS or ISGS may be **compensated** depending on the average unit loading duly taking into account the forced outages, planned outages, PLF, generation at generator terminal, energy sent out ex-bus, number of start-stop, secondary fuel oil consumption and auxiliary energy consumption, in due consideration of actual and normative operating parameters of station heat rate, auxiliary energy consumption and secondary fuel oil consumption etc. on monthly basis duly supported by relevant data verified by RLDC or SLDC, as the case may be...

In case of coal / lignite based generating stations, following station heat rate degradation or actual heat rate, whichever is lower, shall be considered for the purpose of compensation:

Sr. No.	Unit loading as a % of Installed Capacity of the Unit	Increase in SHR (for supercritical units) (%)	Increase in SHR (for sub-critical units) (%)
1.	85-100	Nil	Nil
2.	75-84.99	1.25	2.25
3.	65-74.99	2	4
4.	55.64.99	3	6

Compensation for the Station Heat Rate and Auxiliary Energy Consumption shall be worked out in terms of energy charges."

As can be inferred from above, there are multiple buyers from each generator and this part load operation will impact the MOD schedule of the buyers.

- d) Further to the above, it is submitted that Operation of Plant is not under the control of DISCOMs, and Delhi DISCOMs allocation is around 10%-20% in significant number of Plants. Since allocation of these Plants are on shared basis and operation of the same is on the basis of aggregation of demand and keeping into account the Grid Security, therefore, the decision of actual operation/availability of plant is not under control of the DISCOMs.
- e) And, there are various instances where forced Scheduling is done to maintain



Grid security and the same was submitted to the Hon'ble Commission (on monthly basis).

3.9.3 Besides above uncontrollable situation, the Petitioner strictly follows of Merit Order Dispatch (MOD) while scheduling power on daily basis.

3.9.4 Hence, there should be no disallowance on account of Merit Order Dispatch (MOD).

3.9.5 In view of the above, the details of station-wise power purchase cost during FY 2019-20 is tabulated below:

Table 3.18 Details of Power Purchase Cost Station wise for FY 2019-20

S. No	Stations	Petitioner Share	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	
1	2	3	4	5	6	7	8	9	10
Central Sector Generating Stations (CSGS)									
A	NTPC								
i	Anta Gas	2	6	1	0	0	6	29.05	
ii	Auraiya Gas	6	8	2	0	-1	10	16.75	
iii	Dadri Gas	24	10	8	3	-2	19	7.80	
iv	Dadri – I	167	40	69	2	-6	105	6.33	
v	Dadri – II	643	163	240	8	-7	404	6.28	
vi	Farakka	27	3	7	1	1	12	4.51	
vii	Kahalgaon – I	73	9	16	0	0	25	3.40	
viii	Kahalgaon – II	236	30	49	0	-1	79	3.33	
ix	Rihand – I	0	0	0	0	-1	-1		
x	Rihand – II	218	16	30	0	0	45	2.06	
xi	Rihand – III	419	54	56	2	-1	111	2.64	
xii	Singrauli	479	34	66	0	-2	98	2.04	
xiii	Unchahar – I	31	4	11	0	-1	15	4.82	
xiv	Unchahar – II	62	8	22	0	0	30	4.80	
xv	Unchahar – III	41	7	14	0	0	21	5.09	
xvi	Aravali Jhajjar	63	77	24	6	-3	103	16.41	
xvii	Aravali-Credit	0	0	0	0	0	0		
	Sub Total	2490	469	614	24	-26	1080	4.34	
B	NHPC								



S. No	Stations	Petitioner Share	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	
1	2	3	4	5	6	7	8	9	10
i	BAIRASIUL P S	9	1	1	2	1	5	5.24	
ii	SALAL P S	113	8	7	6	3	25	2.19	
iii	CHAMERA I P S	53	4	6	0	1	10	1.99	
iv	TANAKPUR P S	14	3	2	0	0	5	3.80	
v	URI P S	93	7	8	1	3	19	2.06	
vi	DHAULIGAN GA PS	43	6	5	0	2	12	2.90	
vii	CHAMERA - II PS	41	3	4	0	0	8	1.89	
viii	DULHASTI PS	66	15	17	1	4	37	5.63	
ix	SEWA-II	21	6	5	0	0	11	5.14	
x	CHAMERA - III PS	34	7	7	0	0	14	4.17	
xi	URI II	59	11	11	1	2	25	4.26	
xii	PARBATI-III	22	10	3	0	0	13	5.88	
	NHPC Regulation credit	0	0	0	0	0	0		
	Sub Total	567	81	76	10	17	185	3.26	
C	THDC								
i	Tehri HEP	0	0	0	0	0	0		
ii	Koteshwar	0	0	0	0	0	0		
	Sub Total	0	0	0	0	0	0		
D	DVC								
i	Mejia Units - 6 (LT-4)	154	24	46	0	1	71	4.63	
ii	DVC Chandrapur 7 & 8 (LT-3)	476	81	111	0	0	193	4.04	
iii	Mejia Units - 7	573	97	163	0	3	263	4.59	
	DVC Credit from Regulated power					0	0		
	Sub Total	1203	202	320	0	4	527	4.38	
E	NPCIL								
i	NAPS	0	0	0	0	0	0		



S. No	Stations	Petitioner Share	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	
1	2	3	4	5	6	7	8	9	10
ii	RAPP	105	0	41	1	1	44	4.17	
	Sub Total	105	0	41	1	1	44	4.17	
F	SJVNL								
i	Naptha-Jhakri	178	21	21	0	2	43	2.43	
	SJVNL Credit	0	0	0		0	0		
	Sub Total	178	21	21	0	2	43	2.43	
G	Others								
i	Tala HEP	20	0	4	0	0	4	2.16	
ii	Sasan UMPP	2503	36	288	27	10	362.0	1.45	
	Sub Total	2523	36	292	27	10	366	1.45	
H	Total CSGS	7067	809	1365	62	8	2245	3.18	(A+B+C+D+E+F+G)
I. Delhi Generating Stations									
i	BTPS	0	0	0	0	-13	-13		
ii	IP Station	0	0	0	0	31	31		
iii	Rajghat	-1	0	0	0	6	5		
iv	Gas Turbine	35	13	17	0	-1	28	8.18	
v	Pragati - I	234	25	130	0	2	156	6.68	
vi	Pragati -III, BAWANA	663	236	249	0	200	685	10.33	
	Sub Total	931	273	396	0	224	893	9.60	
Renewables									
i	SECI	42	0	23	0	0	23	5.46	
ii	EDWPCL	13	0	4	0	0	4	3.27	
iii	Delhi MSW	29	0	20	0	0	20	7.03	
	Reactive etc.						3.4		
K	Grand Total	8081	1082	1809	62	233	3189	3.95	(H+I+J)

3.9.6 In accordance with the above, the Petitioner prays that the Hon'ble Commission may kindly allow the aforesaid power purchase cost incurred from long term sources during FY 2019-20.

3.9.7 The aforesaid Power Purchase Cost may vary as and when the CERC disposes off claims made by the petitioner in regard to disputed bills of various generating



companies. The Petitioner will apprise the Hon'ble Commission of the change, if any, in the power purchase cost post decision of the Hon'ble CERC.

b) Short Term Power Purchase

3.9.8 The Hon'ble Commission in its previous Tariff Orders has 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 neither possible nor practical to tie up power procurement on long term basis/ Sources for the entire demand in the area of supply as the demand is dynamic and fluctuating. Hence, long term sources are tied up only for the base load and for any exigencies such as shut down of any plant. Furthermore, there is a peculiar load curve 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. Further 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, break-downs, load shedding etc.) shall not exceed 1% of the total energy supplied by them in any particular month, except in cases of force majeure events which are beyond the control of the Licensee. Accordingly, during peak hours, the Licensee was required to procure power from short term sources to meet the demand.

3.9.9 The Petitioner has considered the power purchase cost through short term sources during FY 2019-20 which includes the Cost on account of purchase through bilateral, banking, Exchange, intra-state and UI.

Banking transactions:

3.9.10 As regards banking transactions, it is submitted that banking of power is done ex-ante based on estimates and forecasts done at the beginning of a period. Power so banked is used only for the consumers of the Licensee and is not used elsewhere.

3.9.11 Further, the Hon'ble Commission in the interest of consumers has emphasised on purchase and sale of surplus power through banking transactions. While complying with the directions of the Hon'ble Commission, there may be few instances when



there is overlapping of banking transactions to meet the demand. Accordingly, the Petitioner needs to purchase power in few slots during the day rather than RTC purchase.

3.9.12 However, the Petitioner further submits that there is no violation by the Petitioner on account of banking overlapping within the period of 3 months.

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

Additional UI Charges:

3.9.14 The Hon'ble Commission in Tariff Order dated July 13, 2012 deducted the additional UI Charges borne below 49.5 Hz frequency based on the recommendations given by Forum of Regulators (FOR). The Petitioner had challenged the issue of additional UI Charges borne on account of UI power purchased below 49.50 Hz before Hon'ble ATE. The Hon'ble ATE in Judgment dated March 2, 2015 (Appeal 177 & 178 of 2012) has given its observations on the said issue against the Petitioner. However, the Petitioner has preferred a statutory appeal before the Hon'ble Supreme Court against the aforesaid Judgment of the Hon'ble ATE dated March 2, 2015, which is sub-judice. Without pre-judice to its aforesaid Appeal, and without admitting or waiving any of its contentions against the said Judgment dated March 2, 2015 or this Hon'ble Commission's order dated July 13, 2012 insofar as the decision on additional UI Charges is concerned, the Petitioner has considered the actual UI purchase while computing the power purchase cost.

3.9.15 The source-wise details of short term power purchase cost during FY 2019-20 are tabulated below:

Table 3.19 Details of Short Term Power Purchase for the year FY 2019-20

S. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
A	Bilateral	3.33	9.0	3.58	0.40	4.07	2
B	Banking	3.98	320.6	4.24	432.4	4.71	355
C	Exchange	4.37	37.1	4.32	3.4	4.06	32



S. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
D	Intra-State	2.18	2.1	2.57	1.2	1.39	0.01
E	UI	3.34	19.8	5.12	16.0	4.90	9
F	Total	4.01	388.6	4.26	453.4	4.65	398.5

3.9.16 In view of the above, we request the Hon'ble Commission to kindly allow the power purchase cost of Rs. 398.5 Crore during FY 2019-20 from short term sources as submitted in the above table.

c) Sale of Surplus Energy

3.9.17 The Petitioner put its all-out efforts to maximize the revenue through sale of surplus power. However, the Petitioner has realized the revenue of Rs. 522 Crore from sale of surplus power during FY 2019-20.

3.9.18 The source-wise details of revenue realized through sale of surplus energy during FY 2019-20 are tabulated below:

Table 3.20 Details of Short Term Power Sales for the year FY 2019-20

S. No	Particulars	FY 2017-18		FY 2018-19		FY 2019-20	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)	(Rs. / kWh)	(Rs. Cr.)
A	Bilateral	3.65	6.6	4.92	38.0	3.20	34
B	Banking*	3.58	310.5	3.78	437.6	4.35	355
C	Exchange	3.08	84.8	3.73	464.5	2.40	132
D	Intra-State	2.17	0.3	2.50	0.7	1.53	0.04
E	UI	0.87	0.5	5.44	-3.9	0.39	1

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



d) Transmission Charges:

3.9.20 The Petitioner has considered the Transmission charges for FY 2019-20 as under:

Table 3.21 Transmission Charges (Rs. Crore) for FY 2019-20

S. No	Particulars	Submission	Reference
	Transmission Charges		
i	Power Grid Corp. of India Ltd.	437.0	
ii	Delhi Transco Ltd. Wheeling Charges	111.2	
lii	Other Transmission etc.	10.6	BBMB, DVC, SECI, NTPC, others
iv	Open Access Charges etc.	65.6	
v	Total Transmission charges	624.4	Sum I to V

e) Gross Power Purchase Cost:

3.9.21 Based on the above submissions, the Petitioner has considered the gross power purchase cost of Rs. 4212 Cr. during FY 2019-20 which is tabulated below:

Table 3.22 Gross Power Purchase Cost before rebate during FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference
A	Audited Gross Power Purchase Cost (Before Rebate)		
i	Purchase of Energy	3227.7	
ii	Transmission cost	624.4	
B	Total Gross Power Purchase Cost excluding LPSC (i+ii)	3852	

3.9.22 The reconciliation of the Power cost as per Audited accounts in the break-up of the same as per requirement by the Hon'ble Commission is submitted in the following reconciliation table-



Table 3.23 Reconciliation with Table 3.21 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference
A	Long Term Power Purchase	3189	
B	Short Term Power Purchase	399	
C	Less: Banking Sale	355	
D	Total	3231	As per Audit Certificate
E	Transmission cost	624	
F	Less: Rebate	7	
G	Add: Net Metering	2	
H	Add: Self Generation (at BYPL Roof Top)*	0.1	
I	Total Gross Power Purchase Cost excluding LPSC and rebate	3852	D+E-F+G

* Self Generation @ Rs 5.36/unit vide Hon'ble DERC order dt. 26.02.18

3.10 Rebate on power purchase and Transmission Charges

3.10.1 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 company's charges, rebate is not allowed on interest charges and other billing items which are in nature of reimbursement, such as Income Tax, Other Taxes, Cess, Duties etc. Rebate is generally allowed on all other billing items. The rebate on power purchase and Transmission Charges is tabulated below:

Table 3.24 Details of Rebate and Non Rebate amount (Rs. Cr.) FY 2019-20

S. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed
1	NTPC	969	(4)	0.12
2	NHPC	161	23	0.89
3	Nuclear	42	2	
4	SJVNL	41	3	0.30
5	THDC	0	-	
6	Tala HEP	4	-	0.02
7	DVC	527	0	
8	Power stations in Delhi			



S. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed
8.1	PPCL	841	-	
8.2	IPGCL	64	-	
9	ARAVALI	105	(2)	
10	SASAN	327	35	4.96
11	SECI	-	23	
12	EDWPCPL	4	-	0.10
13	DMSWSL	20	-	0.40
A	Total Long Term Purchase	3,107.05	78.64	6.79
11	Short Term Purchase	-		
12	Short Term sale	-		
13	Transmission Charges			
13.1	Power Grid Corp. of India Ltd.	436.96	-	0
13.2	Delhi Transco Ltd.	111.22	-	-
13.3	Bhakra Beas Manegment Board		0	-
13.4	NTPC	4	-	-
13.5	Arawali Power Company Private Ltd.	-	-	-
13.6	Damodar Valley Corporation	1		-
13.7	SECI		2	
13.8	DTL Pension Trust		-	
B	Total Transmission Charges	554	2	0
C	Total	3,661	81	7.27

3.10.2 In this regard, it is respectfully submitted that the normative rebate ought not be applied at the time of true-up 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 1.5% - 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. 235-236 of 2014. Further, in true-up proceedings for FY 2015-16, 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.

- d) 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 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.” (Emphasis added)

- e) The concept of normative rebate is based on assumptions that the system is perfect and business as usual as under:
- i. There is no creation of Regulatory Asset. However, there is an accumulated figure of Rs. 2292 Crore upto FY 2018-19 as Regulatory Asset (as per Tariff Order dated 28.08.2020);
 - ii. Various APTEL’s judgments are yet to be given effect to by this Hon’ble Commission entitling cash flow to the Petitioner;
 - 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.

- 3.10.3 As set out herein above, the Petitioner could not make payment of bills to any generating company and transmission licensee through letter of credit on presentation.
- 3.10.4 Additionally, BYPL also has to pay LPSC to the generators which is not allowed by Hon'ble Commission and where there is a difference in the rate of LPSC charges (18%) vis-a-vis rate of funding & carrying cost resulting in further adverse financial to BYPL.
- 3.10.5 In view of the above submissions, the Petitioner requests the Hon’ble Commission to consider the actual rebate on power purchase and Transmission Charges during FY 2019-20.

3.11 Late Payment Surcharge (LPSC)

- 3.11.1 The Petitioner has filed the Petition no 26 of 2018 regarding inconsistency between rate of Late Payment Surcharge levied by State Utilities & rate of carrying cost allowed by the Commission on the Regulatory Asset. The Hon’ble Commission vide order dated 13.05.2019 has disposed off the said Petition. However, the Petitioner has filed Review Petition bearing no. 59 of 2019 which is pending for adjudication before the Hon’ble Commission.



3.11.2 Without prejudice to the submissions made in the said Review Petition, the Petitioner submits that LPSC charged to petitioner is to compensate the Generating companies and Transmission licensees for the delay in realization of revenue on account of non-payment of bills by the petitioner. The LPSC at 1.5% is a fixed rate. However, the loss of revenue till receipt of payment from the beneficiaries against the bills is mitigated by Gencos and Transcos by availing loans at floating rates of interest. Therefore, the lacuna is that the beneficiaries are liable to pay LPSC at fixed rate whereas the Gencos and Transcos avail loans at floating rate.

3.11.3 Therefore, the rate of late payment surcharge ought to be in sync with the current bank lending norm i.e. MCLR. The Gencos and Transcos would face a burden when the lending rates applicable to them are higher than the fixed rate of LPSC. Similarly, the Gencos and Transcos would stand to gain when the lending rate applicable to them are lower than the fixed rate of LPSC.

For example:

When the additional working capital interest rate is 21% as against 18% of LPSC fixed rate the Gencos/Transcos are at loss. Similarly, when the additional working capital interest rate is 8% against 18% of LPSC fixed rate the Gencos/Transcos are at gain.

3.11.4 As depicted from above, the Gencos/Transcos could recover LPSC at a rate which is more than the rate of interest payable by them for availing loans. Such excess recovery should be clawed back towards rationalization of Tariff which would benefit end consumers at large.

3.11.5 Therefore, the Petitioner submits that there is an inconsistency between rate of Late Payment Surcharge levied by State Utilities & rate of carrying cost allowed by the Commission on the Regulatory Asset whereas both are related consequent effect to each other. The petitioner is being charged at LPSC rate of 18% per annum vis-a-vis carrying cost is very low.

3.11.6 Hence, in view of the above the petitioner request Hon'ble Commission to consider the petitioner's submission while adjudicating the Review Petition.



3.12 Incentive on Sale rate of Surplus Power

3.12.1 Regulation 157 and 165 of Tariff Regulations, 2017 states as along with relevant clauses of Business Plan Regulations, 2017 states as follows:

"157. The Utility shall be subject to incentive or dis-incentive, as the case may be, based on the performance vis-a-vis target achieved by the respective Utility:

(c) In case of a Distribution Licensee incentive/penalty shall be applicable on the basis of:

(i) Distribution Loss;

(ii) Collection Efficiency; and

(iii) Sale of Surplus Power.

165. Any financial impact of over realization on account sale of Surplus Power as, specified in Regulation 123 of these Regulations, shall be adjusted as per the mechanism indicated in the Business Plan Regulations of the control period:

Provided that any financial impact of under realization account sale of Surplus Power as specified in Regulation 123 of these Regulations shall be to the account of distribution licensee."

Further, in Business Plan Regulations, 2017, Regulation 29 on incentive sharing mechanism for sale rate of surplus power stipulates as follows:

"(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 realisation upto 100% recovery of Average Fixed Cost per unit of all Generating sources of relevant year, projected by the Commission in the relevant Tariff Order, prorated to actual sale of Surplus Power shall be shared in the ratio of 2/3rd to the Consumers and 1/3rd to the Distribution Licensees.

ii. The incentive realisation above 100% recovery of Average Fixed Cost per unit of all Generating sources of relevant year, projected by the Commission in the relevant Tariff Order, prorated to actual sale of Surplus Power shall be shared in the ratio of 1/3rd to the Consumers and 2/3rd to the Distribution Licensees.

Illustration: -

a) Quantum of Sale of Surplus Power (A) = 1000 MU

b) Applicable Variable Cost per Unit (B) = Rs. 2.00/kWh

c) Actual Sale rate of Surplus Power (C) = Rs. 3.50/kWh

d) Incentive $[D=A*(C-B)]$ = Rs. 150 Cr.

e) Approved Average Fixed Cost per unit in the Tariff Order (E) = Rs. 1.00/kWh

Incentive realisation upto 100% recovery of Average Fixed Cost per unit = $(E*A)$ = Rs. 100 Cr. shall be shared in the ratio of 2/3rd (Rs. 67 Cr.) to the Consumers and 1/3rd (Rs. 33 Cr.) to the Distribution Licensees. Incentive realisation above 100% recovery of Average Fixed Cost per unit = $[D-(E*A)]$ = Rs. 50 Cr. shall be shared in the ratio of 1/3rd (Rs. 16.67 Cr.) to the Consumers and 2/3rd (Rs. 33.33 Cr.) to the Distribution Licensees. Therefore,

i. Total incentive to the Distribution Licensees = Rs. 66.33 Cr. (33+33.33)

ii. Total incentive to the Consumers = Rs. 83.67 Cr. (67+16.67)."

3.12.2 On the above Regulation, the Hon'ble Commission issued the clarificatory letter on 16.11.2018. The clarificatory letter, infact ignores/nullifies incentive on banking transactions. It is submitted that the Petitioner is entitled for incentive on banking



transactions also.

3.12.3 The computed incentive based on the above letter is tabulated below:

Table 3.25 Details of Total Sale Rate Incentives

S. No	Particulars	UOM	Amount	Remarks
1	Total Incentive earned	Rs. Crore	4.52	Calculation in Annexure 3A.3
2	DISCOM Share (1/3rd as per BPR 2017)	Rs. Crore	1.51	

**Excludes banking incentive; same will be submitted additionally*

3.13 RPO Obligation

3.13.1 Regulation 27 of Business Plan Regulations, 2017 regarding the targets for Renewable Purchase Obligation (RPO) states as follows:

“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%

..”

3.13.2 In view of the above, Petitioner target vis-à-vis actual purchase for Renewable Purchase Obligation for FY 2019-20 is shown below:

Table 3.26 Details of RPO for the year FY 2019-20

S.No.	Particulars	Solar	Non-Solar	Total	Reference
i	Sales (MU)	6658			Actual Sales
ii	Hydro Purchases (MU)	765			



S.No.	Particulars	Solar	Non-Solar	Total	Reference
iii	Base for RPO (MU)	5892			i-ii
iv	RPO Target (%)	6.75%	10.25%	17%	
v	RPO target (MU)	398	604	1,002	iii * iv
	RPO met				
vi	EDWPCL		13		
vii	DMSW		29		
viii	SECI	42			
ix	Self-Generation	0.3			
x	Solar roof-top gross generation from Net metering consumer*	19			
xi	REC				
xii	Open Access				
xiii	Sub-Total - RPO met	61	42		
xiv	Shortfall (MU)	337	562	913	v-xiii

3.13.3 BYPL is making consistent efforts for the last few years to procure renewable energy to meet RPO as specified by the Hon'ble Commission. As on 31st March, 2020, BYPL had successfully issued 526 net metering connections for a cumulative capacity of 22 MW solar rooftop projects developed by individual developers.

3.13.4 Although BYPL is looking at all possible options/solutions to avail renewable power and meet the RPO targets but as Hon'ble Commission is aware that BYPL has been facing adverse financial condition since FY 2009-10 primarily on account of a non-cost reflective Tariff and absence of adequate recovery of accumulated Regulatory Asset. The same has constrained the capability of BYPL to purchase power from renewable sources. Further, there is shortfall in the cost allowed by Hon'ble Commission in tariff on account of non-availability of Rebate and short term power purchase cost in the ARR. Additionally, BYPL also has to pay LPSC @ 18% p.a. to the generators which is not allowed by Hon'ble Commission and is allowed mere 8% on regulatory assets. This contradiction and negative differential rate of interest has gravely prejudiced the Petitioner.



- 3.13.5 It is also brought to the kind notice of the Hon'ble Commission that the Petitioner has filed appeal against the Hon'ble Commission's order dated 11.06.2018 in Petition no. 31 of 2015 and 01 of 2018 in the matter of waiver/deferment of RPO compliance. This appeal is pending for adjudication before Hon'ble APTEL.
- 3.13.6 Further, the Petitioner has signed various PPA's for fulfilments of Solar and Non-Solar obligations in the coming future. The details are shown hereunder:

Table 3.27 Details of upcoming Firm Renewable sources

S. No.	Particular/ Description		BYPL- Allocation (MW)	BYPL- Date of Signing of PPA	COD/ Expected COD
1	SECI	SECI-Solar_Rajasthan	150	02.08.2018	June'21
		SECI-Solar_Rajasthan	150	17.06.2019	Partially commissioned balance April'22
		SECI - existing	20	27.02.2015	
		Solar Sub Total	320		
		SECI-Wind_Gujrat	50	03.04.2018	Partially Commissioned
		SECI-Wind_TN	100	26.06.2018	
		SECI-Wind_Gujarat	100	16.01.2019	June'21
		Wind Sub Total	250		
		Total	570		
2	SDMC	Tehkhand-Okhla		20.11.2018	Mar'21

- 3.13.7 As mentioned above, some of the plants covered under these PPAs have partially commissioned and remaining shall start operating from FY 2021-22 onwards and shall be meeting RPO targets in future, therefore it is requested that the Hon'ble Commission takes cognizance of the various efforts made by the Petitioner in meeting the RPO Targets and to kindly carry forward to the next control period or waive off the shortfall in meeting the RPO for FY 2019-20 in view of the limited availability of RE power and other factors beyond the control of the licensee, as proposed in the Business Plan submitted on 21.10.2019 for the next Control Period filed before Hon'ble Commission.

3.14 Total Power Purchase Cost for the purpose of Truing-up



3.14.1 Based on the above submissions, the power purchase cost claimed during FY 2019-20 is shown below:

Table 3.28 Power Purchase Cost during FY 19-20 based on Auditor's Certificate (Rs. Cr.)

S. No.	Particulars	Submission	Reference
A	Power Purchase Cost		
i	Gross Power Purchase Cost	3,587.58	Table 3.12 & 3.13
ii	Power sold to other sources	522.26	
iii	Net Power Purchase Cost	3,065.32	i-ii
B	Transmission Charges		
i	Inter-state transmission charges	446.62	
ii	Intra-state transmission charges	111.22	
iii	Other Transmission/OA charges	66.59	
iv	Total Transmission charges	624.43	i+ii+iii
C	Rebate		
i	Power Purchase Rebate	7.27	
ii	Rebate on Transmission Charges		
iii	Total rebate	7.27	i+ii
	Add: Net Metering	1.77	
D	Add: Self Generation (BYPL Roof Top Solar)	0.14	
E	Net Power Purchase Cost including Transmission charges net of rebate	3,684.39	A+B-C+D
G	Incentive on short term Sale	1.51	
H	Total Power purchase including incentive	3685.39	

3.14.2 The Petitioner requests the Hon'ble Commission to approve the Power Purchase cost of Rs. 3684.39 Cr. and incentive on short term sale of Rs. 1.51 Cr. during FY 2019-20 as submitted in the above table.



3.15 Operation & Maintenance Expenses

3.15.1 Regulation 23 of Business Plan Regulations, 2017 regarding the Operation and Maintenance Expenses for the period FY 2017-18 to FY 2019-20 states:

“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 BYPL for the Control Period

Particulars	Unit	2017-18	2018-19	2019-20
66 kV Line	Rs. Lakh/ckt. km	4.421	4.669	4.931
33 kV Line	Rs. Lakh/ckt. km	4.421	4.669	4.931
11kV Line	Rs. Lakh/ckt. km	1.857	1.961	2.071
LT Line system	Rs. Lakh/Ckt. km	8.29	8.756	9.247
66/11 kV Grid S/s	Rs. Lakh/MVA	1.045	1.104	1.166
33/11 kV Grid S/s	Rs. Lakh/MVA	1.045	1.104	1.166
11/0.415 kV DT	Rs. Lakh/MVA	2.296	2.425	2.561

...”

As evident from the above, the normative O&M expenses for FY 2019-20 are computed by applying the approved per unit rates for FY 2019-20 on the actual line length and power transformation capacity added for FY 2019-20.

3.15.2 Accordingly, the Petitioner has computed the normative O&M expenses for FY 2019-20 as shown below:

Table 3.29 O&M Expenses for FY 2019-20 (Rs. Crore)

Particulars	Capacity as on 31.03.2020	O&M expenses per unit		O&M expenses
66 kV Line (ckt. km)	225	Rs. Lakh/ckt. km	4.931	11.1
33 kV Line (ckt. km)	394	Rs. Lakh/ckt. km	4.931	19.4
11kV Line (ckt. km)	2953	Rs. Lakh/ckt. km	2.071	61.2
LT Line system (ckt. km)	5560	Rs. Lakh/Ckt. km	9.247	514.1
66/11 kV Grid S/s (MVA)	1765	Rs. Lakh/MVA	1.166	20.6
33/11 kV Grid S/s (MVA)	2056	Rs. Lakh/MVA	1.166	24.0
11/0.415 kV DT (MVA)	3455	Rs. Lakh/MVA	2.561	88.5
Total				738.8



3.15.3 The Petitioner requests the Hon'ble Commission to allow the normative O&M expenses of Rs. 738.8 Crore during FY 2019-20 as submitted in the above table as per the DERC Business Plan Regulation, 2017.

3.16 Additional O&M Expenses

3.16.1 Regulation 87 of Tariff Regulations, 2017 states that:

"87.

...

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

3.16.2 Further, Regulation 23 (4) of DERC Business Plan Regulation, 2017 states as under:

"23...

(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."

3.16.3 Accordingly, the Petitioner in terms of above Regulations claims item wise amount on account of additional O&M expenses which are uncontrollable in nature as well as not covered in the above-mentioned normative O&M expenses

a) Arrears paid on account of 7th Pay Commission revision

3.16.4 A Wage Revision Committee was constituted by the GoNCTD vide office memorandum bearing No. F.11(62)/2015/Power/271 dated January 25, 2016 to examine and recommend to the Government the Pay Revision for the employees. Such recommendations become applicable on the Petitioner as per the tripartite agreement. The Committee had given recommendation vide order no DTL/108/04/2017-HR(Policy) /101 dated July 28, 2017 for payment of Interim Relief (IR) to the eligible employees at the rate of 2.57 times of Basic pay + Grade Pay



w.e.f. January 01, 2016. Accordingly, the Petitioner disbursed payment of Rs. 44.30 Crore as interim relief during FY 2019-20.

- 3.16.5 Further, the Petitioner provided Rs. 18.36 Crore towards Leave Salary Contribution & Pension Contribution corresponding to the interim relief as shown below.

Table 3.30 7th Pay Commission payment (Rs. Crore)

S.No	Particular	Amount
1	Interim relief paid during FY 2019-20	44.30
2	Leave Salary Contribution & Pension Contribution corresponding to the interim relief	18.36
Total		62.66

- 3.16.6 The Petitioner requests the Hon'ble Commission to allow an impact of Rs. 62.66 Cr. on account of payment of 7th Pay Commission as the expenses are beyond the control of the Petitioner.

b) Impact of Revision in Minimum Wages

- 3.16.7 GoNCTD vide Notification No. F. Addl.LC/Lab/MW/2016/4859 dated March 3, 2017 has notified the revised minimum wages effective from date of notification. Accordingly, the Petitioner has intimated the Hon'ble Commission for Notification No. F. Addl.LC/Lab/MW/2016/4859 dated 3rd March 2017 (enclosed as Annexure **3A.4**). Based on the notification, the Petitioner has paid expenses related to manpower based contract which have an incremental effect of minimum wages of Rs. 27.8 Cr. for FY 2017-18.
- 3.16.8 As the said Gazette Notification was issued only on 03.03.2017, it could not have been factored into account by the Hon'ble Commission while notifying the DERC Tariff Regulations, 2017 as the normative O&M expenses were premised on the data provided by the Petitioner till FY 2015-16. Further, there has been an unprecedented increase of 37% in the Minimum Wages vis-à-vis 5.61% escalation being allowed by the Hon'ble Commission.
- 3.16.9 Also, the Regulation 23 (4) of Business Plan Regulation, 2017 states as under:

"23...

(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.

3.16.10 In view of the above, the Petitioner has paid Rs. 30.97 Crore (after escalating 5.61% on Rs. 27.8 Cr. paid on incremental basis in FY 2017-18) on account of impact of revision in minimum wages during FY 2019-20. The Petitioner requests the Hon'ble Commission to allow the same.

c) Property Tax

3.16.11 The Hon'ble Supreme Court has passed the judgement on 10.08.2016 in the case of M/s TPDDL and held that whosoever has a right to let out premises is liable to pay tax. Further, it has remanded the matter to Deputy Assessor and Collector of Municipal Corporation of Delhi, to determine the same. As the Petitioner has a right to let out premises as per the approval of Hon'ble Commission, it has been decided to resolve the issue by availing Amnesty Scheme, which allowed payment of Property Tax without interest and penalty. The Petitioner has accordingly paid the Property Tax amounting Rs. 1.18 Crore in FY 2019-20 and requests the Hon'ble Commission to allow the same as a part of additional O&M expenses.

d) GST Charges

3.16.12 With effect from July 01, 2017, the Petitioner was required to pay GST (@18%) instead of service tax (12% to 15%). Further, as per the circular no. 34/8/2018 – GST, there are few services that are provided by the Petitioner to consumer which are now deemed as GST taxable services. However, the GST rate is 18% which is marginally higher than the service tax rate.

3.16.13 It is further submitted that as per Regulation 87 of the DERC Tariff Regulations, 2017, any statutory levies and taxes shall not form part of normative O&M expenses. Also, any addition/deletion or new enactment of statutory levy is totally uncontrollable in the hands of the Petitioner and is required to abide by the same. The said amendment has impacted the Petitioner due to introduction of GST



charges.

3.16.14 Accordingly, the GST charges paid by the Petitioner during FY 2019-20 are Rs. 49.91 Crore. The differential amount of Rs. 20.18 Crore on account of impact of GST as tabulated below:

Table 3.31 Incremental GST Charges paid (Rs. Crore)

S. No.	Particulars	FY 15- 16	FY 16- 17	FY 17-18	FY 18-19	FY 19-20
1	Total Service Tax paid during FY 16	21.2				
2	Escalation Factor		5.61%	5.61%	5.61%	5.61%
3	Service tax		22.39	23.65	24.97	26.40
5	GST paid during FY 2019-20					49.91
6	Net Impact (GST)					23.51

3.16.15 The Petitioner requests the Hon'ble Commission to allow the aforesaid expenses while truing up the expenses for FY 2019-20.

e) Communication Expenses (SMS Charges and Short Code Expenses)

3.16.16 The Hon'ble Commission vide its letter ref no. F.17(47)/Engg./DERC/2014-15/C.F 4741/3682 dated 13.01.2016 issued the directives to send the SMS to consumer on various occasions. The Petitioner complied with the said directives and hence, incurred an amount of Rs. 0.45 Crore in FY 2019-20.

3.16.17 Since, the Hon'ble Commission vide its Letter No. F.17(47)/Engg./DERC/2014-15/4741/2352 dated 21.02.2017 directed all DISCOMs to implement short code '1912' toll free services for electricity grievances in Delhi. These expenses are incurred as per the directions of the Hon'ble Commission and are over and above the normative expenses. Accordingly, the Petitioner incurred Rs. 0.05 Crore on account of Short Code expenses as a part of additional expenses in FY 2019-20.



f) Loss on Sale of Retired Assets

3.16.18 Regulation 45 of Tariff Regulations, 2017 states as under

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

3.16.19 In view of the above and as per the methodology provided in the Tariff Regulations, 2017, the Petitioner claims Rs. 17.67 Crore for retirement of assets as per audited accounts for FY 2019-20.

g) Legal Expenses

3.16.20 The Hon'ble Commission has provided the treatment of Legal Expenses at Para 43 of its Explanatory Memorandum as follows:

"(43) The Commission has not considered the expenditure incurred on account of legal fee. Further, the Commission is of the view that legal expenses incurred on cases filed against the decisions of the Commission in any of the Courts and Forums shall not be allowed as pass through in the ARR. The legal expenses incurred on cases other than aforesaid, shall be claimed by the DISCOMs in Tariff petitions which may be allowed separately after prudence check in true-up order for respective year."

3.16.21 With respect to the above regulation, the Petitioner would like to mention that Distribution business is a regulated business under the aegis of this Commission and the right to avail a statutory remedy is also a right guaranteed under Article 14 and 19 of the Constitution. The right to do business under Article 19 (1) (g) includes the right to avail of statutory legal remedies to protect and safeguard the business which is part and parcel of the right to do business. Moreover, the Electricity Act, 2003, allows the Petitioner the right to avail its statutory remedies under section 111 and other applicable provisions. Therefore, actual legal expenses without any distinction should be allowed as an expense in the ARR.

3.16.22 Out of the total expenses, merely 0.25 Cr. pertains towards filling the appeal



against the orders including the Tariff orders to protect the stakeholder's interest. The legal expenses incurred by the Petitioner related to enforcement cases amounts to Rs. 3.4 Cr. The category wise total legal expenses amounting to Rs. 19.1 Cr. is summarised in Form 7(a).

3.16.23 Accordingly, the Petitioner requests the Hon'ble Commission to allow the legal expenses as over and above the normative O&M expenses.

h) Water Charges

3.16.24 Regulation 87 of Tariff Regulations, 2017 states as under

“

87.

...

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

3.16.25 In accordance with the above regulation, the water charges paid by the Petitioner during FY 2019-20 are Rs. 0.23 Crore and requests the Hon'ble Commission to allow the same.

i) Ombudsman Fees

3.16.26 As per the directions of the Hon'ble Commission, the Petitioner has incurred an expenditure related to Ombudsman fees of Rs. 0.18 Crore for the year FY 2019-20. Accordingly, the Petitioner is claiming incremental ombudsman expenses of Rs. 0.05 Crore (Actual paid - Rs. 0.18 Crore minus normative cost of Rs. 0.13 Crore).

j) DSM related Charges

3.16.27 The Petitioner submitted an application for implementation of DSM based Energy Efficient Air Conditioner program in Delhi under DSM programme. Considering the calculation of cost benefit analysis for AC Replacement Scheme, the Hon'ble Commission approved the said scheme for DSM based Energy Efficient Air



Conditioner program in Delhi. The Hon'ble Commission has also clarified on the expenses to be incurred on account of the said scheme in its Order dated 18.05.2018 (enclosed as **Annexure – 3A.5**) stated as under:

“vi. Expenses in ARR:

The expenses on account of floating tender, hiring of implementation agency, administrative costs and the rebate cost along with interest thereon are allowed additionally in the Annual Revenue Requirement (ARR) of the petitioner to be recovered under the head of Demand Side Management (DSM) budget or any other head.”

3.16.28 The rebate under DSM AC Replacement schemes on the basis of aforesaid Order in FY 2019-20 is Rs. 0.80 Cr. Accordingly, the Hon'ble Commission is requested to allow the same.

3.16.29 In view of the above submissions, the additional O&M expenses claimed as a part of true-up requirement for FY 2019-20 are shown below:

Table 3.32 Additional O&M Expenses for FY 2019-20

S. No	Particulars	Amount (Rs. Cr.)	Reference
1	Arrears paid on account of 7th Pay Commission revision	62.7	Note 36 of Audited Accounts
2	Impact of Revision in Minimum Wages	31.0	Note 36 and Note 39 of Audited Accounts
3	GST Charges	23.5	
4	Legal Expenses	19.1	
5	Loss on Sale of Retired Assets	17.7	Note 39 of Audited Accounts
6	Property Tax	1.2	Note 39 of Audited Accounts
7	Water Charges	0.2	Note 39 of Audited Accounts
8	SMS Charges & Short Code Expenses	0.5	Note 39 of Audited Accounts
9	Ombudsman Fees	0.1	Note 39 of Audited Accounts
10	DSM charges	0.8	Note 39 of Audited Accounts
	Total	156.7	Sum(1 to 12)



3.16.30 The Petitioner requests the Hon'ble Commission to allow the amount of Rs. 157 Crore while truing up the expenses for FY 2019-20.

3.17 Non-Tariff Income

3.17.1 The items which have been added apart from the income shown as per Audited Accounts are as under:

i. Interest on Consumer Security Deposit

3.17.2 As the Hon'ble Commission has considered Consumer Security Deposit for funding of Revenue Gap, therefore the Petitioner has considered the rate of Carrying cost for computing the interest on Consumer Security Deposit. Hence the difference of normative interest on CSD and that booked in the Audited Accounts has been added in NTI as under:

Table 3.33 Interest on CSD (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Reference
A	Opening Balance of CSD	466.99	
B	Closing Balance of CSD	506.95	
C	Average Balance	486.97	$C = (A+B)/2$
D	Interest Rate	14%	
E	Interest on CSD	68.18	$E = C \times D$
F	Interest booked in Audited Accounts	40.76	
G	Net Interest to be considered	27.42	$G = E - F$

ii. Difference on account of Service Line Development (SLD) Charges:

3.17.3 The Hon'ble Commission in Tariff Order dated September 29, 2015 ruled as under:

"3.355 The Commission has observed from the audited financial statements (Note 8) that the service line charge received from the consumers amounting to Rs.23.76 Crore is remained unadjusted and kept in deposit account. These service line charges are collected from the consumers and by deferring and not treating as nontariff income will inflate the ARR by the same extent which tantamount to collection of the same from the consumers again through tariffs."

3.17.4 The Petitioner has challenged the aforesaid issue before Hon'ble ATE in Appeal 290 of 2015 which is pending. Without pre-judice to the contentions in the Appeal, the



Petitioner has added the difference between the SLD Charges received during FY 2019-20 and that appearing in the Other Income in the Audited Accounts for the purpose of computation of Non-Tariff Income as under:

Table 3.34 Difference on account of SLD (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks
1	Received during the year	19.85	Note 24 Service Line Deposits
2	SLD Appearing in Other Income	22.39	
	Difference Considered	(2.54)	

3.17.5 Accordingly, the Petitioner has adjusted Rs. (2.54) Crore during FY 2019-20 for the purpose of computation of Non-Tariff Income.

iii. Street Light Maintenance Charges

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

3.17.7 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 Hon’ble Commission”.

- 3.17.8 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;”

- 3.17.9 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.”



- 3.17.10 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.
- 3.17.11 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.
- 3.17.12 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.
- 3.17.13 Therefore, the Petitioner is maintaining Street Lights not as an obligation under Licensed Business or a part thereof but on behalf of road owning agencies, viz. MCD, NHAI, PWD in the areas comprising East and Central Delhi.
- 3.17.14 For carrying out the maintenance services the Petitioner optimally engages its existing manpower, Technicians, Electricians, Electric Men, Line Engineers and also outsources further manpower.
- 3.17.15 Since the activity of maintenance of Street Lights is neither a licensed activity nor an activity related to licensed business so no part of the cost of such activity nor the revenue accrued therefrom should form part of the ARR of the licensed business.
- 3.17.16 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.



3.17.17 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.

3.17.18 Accordingly, the Petitioner requests the Hon'ble Commission to consider the street light maintenance charges of Rs. 2.6 Cr. to be reduced from the Non-Tariff Income.

3.17.19 The explanation for other items not to be considered as Non-Tariff Income is as under:

iv. Late Payment Surcharge:

3.17.20 As regards LPSC, it is 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 interest on principal amount was passed on the consumers by way of NTI.

3.17.21 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 in is Order dated September 29, 2015 again directed the Petitioner to charge LPSC proportionate to the number of days of delay in receiving the payment from the consumers of the DISCOMs.

3.17.22 The Petitioner in this Petition requests the Hon'ble Commission to allow the entire LPSC instead of financing cost of LPSC during FY 2019-20 as the Petitioner charged LPSC proportionate to the number of days of delay and not on flat basis. The methodology of charging LPSC proportionate to the number of days of delay leads to recovery of only financing cost of LPSC for the delay in payment and not on flat basis. However, the 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.

3.17.23 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.

3.17.24 The financing cost of LPSC is based on the principle that the Petitioner will fund the amount delayed through loans whereas, it is practically not possible to arrange for the funding of such delayed payment as the Petitioner does not know in advance as to which consumer will pay the bill on deadline and which consumers will not pay the bill on deadline. The process of raising loans for funding any expenditure is time taking process and therefore, in case of any default on part of consumers to pay electricity bills in time, the Petitioner has to face the following penalties:

- a) **Penalty on account of under-achievement of AT&C Loss:** In case of any under-achievement of AT&C Loss, the 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.

3.17.25 It is most respectfully submitted that the Hon'ble Commission's treatment tantamount to discrimination between Gencos, Transcos and DISCOMs which is depicted in the table below:

Table 3.35 Treatment of LPSC to various utilities in Delhi

S. No	Particulars	Delhi Gencos and Transcos	Delhi DISCOMs
1	Before FY 2013-14	- 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.	- 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	Same treatment continued.	- LPSC @ 1.5% proportional to number of days of delay; - Same formulae for computing principal amount despite of change in treatment;

3.17.26 As per the aforesaid submissions, the Petitioner requests the Hon'ble Commission to allow entire LPSC of Rs. 16.55 Crore during FY 2019-20 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

v. Rebate on Power Purchase Cost and Transmission Charges:

3.17.27 Since the actual rebate on power purchase and transmission charges has been deducted for the purpose of calculation of net power purchase cost, same ought to be deducted from Non-Tariff Income. Accordingly, the Petitioner has deducted



rebate on power purchase and transmission charges from Non-Tariff Income in order to avoid double accounting.

vi. Short term gain:

3.17.28 The Hon'ble Commission in Tariff Order dated August 31, 2017 has ruled as under

"3.544 The Petitioner has submitted that Short Term gain is on account of interest received on fixed deposits maintained by the Petitioner as margins kept with the funding agency for loans availed. Therefore, the Commission is of the view that interest on these fixed deposits should be allowed to be reduced from the Non-Tariff Income ..."

3.17.29 Accordingly, the Petitioner requests the Hon'ble Commission to allow the Petitioner to retain the income of Rs. 9.04 Crore on account of interest received on fixed deposits during FY 2019-20 and reduce the same from the Non-Tariff Income.

vii. Transfer from Consumer Contribution and Capital works:

3.17.30 The Hon'ble Commission in Tariff Order dated July 31, 2019 has allowed transfer from consumer contribution for capital works to be reduced from NTI for FY 2017-18 on the ground that the consumer contribution is not considered for calculation of depreciation and RoCE and the Petitioner is making book adjustments in compliance of accounting standards and has no impact on the cash flows. Therefore, amount transferred from Consumer contribution and capital works are allowed to be reduced from Non-Tariff Income.

3.17.31 Accordingly, the Petitioner requests the Hon'ble Commission to reduce the amount of Rs. 17.53 Crore from the Non-Tariff Income during FY 2019-20.

viii. Income on account of bad debts recovered:

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

"3.552 The Petitioner has submitted that any amount recovered as bad debts is an energy income which is required to be included in the amount collected



during the year as the same is received against the amount billed in the previous years. The amount billed and collected in previous years has already been considered for the purpose of AT&C loss calculation during respective years. It is observed that the amount recovered from the bad debts written off by the Petitioner is part of total collection for the relevant year has also been indicated under the head 'other income' in the audited financial statement of FY 2014-15 and FY 2015-16. Therefore, the Income on account of bad debts recovered are reduced from Non-Tariff Income."

3.17.33 Accordingly, the Petitioner requests the Hon'ble Commission not to consider Rs. 2.10 Crore of income recovered on account of bad debts (shown in Note 34 of Audited Accounts) as Non-Tariff Income during FY 2019-20.

ix. Commission on Electricity Duty:

3.17.34 The Hon'ble Commission in Tariff Order dated August 31, 2017 stated as under:

"The Commission is of the view that collection of electricity duty is not a separate function/job and electricity duty is collected with electricity bills as normal collection of electricity dues billed by the Petitioner. Therefore, the Petitioner's submission that there is extra cost on account of collection of electricity duty is neither indicated in the audited financial statement nor justified. Accordingly, amount on account of Commission on Electricity Duty has not been reduced from Non-Tariff Income."

3.17.35 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.

3.17.36 It is submitted that MCD pays commission to the Petitioner for collecting Electricity



Duty on its behalf. This commission paid by MCD is purely Other Business within Section-51 of the 2003 Act, as well as, Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 and accordingly the same would apply to the aforesaid amount earned by the Petitioner as the commission paid by MCD. For undertaking the activity of collection of Electricity Duty, the Petitioner has expended certain expenses towards incentivizing the existing manpower, engaging additional and external collection agencies which are included in the actual employee expenses.

3.17.37 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 commission of Electricity Duty is being provided as compensation in lieu of the Petitioner's efforts in collecting and accounting and other services rendered by the Petitioner to GoNCTD. It is submitted that if GoNCTD were to perform such similar activity, it would have involved costs. The Petitioner has reduced the efforts on behalf of GoNCTD, required for collection of Electricity Duty in terms of manpower and other Expenses. It is submitted that the income earned as commission on collection of Electricity Duty ought to be utilized to defray the additional expenses incurred by the Petitioner while undertaking such activities.

3.17.38 The Petitioner in its Petition for Truing-up of FY 2014-15, Review of FY 2015-16 and Multi-Year ARR from FY 2016-17 to FY 2020-21 and Tariff of FY 2016-17, had submitted that it has to incur additional O&M expenses and other in-house activities involving maintenance of records, cash handling activities, etc., which



involve costs. Since these expenses incurred are not being separately allowed by the 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 Order (refer to Para No. 3.562) has treated the entire income earned on the aforesaid activity as part of non-tariff income and reduced the ARR of the Petitioner in contravention of its very own 2005 Regulations.

- 3.17.39 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 expenses. For example, if in future, the Petitioner were to engage in another business i.e., to collect water supply bills or telephone bills or gas utility bills, it cannot be said that because the Petitioner collects these amounts along with its electricity bills, these other businesses are distribution functions of the Petitioner or no separate expenses are required for carrying out these other businesses.
- 3.17.40 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.
- 3.17.41 The income/commission which is earned by the Petitioner has no connection whatsoever to the ARR of the Petitioner or to the licensed business. As such, this income/commission can never be categorised as non-tariff income. This is particularly so when Regulation 4.7(c) of the MYT Regulations, 2011 clearly provides that the collection of electricity duty will not be taken into account in



computing the Collection Efficiency. If the revenue realisation from the collection of electricity duty does not add to the revenue collection for the purpose of 'Collection Efficiency', the income/commission on such collection earned by the Petitioner cannot form a part of the ARR as Non-Tariff income.

3.17.42 Therefore, the commission received on account of collection of Electricity Duty i.e., Rs. 5.90 Crore ought to be deducted from Non-Tariff Income.

3.17.43 Based on the above submissions, the Non-Tariff Income during FY 2019-20 is tabulated as under:

Table 3.36 Non-Tariff Income for FY 2019-20

S. No	Particulars	Amount (Rs. Cr.)	Reference
A	Other Operating Income	69.08	Note 33 of Audited Accounts
B	Other Income	33.19	Note 34 of Audited Accounts
I	Total Income as per Accounts	102.27	(A+B)
C	Add: Interest on CSD	27.42	Table 3A 32
D	Add: Differential in SLD	(2.54)	Table 3A 33
II	Total Other Income	127.15	(I+C+D)
	Less: Income from other business		
E	Street Light Maintenance Charges	2.61	
III	Net Income to be considered	124.54	(II-E)
F	Less: LPSC	16.55	Note 32 of Audited Accounts
G	Less: Short term gain	9.04	Note 33 of Audited Accounts
H	Less: Transfer from Consumer contribution for capital works	17.53	Note 32 of Audited Accounts
I	Less: Bad debts recovered	2.10	Note 34 of Audited Accounts
J	Less: Commission on collection of Electricity Duty	5.90	Note 32 of Audited Accounts
	Net Non-Tariff Income	73.42	(III-sum F to J)



3.17.44 The Petitioner requests the Hon'ble Commission to allow the NTI during FY 2019-20 as submitted in the above table.

3.18 Income from Other Business

3.18.1 The Hon'ble Commission in its Order dated 06.10.2006 in Petition No. 4 of 2005 filed by NDPL has stated that the DISCOM's LT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee for generating revenue. The relevant extract of the Order is reiterated as below:

*"29. The Commission is therefore, of the opinion that the poles other than the Central Verge and the HT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee. **Any revenue generated thereto shall be subject to the Regulations made by the Commission on the Treatment of Income from Other Business.**" Emphasis laid*

3.18.2 Regulation 5(5) of DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017 is as follows:

"5(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;

Provided that any deficit on account of such other business shall be to the account of the licensee."

3.18.3 The Petitioner had earned total income of Rs. 1.49 Crore during FY 2019-20 on account of rent from the cable operators for using BYPL LT poles for laying their cables/set up. It is further clarified that Proper agreements have been executed between BYPL and the operator for such usage in terms of the above Order of the Hon'ble Commission.

Table 3.37 Other Business Income for FY 2019-20 (Rs. Crore)

S. No	Particulars	Total Income	Consumer's Share	Petitioner's Share
A	Pole Rental Income	3.72	2.23	1.49
B	Total	3.72	2.23	1.49

3.19 Income from Open Access

3.19.1 In addition to the income received from Other Business, the income of Rs. 11.31 Crores (Note 33 of the Audited Accounts) recovered as Open Access Charges during FY 2019-20 has been considered for offsetting the revenue (gap)/surplus for the year.

3.20 Capital Expenditure and Capitalisation

3.20.1 The Petitioner has considered the Closing GFA for FY 2018-19 as opening GFA for FY 2019-20.

3.20.2 The actual capitalisation and de-capitalisation as per the Audited Accounts for FY 2019-20 has been considered to derive the closing balance of GFA as under:



Table 3.38 Gross Fixed Assets for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Opening GFA	3743.56	Table 3B 20
B	Capitalisation during the year	247.20	Note 3 of the Audited Accounts
C	De-capitalisation	40.77	Note 3 of the Audited Accounts
D	Closing GFA	3949.98	A+B-C
E	Average GFA	3846.77	(A+D)/2

Funding of Capitalisation

- 3.20.3 During FY 2019-20, the Petitioner has capitalised Rs. 247.20 Crore which includes Rs. 40.77 Cr. and Rs. 17.02 Crore on account of De-capitalisation and Consumer Contribution capitalised respectively during the year. The Petitioner has sought financing of Capitalisation (net of de-capitalisation and Consumer Contribution) through debt and equity in the ratio of 30:70 as shown below:

Table 3.39 Financing of Capitalisation for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Total Capitalisation	247.20	
B	De-capitalisation	40.77	
C	Consumer Contribution	17.02	Note 25 of the Audited Accounts
D	Balance Capitalisation	189.41	A-B-C
E	Debt	132.58	70% of D
F	Equity	56.82	30% of D

Consumer Contribution

- 3.20.4 The average Consumer Contribution (including grants) for FY 2019-20 is tabulated below:

Table 3.40 Consumer Contribution for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Opening Balance	289.61	
B	Additions during the year	17.02	



S. No	Particulars	FY 2019-20	Remarks/ Ref.
C	Closing Balance	306.63	A+B
D	Average Consumer Contribution	298.12	(A+C)/2

Details of Grants

3.20.5 The average Grants for FY 2019-20 is tabulated below:

Table 3.41 Grants for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Opening Balance	16.22	
B	Additions during the year	-	
C	Closing Balance	16.22	A+B
D	Average Grants	16.22	(A+C)/2

3.21 Depreciation

3.21.1 For the purpose of computing depreciation for True-up of FY 2019-20, the Petitioner has followed the same methodology as considered by the Hon'ble Commission in the past i.e. the average rate of Depreciation based on the Audited Accounts of the Petitioner has been applied on the average GFA net of Consumer Contribution and Grants.

3.21.2 The average rate of Depreciation for FY 2019-20 based on the Audited Accounts of the Petitioner is tabulated below:

Table 3.42 Depreciation Rate for FY 2019-20

S. No	Particulars	Actual	Remarks/ Ref.
A	Opening GFA as per audited accounts	3714.15	Note 3 of Audited Accounts
B	Closing GFA as per audited accounts	3920.57	
C	Average of GFA	3817.36	(A+B)/2
D	Depreciation as per Audited Accounts	193.58	P&L account
E	Average depreciation rate	5.07%	(D/C)*100

3.21.3 As per Companies Act, the depreciation rate in case of a regulated entity has to be adopted as prescribed by the Regulator. The depreciation has been computed in the audited accounts based on the schedule of depreciation rates given in 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.

- 3.21.4 Further, the Petitioner has calculated the allowable depreciation after excluding consumer contribution and Grants from the Gross Fixed Assets as under:

Table 3.43 Depreciation for FY 2019-20

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Average GFA	3846.77	
B	Average Consumer Contribution and Grants	314.34	
C	Average assets net of consumer contribution & Grants	3532.42	A-B
D	Average rate of depreciation	5.07%	Table -3A 42
E	Depreciation	179.13	C*D

- 3.21.5 The cumulative depreciation on fixed assets at the end of FY 2019-20 is tabulated below:

Table 3.44 Cumulative Depreciation on fixed assets upto FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref.
A	Opening balance of cumulative depreciation	1329.3	
B	Additions during the year	179.13	Table -3A 43
C	Closing balance of cumulative depreciation	1508.4	A+B

- 3.21.6 Accordingly, the depreciation has been utilised for repayment of loan as under:

Table 3.45 Utilisation of Depreciation for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref
A	Depreciation	179.13	
B	Depreciation utilised for debt repayment	179.13	

3.22 Working Capital

- 3.22.1 The Petitioner has computed the Working Capital Requirement for FY 2019-20 based on the actual Power Purchase cost and revenue available towards ARR as



submitted for Truing Up of FY 2019-20. Accordingly, the Working Capital Calculation for FY 2019-20 is tabulated below:

Table 3.46 Working Capital Requirement (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref
A	Annual Revenues from Tariff & Charges	5090.7	
A1	Receivables equivalent to two months average	848.4	A/6
B	Power Purchase Expenses	3684.4	
B1	Less: 1/12th of power purchase expenses	307.0	B/12
C	Working Capital	541.4	A1-B1
D	Opening Working Capital	496.3	
E	Change in Working Capital	45.1	D-E

3.22.2 The Working capital as shown above has been considered for calculation of Regulated Rate Base for FY 2019-20.

3.23 Debt and Equity

3.23.1 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 and equity for FY 2019-20 is tabulated below:

Table 3.47 Average Debt and Equity for FY 2019-20 (Rs. Crore)

S. No	Particulars	Debt	Equity	Remarks/ Ref
A	Opening	1358.3	1178.7	Table 3B 27 & 28
B	Additions during the year			
I	<i>Capex</i>	132.6	56.8	
li	<i>Working capital</i>	45.1		
C	Less: Repayment	135.8		
D	Closing	1400.1	1235.5	A+B-C
E	Average	1379.2	1207.1	Average(A,D)

3.23.2 The Petitioner has considered the aforesaid debt and equity balance for the



purpose of computation of RoCE.

3.24 Regulated Rate Base (RRB)

3.24.1 Based on the above submissions, the Regulated Rate Base (RRB) for FY 2019-20 has been computed as below:

Table 3.48 Regulated Rate Base for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Remarks/ Ref
A	RRB Opening	2,549.24	Table 3B 29
B	ΔAB (Change in Capital Investments)	30.62	C-D+E-F
C	Investments Capitalized	206.43	Table 3A 39
D	Depreciation	179.13	Table 3A 42
E	Add: Depreciation on De-capitalised Assets	20.35	Note 3 of Audited Accounts
F	Consumer Contribution	17.02	Table 3A 40
G	Change in WC	45.1	
H	RRB Closing	2,624.94	A+B+G
I	RRB (i)	2,609.62	

3.25 Rate of Interest on Loan

3.25.1 Regulation 85 of the Tariff Regulations, 2017 states as under:

“INTEREST ON WORKING CAPITAL

85. Rate of Interest On Working Capital shall be considered as the bank rate as on 1st April of the year plus margin as specified by the Commission for the Control Period and shall be trued up on the basis of prevailing bank rate as on 1st April of the respective financial year:

Provided that the rate of interest availed through open tendering process (Competitive Bidding) among Scheduled Banks, Financial Institutions etc., shall not be trued up.

86. Interest on working capital shall be payable on normative basis notwithstanding that the Utility has availed any loan for the working capital.”

3.25.2 Accordingly, the rate of interest on working capital loans have been considered on normative basis as tabulated below:



Table 3.49 Rate of Interest on Working Capital (%)

S. No.	Particulars	Rate	Remarks/Reference
A	Margin for the Control Period	6.14%	A
B	SBI MCLR as on 01.04.2019*	8.55%	B
C	Total	14.69%	C = (A+B)
D	Rate of Interest for WC in FY 2019-20	14.00%	Min(C, 14%)

*SBI MCLR Rate enclosed as **Annexure 3A.6**

3.25.3 In view of above, the Petitioner has considered 14.00% as the rate of interest on working capital for FY 2019-20.

3.25.4 Regulation 77 of Tariff Regulations, 2017 states that:

“77. The rate of interest on loan shall be based on weighted average rate of interest for actual loan portfolio subject to the maximum of bank rate as on 1st April of the year plus the margin as approved by the Commission in the Business Plan Regulations for a Control Period

Provided that in no case the rate of interest on loan shall exceed approved rate of return on equity”

3.25.5 Further, Regulation 22 of 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%”

3.25.6 In terms of above Regulations, the rate of interest on term loan is equivalent to minimum of (i) approved base rate of RoE of 14.00%, (ii) rate of interest of 12.47% w.r.t actual loan portfolio during FY 2019-20, and (iii) Bank Rate of 7.75% as on April 1, 2019 plus margin for rate of interest on loan of 6.14% as per Business Plan Regulations, 2017.

3.25.7 Thus, the blended interest rate on term loan is computed based on aforesaid



Regulations summarised as below:

Table 3.50 Weighted Average Interest Rate on Loan (%)

S. No.	Particulars	FY 2019-20	Remarks/ Reference
A	Closing Balance of Debt	1400.32	Table 3A 47
B	Closing Debt at 100% Working Capital	541.60	Table 3A 46
C	Closing Balance of CAPEX Loan	858.72	C=A-B
D	Rate of Interest on Loan*	12.47%	
E	Rate of Interest on Working Capital	14.00%	
F	Blended Rate of Interest on Loan	13.06%	$\frac{((B \times E) + (C \times D))}{A}$

3.25.8 Hence, the Petitioner requests the Hon'ble Commission to approve the rate of interest on loan (rd) as 13.06% for FY 2019-20.

3.26 Weighted Average Cost of Capital (WACC)

3.26.1 The Petitioner has considered the actual rate of interest of loans at 13.06% and RoE at 16% for FY 2019-20.

3.26.2 Further, as per Regulation 4 of DERC Business Plan Regulations, 2017:

"4. TAX ON RETURN ON EQUITY

The base rate of Return on Equity as allowed by the Commission under Regulation 3, shall be grossed up with the Minimum Alternate Tax or Effective Tax Rate of the respective financial year in terms of Regulation 72 and 73 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, as per the following formula:

$$\text{Rate of Return on Equity} = 14 / [(100 - \text{Tax Rate}) / 100]$$

where, Tax Rate is Minimum Alternate Tax (MAT) or Effective Tax Rate, as the case may be."

3.26.3 In line with the above Regulation, the grossed-up return on equity is 19.39% as income tax rate on MAT basis is 17.47%. Thus, the computation of WACC is as under:



Table 3.51 Weighted Average Cost of Capital (WACC) (Rs. Crore)

S. No.	Particulars	FY 2019-20
A	Average Equity	1207.11
B	Average Debt	1379.32
C	Return on Equity	16.00%
D	Income Tax Rate	17.47%
E	Grossed up Return on Equity	19.39%
F	Rate of Interest	13.06%
G	Weighted average cost of Capital	16.01%

3.27 Return on Capital Employed (RoCE)

3.27.1 Based on the aforesaid submissions, the RoCE for FY 2019-20 is computed as below:

Table 3.52 RoCE for FY 2019-20 (Rs. Crore)

Particulars	FY 2019-20	Remarks/ Ref
Weighted Average Cost of Capital (WACC)	16.01%	Table 3A 48
RRB (i)	2,609.6	Table 3A 47
RoCE	417.9	A*B

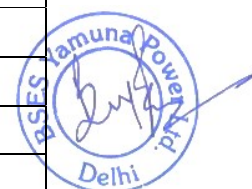
3.27.2 The Petitioner requests the Hon'ble Commission to allow RoCE based on the above computations.

3.28 Aggregate Revenue Requirement for Truing-up of FY 2019-20

3.28.1 Based on the above submissions, the Annual Revenue Requirement for FY 2019-20 sought for True-up is tabulated below:

Table 3A. 1 Aggregate Revenue Requirement for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference Remark
A	Purchase of power including Transmission and SLDC Charges & Incentives	3684.39	
B	O&M Expenses	738.79	
C	Additional O&M Expenses	156.67	
D	Depreciation	179.13	
E	Return on Capital Employed (RoCE)	417.91	
F	Sub-total	5176.88	Sum (A to G)
G	Less: Non-Tariff Income	73.42	
H	Less: Income from other business	1.49	



S. No	Particulars	FY 2019-20	Reference Remark
I	Less: Income from Open Access	11.31	
J	Aggregate Revenue Requirement	5090.66	F-(G+H+I)

3.29 Revenue available towards ARR

3.29.1 The revenue available towards ARR is tabulated as under:

Table 3A. 2 Revenue for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference/ Remark
A	Total Revenue Collected	4817.81	Net of LPSC, Etax, 3.70% Pension Surcharge and 8% RA Surcharge
B	Less: Amount to be retained by Petitioner on account of overachievement of Distribution Loss Targets	71.28	Table 3A 9
C	Less: Amount to be retained by Petitioner on account of Overachievement of Collection Efficiency Targets	35.20	
D	Less: Incentive on sale of Surplus power	1.51	Table 3A 9
E	Less: Carrying Cost	228.00	
F	Revenue available towards ARR	4,481.83	A-B-C-D

3.30 Revenue (Gap)/ Surplus

3.30.1 The revenue gap during FY 2019-20 is tabulated as under:

Table 3A. 3 Revenue (Gap) for FY 2019-20 (Rs. Crore)

S. No	Particulars	FY 2019-20	Reference/ Remark
A	Aggregate Revenue Requirement (ARR)	5090.66	Table-3A 50
B	Revenue available towards ARR	4481.83	Table-3A 51
C	Revenue (Gap)/Surplus	(608.83)	B-A

3.30.2 The Petitioner requests the Hon'ble Commission to True Up for FY 2019-20 as submitted above.



Chapter- 3B

Regulatory Assets yet to be recognised



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Past Claims upto FY 2019-20 Regulatory Assets yet to be recognised

3B.1 The present Chapter deals with that portion of Regulatory Assets which is yet to be recognised by the Hon'ble Commission in Tariff Orders issued till date. The unrecognised Regulatory Assets has been bifurcated in the following three categories:

- a) Category-1: Impact of directions of Hon'ble APTEL given in various Judgments which is yet to be implemented
- b) Category-2: Impact of Review Order/Review Petitions filed with respect to:
 - Tariff Order dated 28.03.2018- Review Petition No. 31 of 2018
 - Tariff Order dated 31.07.2019- Review Petition No. 64 of 2019
 - Tariff Order dated 28.08.2020- Review Petition filed on 07.12.2020
- c) Category-3: Impact of issues challenged in Appeal pending adjudication before Hon'ble APTEL

3B.2 These claims have been discussed in detail in subsequent paragraphs and the impact of such claims along with carrying cost accrued till FY 2019-20 has been considered as a part of Regulatory Assets claimed in this Petition.

Category-1: Directions of Hon'ble APTEL given in various Judgments;

3B.3 This Category deals with the issues which have been decided by the Hon'ble APTEL in favour of the Petitioner but have not been implemented either in letter or spirit by the Hon'ble Commission till date.

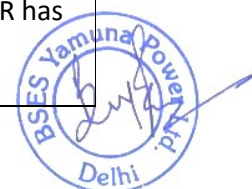
3B.4 A gist of such judgments of the Hon'ble APTEL on which the Petitioner is basing the present set of claims is set out hereunder:

Table 3B- 1 : Summary of APTEL Judgments

S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
1	Deferment of Capitalisation based on EI Certificate	October 6/30, 2009 (Appeal No. 36/37 of 2008)	To allow the capitalisation based on Electrical Inspector (EI) Application plus 15 days
		March 2, 2015 (Appeal No. 178 of 2012)	To conduct physical verification of assets and complete exercise within 6 months



S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
		September 30, 2019 (Appeal No. 246 of 2014)	Issue of capitalisation is required to be re-examined by the Commission in consideration of all facts and figures and is required to be allowed on actual basis in line with Regulations.
2	Disallowance of REL Purchases	October 6/30, 2009 (Appeal No. 36/37 of 2008)	To allow the impact based on comparison with NDPL prices
		March 2, 2015 (Appeal No. 178 of 2012)	To provide all the data for comparison within a month of receipt of requirement by the Petitioner
3	Working Capital	May 31, 2011 (Appeal No. 52 of 2008)	To consider the working capital in debt-equity ratio of 70:30
		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
4	Repayment of loans	November 28, 2014 (Appeal No. 62 of 2012)	To consider repayment of loans while computing WACC
		March 2, 2015 (Appeal No. 178 of 2012)	To consider repayment of loans while computing WACC
5	Cost of Debt	October 6/30, 2009 (Appeal No. 36/37 of 2008)	True-up rate of interest of loans based on variation in SBI PLR
		November 28, 2014 (Appeal No. 62 of 2012)	To true-up the rate of interest as SBI PLR has varied by more than +/-1%



S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
		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. 178 of 2012)	To true-up the rate of interest as SBI PLR has varied by more than +/-1%
6	Re-casting of means of finance based on actual consumer contribution capitalised	February 23, 2015 (Appeal No. 110 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. 104 of 2017)	Direct to follow instructions given in Judgment dated February 23, 2015
7	Revision in Distribution Loss targets for FY 2008 to FY 2010	October 6/30, 2009 (Appeal No. 36/37 of 2008)	To redetermine the Loss Targets for FY 2008 to FY 2010
		November 28, 2014 (Appeal No. 62 of 2012)	To implement the judgment in the Appeal 36 of 2008
		March 2, 2015 (Appeal No. 178 of 2012)	To implement the judgment in the Appeal 36 of 2008 and the Appeal 61/62 Judgment
8	Computation of AT&C Loss for FY 2009-10	November 28, 2014 (Appeal No. 62 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
9	AT&C Loss for FY 2011-12	November 28, 2014 (Appeal No. 62 of 2012)	To consider the AT&C Loss target for FY 2011-12 as per letter dated March 8, 2011



S. No	Issue	Date of Judgment	Direction to the Hon'ble Commission
10	Non-Revision of AT&C Loss for 2 nd MYT Period	March 2, 2015 (Appeal No. 178 of 2012)	To refix the the AT&C loss targets for FY 2012-13 to 2014-15 based on the revised targets for FY 2011-12 as directed in Appeal 62 judgment.
11	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. 62 of 2012)	To allow the carrying cost in debt-equity ratio of 70:30 by considering prime lending rates
		March 2, 2015 (Appeal No. 178 of 2012)	To allow the carrying cost in debt-equity ratio of 70:30 by considering market lending rates
12	Financing cost of LPSC based on SBI PLR	March 2, 2015 (Appeal No. 178 of 2012)	To allow LPSC at prevalent market lending rates
13	Efficiency factor for FY 11	March 2, 2015 (Appeal No. 178 of 2012)	To allow the impact on account of arbitrary determination of efficiency factor for FY 2010-11

3B.5 Regulation-7 of DERC Comprehensive (Conduct of Business) Regulations, 2001 states as under:

"7. Delegation of Powers

...

(iv) The Commission shall, at all times have the authority, either on an application made by any interested or affected party or suo moto, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by secretary or officers of the Commission, if the Commission considers the same to be appropriate."

As evident from above, the Hon'ble Commission has the powers to revise/ alter/ amend/ modify any action taken by secretary or officers of the Commission. Therefore the Hon'ble Commission is fully empowered to review/ revise/ alter/ amend/ modify any action taken by secretary or officers of the Commission, if the



Commission considers the same to be appropriate. Despite such wide powers, the various directions of Hon'ble APTEL in different Judgments are pending to be implemented for more than 10 years.

3B.6 The only ground on which the Hon'ble Commission has not implemented the aforesaid directions till date is that the Civil Appeals filed by the Hon'ble Commission against these Judgments is pending before Hon'ble Supreme Court. However the fact remains that no stay has been granted by the Hon'ble Supreme Court on the implementation of these Judgments. In fact the Hon'ble Supreme Court has taken a strong view on the non-compliance of orders of the Superior courts. Few are listed below:

- 1 Contempt proceedings may be initiated against a quasi-judicial body/ lower authority for non-compliance of orders passed by a Superior Court, in the case of *Shri Baradakant Mishra Vs. Bhimsen Dixit:(1973) 1 SCC 446 or AIR 1972 SC 2466 (Paras 1, 10-12, 15-17)*.
- 2 Power to punish for contempt is necessary for the maintenance of effective legal system. It is exercised to prevent perversion of the course of justice. (*Kapildeo Prasad Sah & Ors. Vs. State of Bihar & Ors. (1999) 7 SCC 569 Para 9*)
- 3 *Anjani K. Verma vs. State of Bihar: (2004) 11 SCC 188, Paras 2 & 3*
- 4 *Braj Kishore Thakur vs. Union of India: (1997) 4 SCC 65, Paras 1 & 11*
- 5 It is well settled that the cardinal principle of interpretation of statute is that courts or tribunals must be held to possess power to execute their own order."General Power of Tribunals to execute their own order. *State of Karnataka Vs. Vishwabarathi House Building Coop. Society, (2003) 2 SCC 412 (Paras 57 to 64)*

3B.7 Also in a recent Judgment pronounced on 5.10.2020 in Appeal 97 of 2020 (KPTCL versus KERC), the Hon'ble APTEL has taken example of the Hon'ble Delhi Commission and observed as under:

"97. This tribunal had to carry out the painful duty of dealing with similar situation of disobedience by another statutory Commission in the case leading to judgment reported as BSES Rajdhani Power Limited v. DERC, 2013 SCC OnLine APTEL 137 : [2013] APTEL 157. It was held that refusal to implement this tribunal's binding judgment by the Regulatory Commission amounted to judicial indiscipline and that this tribunal is empowered to take suitable action by imposing fine or cost on the commission. The following discourse in that decision enlightens us:

"24. The refusal by the Delhi Commission to implement the judgment of this Tribunal would amount to judicial indiscipline and is contrary to the



settled position of law.

25. *As laid down by the Hon'ble Supreme Court that mere filing of the Appeal or proposal to file the Appeal would not amount to the effect of automatic stay*

...

29. *Any action or omission by a subordinate authority which violates or refuses to give effect to a direction given by a superior authority, has been repeatedly held to be a denial of justice which is destructive of basic principles in the administration of justice. It is well settled law that the findings and directions of Appellate Authority are binding on subordinate authorities, which should be implemented effectively and scrupulously unless the same has been stayed or struck down by the Appellate Forum.*

32. *The reading of the above judgments would make it clear that the conduct of the Delhi Commission in refusing to implement this Tribunal's directions, is highly reprehensible and the same is liable to be condemned.*

33. *Though the Act provides for suitable action against the Delhi Commission by imposing fine or cost for having violated our directions given in the Appeal under Section 111 of the Act, 2003, we refrain from doing so in view of the fact that the Delhi Commission in another Appeal filed before this Tribunal in Appeal No. 14 of 2012 in which similar allegations have been leveled against the Delhi Commission, filed Affidavit tendering unqualified apology for non-compliance of the directions and expressed its willingness to implement our directions earnestly in letter and spirit in future.” (emphasis supplied)*

....

DECISION

99. *We could have closed the chapter simply by having recourse to the power and jurisdiction vested in this tribunal to execute and enforce the decision which has attained finality. We do not think that would suffice in the case at hand. It is necessary to set the law on contempt into motion in the situation that we have at hand for several reasons.*

100. *As is clear from the narration of the factual background, in the preceding round of appeal to this tribunal, a disapproval of the conduct of the State Commission had been expressed, it having been reminded (para 42 of judgment dated 09.05.2008) that in its capacity as a quasi-judicial body it was duty-bound to “adhere to judicial discipline”, the attitude betrayed by “repeated attempts to bypass the dictum of this tribunal” being not conducive to the growth of the electricity sector, it instead leading to “litigation and consequent waste of public money and*



public time". It appears the said observations have fallen on deaf ears. Then, as noted earlier, midway the hearing on the present appeal, we had given the opportunity to the State Commission to make amends by revisiting the impugned order in light of contentions of the appellant. The State Commission declined to avail of the said opportunity knowing full well that appellant was pressing for coercive action for the willful defiance. Since there is a need to curb the growing tendency of the regulatory authorities at the bottom of the rung of taking liberties with the binding directives, or acting contrary to the judicially settled principles so as to deny lawful claims, reflective of whimsical, injudicious and inconsistent approach, this possibly endangering rule of law, this is an occasion to send out a strong message."

- 3B.8 Also in Judgment dated 28.11.2013 (Appeal 14 of 2012), the Hon'ble APTEL has recorded the affidavit of Hon'ble Commission as under:

"139. The Delhi Commission, in its written submissions, has tendered apology for the use of wrong language in the Impugned Order and has expressed regret over it. The Delhi Commission has also its willingness the implement the directions of this Tribunal in its letter and spirit. However, the Delhi Commission has requested the Tribunal to reconsider the direction given on these issues in public interest. The extracts of the Delhi Commission's submissions on this issue has been 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.9 Also in Judgment dated 27.02.2013 (Appeal 184 of 2011, DTL versus DERC), the Hon'ble APTEL has advised the Hon'ble Commission to implement the directions given in APTEL Judgment as under:

27. As indicated above, the State Commission ought to have implemented the directions given in our judgment subject to the outcome of the Appeal in Hon'ble Supreme Court in the absence of stay or they must have obtained the stay of the operation of our judgment giving directions to the State Commission in the Appeal pending before the Hon'ble Supreme Court. At least, they would have filed an application informing the practical difficulties for implementation of the said judgment in regard to those issues and sought for appropriate directions. Admittedly, this was not done. This shows the



'Don't care attitude' of the State Commission towards this Tribunal, the Appellate Authority. This is sorry state of affairs.

28. As mentioned above, we can not now accept the reasons given by the State Commission in its oral arguments for nonimplementation of the judgment.

29. As pointed out by the learned Counsel for the Appellant, the State Commission, as a judicial authority has to be limited to the reasons mentioned in the impugned order alone and cannot rely upon the extraneous reasons which are not referred to in the impugned order. This position is a settled law as held by the Hon'ble Supreme Court in the case of Mohinder Singh Gill V. Chief Election Commissioner, (1978) 1 SCC 405.

...

39. The principle of judicial discipline requires that the orders of the Appellate authorities should be followed scrupulously by its subordinate authorities. **If the Subordinate authority refuses to carry out the directions or to follow the dictums given by the superior Tribunal in exercise of Appellate powers, the result would be chaos in the administration of the justice. In fact, it will be destructive of one of the basic principles of the administration of justice.**

40. If the State Commission develops such a mindset that they cannot be questioned by the Appellate Authority at any cost, then there would be serious havoc.

41. As a quasi judicial authority, the State Commission is expected to know the law prescribed under the Act and the legal procedures laid down by this Tribunal and Hon'ble Supreme Court.

42. In this case, with great restraint, **we are constrained to observe the conduct of the State Commission who has not cared to follow our directions, would reflect lack of judicial approach, lack of judicial knowledge and lack of judicial ethics. We do not want to say more than this.**”(Emphasis added)

- 3B.10 Thus the Hon'ble Commission's stand in Tariff Order dated 28.08.2020 not to implement the Hon'ble APTEL directions only on the reason of pendency of Civil Appeal before Hon'ble Supreme Court is in the teeth of law settled by the Hon'ble APTEL and Hon'ble Supreme Court. Also the same is contrary to the Hon'ble Commission's own affidavit filed in Appeal 14 of 2012. The Petitioner requests the Hon'ble Commission to deal all the issues and implement the directions of Hon'ble APTEL in true letter and spirit.



Pendency of implementation of various directions linked to ongoing physical verification of assets

3B.11 It has been observed that the Hon'ble Commission has linked various APTEL Directions related to capex issues with pendency of physical verification of assets at some point. The tariff orders wherein the Hon'ble Commission has linked such issues with the ongoing physical verification of assets are summarised below:

a) Capitalisation deferred due to non-availability of EI Certificates:

The Hon'ble Commission in Tariff Order dated 28.03.2018 stated that *"the Commission 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. 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."*

b) Capitalisation disallowed on account of REL Purchases:

The Hon'ble Commission in Tariff Order dated 28.03.2018 stated that *"the Commission 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. 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."*

c) Net-worth:

The Hon'ble Commission in Tariff Order dated 29.09.2015 applied erroneous net-worth formulae leading to incorrect equity computation. The Hon'ble Commission also reversed the equity allowed for all earlier years in past tariff orders from FY



03 onwards.

The formula was challenged in before Hon'ble APTEL. Also the incorrect equity computation was highlighted before the Hon'ble Commission.

On this issue, the Hon'ble Commission in Tariff Order dated 28.03.2018 (Para-3.319, Page-210) has stated that the same shall be addressed based on physical verification of assets.

d) Repayment of loans

The Hon'ble Commission has not been considering repayment of loans while computing loan balance for any year which was resulting in adverse debt-equity ratio. The lower debt-equity ratio adversely affect the Weighted Average Cost of Capital (WACC) and thus, resulting in lower RoCE.

APTEL in Judgment dated 28.11.2014 directed the Hon'ble Commission to consider repayment of loans while computation of loan balance for the year.

The Hon'ble Commission in Tariff Order dated 29.09.2015 (Para-3.35, Page-134) implemented erroneous net-worth formulae for computation of equity and stated that issue of repayment of loan is also addressed.

If net-worth issue is addressed, same will also reopen issue of repayment of loans.

e) Approval of loans

The Hon'ble Commission has not given its approval for the loans raised post FY 2008-09. The Hon'ble Commission in reply to the appeal filed before APTEL (Appeal 70&71 of 2018) has stated that the same shall be allowed based on physical verification of assets.

f) Approval of interest rates for capex and Regulatory Assets loans

As per Regulations, the Hon'ble Commission was required to true-up the interest rates of loans if there is variation of +/-1% in PLR of banks during the control period.

APTEL in Judgment dated 28.11.2014 directed DERC to true-up the interest rates since there was variation of more than +/-1% in PLR of banks.

The Hon'ble Commission in Tariff Order dated 23.07.2014 (Para-5.24, Page-272) stated that true-up of interest rates is linked to true-up of capitalization of the said period and final view will be take post-completion of the same.

Hence, the Hon'ble Commission has not allowed actual interest rates from FY 2007-08 to FY 2016-17 and same is also pending on completion of physical verification of assets.



g) Recasting of consumer contribution:

The Hon'ble Commission in Tariff Order dated 23.02.2008 considered consumer contribution on received basis instead of capitalized basis while computing means of finance towards capitalization. As a result lower equity and debt was approved. The Hon'ble Commission then vide its Order issued in 2009 directed Delhi DISCOMs to refund the unspent portion of consumer contribution to the respective consumers.

Issue was challenged before APTEL and APTEL in Judgment issued 23.02.2015 directed DERC to recast the means of finance from FY 03 onwards and then only the DISCOMs can refund the unspent consumer contribution to the respective consumers.

The Hon'ble Commission did not implement the direction of APTEL. Further, the Hon'ble Commission vide its letter dated 12.01.2017 directed to refund the unspent consumer contribution otherwise penalty shall be levied under Section-142 of Electricity Act.

Issue was again challenged before APTEL. APTEL vide Judgment dated 15.05.2017 directed the Hon'ble Commission to implement directions given in Judgment dated 23.02.2015.

The Hon'ble Commission challenged the same before Supreme Court. However the Civil Appeal was dismissed.

On this issue, the Hon'ble Commission in Tariff Order dated 28.03.2018 (Para-3.319, Page-210) has stated that the same shall be addressed based on physical verification of assets.

Issue-1: Capitalisation based on EI Application plus 15 days.Issue in brief:

- 3B.12 The grievance of the Petitioner is that the Hon'ble Commission has not implemented the directions of the Hon'ble APTEL, as contained in its judgment dated October 6, 2009 in Appeal No. 36/37 of 2008 and Judgment dated March 2, 2105 in Appeal No. 178 of 2012 by not allowing capitalisation on account of non-availability of Electrical Inspector Certificate. The Hon'ble Commission has till date not allowed the impact of the direction of the Hon'ble APTEL 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. Also as per Hon'ble APTEL directions in Judgment dated 2.03.2015, the exercise of physical verification of assets was required to be completed within 6 months from the date of Judgment, i.e., by 02.09.2015. However the impact has yet not been given by the Hon'ble Commission. 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 APTEL in its judgments.

List of dates:

S.No.	Date	Event
1.	06.10.2009 and 30.10.2009	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 APTEL 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.	02.12.2009	Subsequent to the Appeal 36/37 Judgment, the Petitioner made a claim in that regard before the Hon'ble Commission by way of a separate petition filed on 02.12.2009.
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.
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 20.11.2013 in the format specified by the Hon'ble Commission.



S.No.	Date	Event
5.	17.07.2014	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 02.12.2009. In the said order, the Hon'ble Commission <i>inter alia</i> held that the issues raised by the Petitioner in its Petition dated 02.12.2009 have already been raised in the proceedings before the Hon'ble APTEL, 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. 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 APTEL.
6.	02.03.2015	By its Appeal 178 Judgment, the Hon'ble APTEL 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 the Hon'ble Tribunal in the Appeal 36/37 Judgment within 6 months of the date of the said judgment.
7.	20.01.2015	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 Respondent Commission under cover of various letters, between 5.12.2008 to 23.05.2011. <i>Vide</i> its letter dated 20.01.2015, the Petitioner once again submitted the EICertificates and reiterated the aforesaid position.



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 APTEL 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 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 the Hon'ble APTEL's judgments.
10.	26.07.2017	The Petitioner submitted details of EICertificates 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 13 box files.
13.	26.02.2018	The Petitioner, <i>vide</i> its letter, submitted schemewise details of capitalization along with copy of EIC received.



S.No.	Date	Event
14.	28.03.2018	The Hon'ble Commission, in 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 was further stated by the Hon'ble Commission that 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 regarding the issue.
15.	31.07.2019	The Hon'ble Commission has once again 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 that a report shall be submitted by the consultants for examination and further deliberation for taking a final view regarding the issue will be taken up by the Hon'ble Commission. After approval of final report, the effect of actual capitalization shall be given to the Petitioner.
16.	30.09.2019	The Hon'ble APTEL pronounced Judgment in TPDDL's Appeal 246 of 2014, wherein the Hon'ble APTEL has directed the Hon'ble Commission to allow capitalization on actual basis as physical verification of exercise is pending for very long period which is adversely affecting cash flow of the Petitioner.
17.	28.08.2020	There is no mention of the report/ physical verification of assets. The Hon'ble Commission has once again reiterated in the Tariff Order dated 28.08.2020 that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order.

Detailed Submissions:

- 3B.13 The Hon'ble Commission in the Tariff Order dated February 23, 2008 disallowed capitalisation of Rs. 300 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 more than 17 lakh consumers. However, since FY 2004-05 the Petitioner has been deprived of the costs of such



expenditure.

- 3B.14 The Hon'ble APTEL 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.15 The said decision was upheld in the judgment dated 30.10.2009 passed by the Hon'ble APTEL in Appeal 37 of 2008 (BYPL's appeal against Tariff Order adateded 23.02.2008).

- 3B.16 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012178 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.17 As regards the aforesaid issue, the Hon'ble Commission in Tariff Order dated August 31, 2017 stated as under:

*"3.15 Further, the Petitioner has submitted segregation of disallowed schemes on account of nonavailability of Electrical Inspector certificates and related party transactions as well as reconciliation 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.18 However the Hon'ble Commission in Tariff Order dated March 28, 2018 stated as under:

"3.43 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.19 The Hon’ble Commission in Tariff Order dated 31.07.2019 stated as under:

“3.31 Accordingly, the Commission 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. 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 and the report submitted by the Consultants to the Commission shall be further examined and deliberated for taking a final view.

3.32 Accordingly, after approval of final report, the effect of actual capitalization shall be given to the Distribution Licensees.”

3B.20 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 26.07.2017 and 26.02.2018.

3B.21 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 subsequent 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, the Hon'ble Tribunal had, in its Judgment dated March 2, 2015 (Appeal 178 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 the 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.

3B.22 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 entitlement 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.23 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 including letter dated 26.02.2018.
- ii. 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 once again 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. Such a fresh exercise would also be in excess of jurisdiction as both the EI and the Commission cannot in law have double and concurrent jurisdiction. 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 continues till 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.
- iii. The aforesaid submissions are made without prejudice to the stand of the Petitioner in RP No. 17 of 2015 in Appeal No. 178 of 2012, wherein it is *inter alia* contended that the physical verification directed in the Appeal 178 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.

3B.24 Further the Hon'ble Tribunal in Judgment dated September 30, 2019 (Appeal 246 of 2014) has directed the Hon'ble Commission as under:

"21.4.1....It is not in dispute that before allowing any amount for capitalization, the State Commission has to carry out prudence check so as to verify authenticity of the capital deployed during the period to arrive at ROCE and other related claims. Ideally, physical verification of the assets should be periodically done but, in the prevailing scenario, it is observed that the same



*is pending since long and the Appellant is claiming ROCE as per the certificate issued by the Electrical Inspector on time to time. The Electricity Rules, 1956 and Central Electricity Authority Regulations provides for detailed inspection by Electrical Inspector before issuance of any certificate for usage of a particular assets of the licensee. In view of these facts, **if the capitalization of assets remains pending for want of physical verification, it will have a severe effect on the cash flow of the Appellant, thereby making it difficult to operate on a commercially viable manner which in turn would increase the burden on the consumers by way of increase in carrying cost.** While considering the submissions of learned counsel for the Respondent Commission, **it is essential that whatever capital is deployed by the Appellant in a particular period has to be approved by the Commission. Any mismatch in the capital deployed and that approved by the Commission results into the dispute as in the case in hand.***

*21.4.2 To be more specific, the Appellant claims the capitalization figure of Rs. 316.20 crores against which the Commission has allowed only Rs.200.88 crores. In the light of these facts, **what thus, transpires is that the figures projected for capitalization by the Appellant and that considered by the Respondent Commission need to be reconciled and allowed for actual capitalization in line with the MYT Regulations, 2011. We, therefore, of the opinion that this issue needs to be reexamined by the Commission in consideration of all facts and figures. This issue, as such, is decided in favour of the Appellant.*** (Emphasis added)

As evident from above, the Hon'ble Commission has been directed to allow capitalisation based on actuals as per applicable Tariff Regulations.

- 3B.25 However the Hon'ble Commission in Tariff Order dated 28.08.2020 has again taken the stand of pendency of civil appeal before Hon'ble Supreme Court despite no stay for non-implementation of directions of Hon'ble APTEL. This is contrary to the Hon'ble Commission's affidavit filed in Appeal 14 of 2012 that it is duty bound to implement the directions of Hon'ble tribunal.
- 3B.26 Further in Tariff Order dated 31.07.2019, the Hon'ble Commission allowed capitalisation for FY 2017-18 on provisional basis. The relevant excerpts are as under:

"3.391 The Commission has undertaken the exercise of review of capitalisation and physical verification of the assets during FY 2017-18 and has shared the draft report with the Petitioner for its comments. The Commission has sought the details of total meters capitalised on account of new connections, meters replaced on account of consumers, meters replaced on account of Petitioner



etc. The comments on draft report of capitalisation have been received from the Petitioner. The details submitted by the petitioner are required to be examined and the effect thereof shall be considered appropriately in the subsequent tariff order. The Commission has provisionally disallowed the capitalisation as mentioned in the draft report. During physical verification, the assets amounting to Rs.0.28 Cr. were not physically found. It is further observed that the meters are also being replaced on account of fault of Distribution Licensee before the useful life of meters. Accordingly, the Commission has provisionally disallowed 20% cost of the meters capitalised during FY 2017-18."

- 3B.27 As acknowledged by the Hon'ble Commission, the Petitioner has already submitted its comments on the aforesaid draft report on 12.07.2019. Further, it is pertinent to mention that neither any final report to this effect has been received by the Petitioner nor the Hon'ble Commission has allowed the provisionally disallowed amount of Rs. 38 Crore in the subsequent Tariff Order dated 28.08.2020. Moreover, in Tariff Order dated 28.08.2020, the Hon'ble Commission has not mentioned anything about the actual capitalisation of FY 2017-18 despite the same not been sub-judice in any forum at that time.
- 3B.28 Further, in Tariff Order dated 28.08.2020, the Hon'ble Commission again allowed the capitalisation for FY 2018-19 on provisional basis pending physical verification of assets for the period on part of the Commission itself despite the Business Plan Regulations (Regulation 24.4) specifically providing for quarterly physical verification by the Commission. Moreover, for FY 2018-19, the Hon'ble Commission has provisionally disallowed 7.39% of the capitalisation on account of meters based on the submission of TPDDL amounting to Rs. 3.86 Crore (7.39% of Rs. 52.26 Crore). Further more, out of the remaining amount, the Hon'ble Commission has provisionally considered 90% of the capitalisation despite considering the actual capitalisation during the year.
- 3B.29 The enormity of the situation can be appreciated from the fact that against the actual capitalization of Rs. 3743 Crore done by the Petitioner upto FY 2018-19, the capitalization has been provisionally allowed to the extent of Rs. 3340 Crore only thereby pending true up of capitalization by Rs. 403 Crore along with associated entitlements like RoCE, Depreciation, Financing Cost & Carrying Cost etc.

PRAYER(S):

- 3B.30 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the actual capitalisation. In case physical verification report is not finalised even during the current tariff determination exercise, 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 into increase in Depreciation from FY 2004-05 to FY 2006-07 and RoCE and Depreciation from FY 2007-08 to FY 2018-19. 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.106 to Para-3B. 174.

Issue-2: Capex and capitalization pertaining to REL Purchases

Issue in brief:

- 3B.32 The Petitioner submits that the Hon'ble Commission has not implemented the directions of the Hon'ble APTEL as contained in its judgments dated October 6, 2009 in Appeal No. 36 of 2008 and Judgment dated March 2, 2015 in Appeal 178 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 APTEL 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 37% of the capital expenditure, i.e., Rs. 171 Crore out of Rs. 365 Crore pertaining to REL EPC on ad-hoc basis, without actual verification and benchmarking of rates, to determine the arms 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 arms 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	Aggrieved by the MYT Order, the Petitioner challenged the issue before the Hon'ble APTEL in Appeal No. 36/37 of 2008. The Hon'ble APTEL in its Appeal 36 Judgment ruled as under: <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> (Emphasis supplied)
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 APTEL 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 APTEL in the Appeal 36 Judgment.
5.	26.08.2011	The Hon'ble Commission did not implement the directions of this Hon'ble APTEL 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 the Hon'ble APTEL. The Petitioner filed Appeal No. 178 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 the Hon'ble Tribunal even in its Tariff Order dated 31.07.2013. The Petitioner has filed Appeal No. 265 of 2013, challenging the said Tariff Order dated 31.07.2013, which is presently pending before the Hon'ble APTEL.
8.	23.07.2014	The Hon'ble Commission once again failed to implement the directions of the Hon'ble APTEL 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	Aggrieved by the above, the Petitioner challenged the issue before the Hon'ble APTEL in Appeal No. 178 of 2012. The Hon'ble APTEL pronounced the Appeal 178 Judgment on 02.03.2015. In the said Judgment, the Hon'ble APTEL directed the Hon'ble Commission as under: <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> (Emphasis supplied)
13.	09.03.2015	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).
14.	11.03.2015	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/ BYPL/2015-16/1127 dated 17.03.2015 informed the Hon'ble Commission about the same and requested to provide another opportunity for inspection of files relevant for the purpose of comparison.
15.	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 APTEL in its Appeal 177 Judgment. The Petitioner once again requested for another opportunity to inspect the relevant documents, as sought in Petition 50/ 2007.



S.No	Date	Event
16.	17.03.2015	The Hon'ble Commission conducted a meeting on 17.03.2015 to discuss the implementation of Hon'ble APTEL'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.
17.	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.
18.	23.04.2015	The Petitioner duly and promptly visited the office of the Respondent 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, BOQs which are actually required for comparison with TPDDL (NDPL).
19.	05.06.2015	The Petitioner, vide letter number RA/BYPL/2015-16/71 dated 05.06.2015 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.



S.No	Date	Event
20.	29.09.2015	The Hon'ble Commission did not respond to the Petitioner's letter dated 05.06.2015. Instead, in the Tariff Order dated 29.09.2015, the Hon'ble Commission stated as under: <i>"3.10 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)
21.	7.03.2016	The Appeal 178 Judgment directed the necessary information to be provided within one month thereof. Even after one year of the Appeal 178 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 178 Judgment. Interestingly, these were the same documents which had been offered for inspection.
22.	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
23.	31.08.2017	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 the Hon'ble Tribunal in the Appeal 178 Judgment. The Hon'ble Commission has held as under: <i>"3.23 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. 178 of 2012. This aspect has also been submitted before the Hon'ble APTEL in Appeal No. 290 of 2015."</i>
24.	28.03.2018	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 to the Commission by the consultants for examination and further deliberation for taking a final view regarding the issue.
25.	30.09.2019	The Hon'ble APTEL pronounced Judgment in TPDDL's Appeal 246 of 2014, wherein the Hon'ble APTEL has directed the Hon'ble Commission to allow capitalization on actual basis as physical verification of exercise is pending for very long period which is adversely affecting cash flow of the Petitioner.
26.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub- judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order.

Detailed Submissions:

- 3B.33 The Hon'ble Commission in its Tariff Order dated February 23, 2008 disallowed capital expenditure of Rs. 170.84 crores, since the goods were purchased by the Petitioner from REL for Rs. 364.87 crore during FY 2004-05 & FY 2005-06. The goods purchased have been put to use by the Petitioner, and are servicing more than 16 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 of account of disallowance of REL Purchase

(Rs. Cr.)

S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09



S. No	Particulars	FY 05	FY 06	FY 07	FY 08	FY 09
1	REL Disallowances	6.37	41.08	65.92	57.47	6.37
Reference	Annexure-V; Para 32; Pg. No. 275 of Tariff Order dated 23.02.2008					

3B.34 The Hon'ble APTEL 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.35 The Petitioner vide its letter dated September 31, 2013 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 APTEL. 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.36 Based on the information as obtained from the market sources, the Petitioner furnished documents which demonstrate that out of Rs. 364.87 cr., being the value of total goods purchased from REL, the price paid for goods worth Rs. 169.22 cr. i.e. ~ 46% were lower than the price paid by TPDDL.

3B.37 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 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.38 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, BOQs which are actually required for comparison with TPDDL. The Petitioner vide letter number RA/ BYPL/2015-16/ 71 dated June 05, 2015 informed the Hon'ble Commission about the incomplete documents shown at the time of inspection on April 23, 2015.
- 3B.39 The Hon'ble Commission vide its letter dated March 7, 2016 only provided to BRPL 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 178 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 the Hon'ble Tribunal in the Appeal 178 Judgment by its letter dated March 7, 2016. The Appeal 178 Judgment directed the necessary information to be provided within one month thereof.
- 3B.40 The Petitioner vide its letter dated July 4, 2016 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 the 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 the Hon'ble Tribunal.
- 3B.41 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 the Hon'ble Tribunal in the Appeal 178 Judgment. The Hon'ble Commission has held as under:

"3.23 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 & 178 of 2012. This aspect has also been submitted before the Hon'ble APTEL in Appeal No. 290 of 2015."

- 3B.42 Further the Hon'ble Commission in Tariff Order dated March 28, 2018 held as



under:

*"3.43 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.43 The Hon'ble Commission in Tariff Order dated July 31, 2019 held as under:

"3.31 Accordingly, the Commission 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. 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 and the report submitted by the Consultants to the Commission shall be further examined and deliberated for taking a final view.

3.32 Accordingly, after approval of final report, the effect of actual capitalization shall be given to the Distribution Licensees."

3B.44 As regards aforesaid, the Petitioner requests the Hon'ble Commission to allow the impact on account of aforesaid issue in true-up exercise of FY 2019-20. The issue has been long pending since FY 2004-05. The Hon'ble Commission did not provide the data for comparison with NDPL despite of clear cut direction given by Hon'ble APTEL in Judgment dated October 6, 2009 (Appeal 36 of 2008) stating that the onus is on Appellant. Further the Hon'ble Commission provided only covering letters without any annexure (which actually contains the details of TPDDL prices) despite of further directions given by Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012). Now the Hon'ble Commission is maintaining that it has given necessary data which is incorrect as only cover letters have been provided which are of no use for the purpose of carrying out the direction of Hon'ble APTEL. Further the Hon'ble Commission has also liked REL issue with



physical verification of assets.

- 3B.45 It is further submitted that the Hon'ble Tribunal in Judgment dated September 30, 2019 (Appeal 246 of 2014) has directed the Hon'ble Commission as under:

*"21.4.1....It is not in dispute that before allowing any amount for capitalization, the State Commission has to carry out prudence check so as to verify authenticity of the capital deployed during the period to arrive at ROCE and other related claims. Ideally, physical verification of the assets should be periodically done but, in the prevailing scenario, it is observed that the same is pending since long and the Appellant is claiming ROCE as per the certificate issued by the Electrical Inspector on time to time. The Electricity Rules, 1956 and Central Electricity Authority Regulations provides for detailed inspection by Electrical Inspector before issuance of any certificate for usage of a particular assets of the licensee. In view of these facts, **if the capitalization of assets remains pending for want of physical verification, it will have a severe effect on the cash flow of the Appellant, thereby making it difficult to operate on a commercially viable manner which in turn would increase the burden on the consumers by way of increase in carrying cost.** While considering the submissions of learned counsel for the Respondent Commission, **it is essential that whatever capital is deployed by the Appellant in a particular period has to be approved by the Commission. Any mismatch in the capital deployed and that approved by the Commission results into the dispute as in the case in hand.***

*21.4.2 To be more specific, the Appellant claims the capitalization figure of Rs. 316.20 crores against which the Commission has allowed only Rs.200.88 crores. In the light of these facts, **what thus, transpires is that the figures projected for capitalization by the Appellant and that considered by the Respondent Commission need to be reconciled and allowed for actual capitalization in line with the MYT Regulations, 2011. We, therefore, of the opinion that this issue needs to be reexamined by the Commission in consideration of all facts and figures. This issue, as such, is decided in favour of the Appellant.**" (Emphasis added)*

As evident from above, the Hon'ble Commission has been directed to allow capitalisation based on actuals as per applicable Tariff Regulations. Therefore the Petitioner requests the Hon'ble Commission to allow the impact in trueing-up exercise of FY 2019-20.

- 3B.46 However, the Hon'ble Commission in Tariff Order dated 28.08.2020 has again taken the stand of pendency of civil appeal before Hon'ble Supreme Court despite no stay for non-implementation of directions of Hon'ble APTEL. This is contrary to



the Hon'ble Commission's affidavit filed in Appeal 14 of 2012 that it is duty bound to implement the directions of Hon'ble tribunal.

PRAYER(S):

- 3B.47 Accordingly the Petitioner once again requests the Hon'ble Commission to:
- 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
 - 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 with TPDDL.
 - In case physical verification report is not finalised even during the current tariff determination exercise, the impact may be allowed pending physical verification of assets. Any adjustment (positive or negative) may be done in subsequent tariff exercise.
- 3B.48 Without prejudice to the contentions in the Appeal(s), the implementation of the aforesaid direction shall translate into increase in Depreciation from FY 2004-05 to FY 2006-07 and RoCE and Depreciation from FY 2007-08 to FY 2018-19. 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 at Para-3B.109 to Para-3B.177.

Issue-3: True-up of interest rates of loans

Issue in brief:

- 3B.49 The Petitioner submits that the Hon'ble Commission has not implemented the directions of the Hon'ble APTEL in Judgment dated November 28, 2014 in Appeal No. 62 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



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 true-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. 36/37 of 2008. The Hon'ble APTEL 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>
3.	26.08.2011	The issue of true-up of cost of debt was again raised in Appeal 62 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	The Hon'ble Commission vide its Order dated 13.07.2012 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. 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. 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 62 of 2012) with respect to the rate of interest during first control period was pending adjudication before the Hon'ble Tribunal which would lead to revision in cost of debt approved from FY 2012-13 to FY 2014-15. As mentioned hereinbelow, 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. 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.
5.	11.07.2013	The Petitioner vide letter number RA/BYPL/2013-14/470 dated 11.07.2013 submitted the informations in support of the interest rates of loans availed from FY 2007-08 to FY 2011-12.
6.	01.09.2014	The Petitioner vide letter number RA/BYPL/2014-15/897 dated 01.09.2014 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.

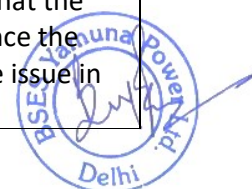


S.No	Date	Event
7.	28.11.2014	The Hon'ble APTEL in its Appeal 62 Judgment directed the Hon'ble Commission as under: <i>"37. On perusal of the data submitted by the Appellant related to SBI PLR, it is clear that SBI PLR has deviated by more than 1% during the control period and accordingly the Commission 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 228avour of the Appellants."</i> (Emphasis supplied)
8.	19.12.2014	Subsequent to the pronouncement of the Appeal 62 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 APTEL in the Appeal 62 Judgment for the first control period.



S.No	Date	Event
9.	10.02.2015	Meanwhile, on the issue of rate of interest for working capital loans, the Hon'ble APTEL vide its Appeal 171 Judgment ruled as under: <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> (Emphasis supplied) On the issue of rate of interest for long term debt, the Hon'ble APTEL in the said Judgment ruled as under: <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>

S.No	Date	Event
		[...] <i>14.7.... 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. 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."</i> (Emphasis supplied)
10.	10.06.2015	The Petitioner vide letter number RA/BYPL/2015-16/80 dated 10.06.2015 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 APTEL in the Appeal 62 Judgment, will tantamount to revision in interest rates of loans during second control period.
11.	06.07.2015	The Petitioner vide its letter number RA/BYPL/2015-16/101 dated 06.07.2015 submitted the audited interest statement for FY 2013-14.
12.	29.09.2015	Despite the Appeal 62 Judgment of the Hon'ble APTEL, by way of the Tariff Order dated 29.09.2015, the Hon'ble Commission neither revised 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& 31.07.2019	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.
14.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order



Detailed Submissions:

3B.50 The Hon'ble Commission in Tariff Order dated February 23, 2008 ruled as under:

"4.224 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.51 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.52 The Hon'ble APTEL 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 favor of the Appellants.**"(Emphasis added)*

3B.53 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 26, 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:

"3.28 The Commission has already clarified this issue in Tariff Order dated. 29/09/2015 as follows and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon'ble APTEL:

"3.29 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% (14.01%-12.50%) in FY 2011-12.

3.30 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 11.32% (9.19% + 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.54 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 its 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.55 The Petitioner requests the Hon'ble Commission to implement the directions of Hon'ble Tribunal and its own observations at Para-4.224 of Tariff Order dated February 23, 2008 in true letter and spirit.
- 3B.56 Further the Hon'ble APTEL 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.57 The Petitioner vide its letter dated June 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 9.54%, 9.89% and 10.17% 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. 62 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 APTEL 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.58 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.59 The Petitioner has considered the actual rate of interest for the purpose of computation of RoCE from FY 2007-08 to FY 2018-19 which are as under:

Table 3B- 4 : Rate of interest for RoCE Computation FY 2007-08 to FY 2018-19

Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
Rate of Interest	10.77 %	11.31 %	11.42 %	12.09 %	14.09 %	14.6 %	14.4 %	14.3 %	14.1 %	13.8 %	13.7 %	13.9 %

PRAYER(S):

3B.60 Without prejudice to the contentions in the pending Appeal(s), 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 62 of 2012) in true letter and spirit. The implementation of the aforesaid direction shall translate into increase in RoCE from FY 2007-08 to FY 2018-19. 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.109 to Para-3B.177.

Issue-4: Repayment of loans

Issue in brief:

3B.61 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 APTEL vide its Judgment in Appeal No. 62 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:

S.No	Date	Event



S.No	Date	Event																
1.	20.11.2001	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: TABLE – 1 <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>290</td><td></td></tr><tr><td>2</td><td>Equity</td><td>116</td><td>40%</td></tr><tr><td>3</td><td>Debt</td><td>174</td><td>60%</td></tr></table> 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. 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.	S. No	Particulars	Amount (Rs. Cr.)	%	1	Net Fixed Assets	290		2	Equity	116	40%	3	Debt	174	60%
S. No	Particulars	Amount (Rs. Cr.)	%															
1	Net Fixed Assets	290																
2	Equity	116	40%															
3	Debt	174	60%															
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.																



S.No	Date	Event
4.	23.02.2008	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. Further, the Hon'ble Commission in this Tariff Order considered the working capital funding entirely through debt (in paras 4.221- 4.223 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.
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).



S.No	Date	Event																														
6.	31.07.2013	As stated above, the MYT Regulations, 2007 set out the principles for determination of debt-equity in the ratio of 70:30.																														
		Pending the physical verification of assets, the Hon’ble Commission vide its Order dated 31.07.2013, in para 3.162, Table 53 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:																														
		TABLE – 2 (Rs. Cr.)																														
		<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>39.91</td><td>44.19</td><td>22.95</td><td>12.81</td><td>13.65</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>93.31</td><td>103.11</td><td>53.54</td><td>29.89</td><td>31.84</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	39.91	44.19	22.95	12.81	13.65	Internal Accruals (%)	30%	30%	30%	30%	30%	Loan	93.31	103.11	53.54	29.89	31.84	Loan (%)	70%	70%	70%	70%	70%
		Particulars	FY 08	FY 09	FY 10	FY 11	FY 12																									
		Internal Accruals	39.91	44.19	22.95	12.81	13.65																									
Internal Accruals (%)	30%	30%	30%	30%	30%																											
Loan	93.31	103.11	53.54	29.89	31.84																											
Loan (%)	70%	70%	70%	70%	70%																											



S.No	Date	Event
7.	28.11.2014	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 hence reducing the return on equity allowable to the Petitioner. By its judgment in the said appeal ("Appeal 62 Judgment") the Hon'ble Tribunal after a detailed analysis <i>inter alia</i> concluded that:- <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> Hence, the Appeal 62 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>
8.	22.06.2015	In point of fact, the Petitioner had opposed the proposed formulation of net-worth by the Hon'ble Commission vide its letter No. RA/BYPL/2015-16/88 dated 22.06.2015. This letter 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.



S.No	Date	Event
9.	29.09.2015	The Tariff Order dated 29.09.2015, (paras 3.31-3.35) 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. 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).
10.	31.08.2017	The Hon’ble Commission vide its tariff order dated 31.08.2017 (paras 3.31) held that it had already clarified the said issue in the Tariff Order dated 29.09.2015 (Para nos. 3.32 to 3.35) and the matter was therefore not deliberated as it is <i>sub-judice</i> before the Hon’ble APTEL in Appeal No. 290/ 2015. The relevant extracts of the said order are set out below: <i>“The Commission has already clarified this issue Tariff Order dated. 29/09/2015 in para nos. 3.32 to 3.35 and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon’ble APTEL in Appeal No. 290/2015”.</i>
11.	31.10.2017	The Hon’ble Commission had filed a Clarificatory Application in Appeal 178 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& 31.07.2019	The Hon’ble Commission vide its tariff order dated 28.03.2018 and 31.07.2019 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.



S.No	Date	Event
13.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.62 As per DERC Tariff Regulations, 2007 and DERC Tariff Regulations, 2011, depreciation shall be considered towards repayment of loans.

3B.63 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.64 The issue was challenged before Hon'ble APTEL in Appeal 61 and 62 of 2012. The Hon'ble APTEL 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.65 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.66 The Petitioner in its Petition for True-up of FY 2017-18 and ARR and Tariff of FY 2019-20 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated July 31, 2019 ruled as under:

"3.49 This issue had already been discussed and clarified in Tariff Order dated 29.09.2015 and requires no further deliberation at this juncture, as the matter is sub judice before Hon'ble Supreme Court of India. Further, the Petitioner has also agitated this issue in the Appeal No. 290 of 2015 filed before Hon'ble APTEL."

3.50 Further, the Commission in its Tariff Order dated March 28, 2018 deliberated 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 its 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.67 As regards aforesaid, it is respectfully submitted that there is no bar on the Hon'ble Commission to implement the directions of Hon'ble APTEL in Judgment dated November 28, 2014 (Appeal 62 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 62 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.68 It is respectfully submitted that the remand in terms of Judgment dated November 28, 2014 (Appeal 62 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. JagatMohini Des*, AIR (1952) Calcutta 368;
 - *Amrik Singh vs. Union of India* (2001) 10 SCC 424;
 - *Union of India &Anr. Vs. Major BhadurSingh*(2006) 1 SCC 3670; and
 - *Prakash Singh Badal&Anr. Vs. State of Punjab and Ors.* (2007) SCC 1.

3B.69 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.

- 3B.70 It is further submitted that the Petitioner in its True-up and ARR Petitions filed after Tariff Order dated 29.09.2015 has been regularly pointing out the incorrect approach adopted for computation of equity and balance leading to mismatch between the capitalisation and funds allowed for respective years. However the Hon'ble Commission without dealing with the same has been relying on its Tariff Order dated 29.09.2015.

PRAYER(S):

- 3B.71 Without prejudice to the contentions in the pending Appeal(s), 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 62 of 2012) in true letter and spirit. The implementation of the aforesaid direction shall translate into increase in WACC which in turn will increase RoCE from FY 2007-08 to FY 2018-19. 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.109 to Para-3B.177.

Issue-5: Financing of Working capital in debt-equity ratio of 70:30

Issue in brief:

- 3B.72 This issue pertains to the non-implementation of the Judgment of the Hon'ble APTEL 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	The Hon'ble APTEL directed Hon'ble Commission to compute the WACC by considering working capital to be funded in the debt equity ratio of 70:30



S.No	Date	Event
2.	31.07.2013 & 23.07.2014	In the Tariff Order dated 31.07.2013 and Tariff Order dated 23.07.2014, the Hon'ble Commission didnot implement the directions of the Ahon'bleAPTEL.
3.	28.11.2014	The Hon'ble APTEL upheld its directions given in judgment dated 31.05.2011 and directed the Hon'ble Commission to implement our directions in letter and spirit.
4.	29.09.2015	The Hon'ble Commission in its Tariff Order dated 29.09.2015 purported to implement the directions of Hon'ble APTEL. However the Hon'ble Commission instead of implementing the directions of Hon'ble APTEL has chosen to allow the funding of working capital based on the formulae of net-worth as which is contrary to the directions of the Hon'ble APTEL.
5.	31.07.2019	The Hon'ble Commission in Tariff Order dated 31.07.2019 in para nos. 3.41 & 3.42 relied upon its finding in the previous Tariff Orders dated 29.09.2015, 31.08.2017 & 28.03.2018 and has held that the matter is sub judice before the Hon'ble Supreme Court of India
6.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.73 The Hon'ble APTEL 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.74 In view of the directions of the Hon'ble APTEL, 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 62 of 2012.

3B.75 The Hon'ble APTEL once again in its Judgment dated November 28, 2014 (Appeal 62 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.76 The Petitioner in its Petition for True-up of FY 2017-18 and ARR and Tariff of FY 2019-20 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated July 31, 2019 ruled as under:

"3.56 This issue has already been discussed and clarified in the Tariff Order dated 29.09.2015 in para nos. 3.22 to para nos. 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.

3.57 Further, it is clarified that the Commission has implemented its MYT Regulations, 2007 & 2011 and directions of Hon'ble APTEL in letter & spirit. The formula specified in MYT Regulations, 2007 & 2011 does not provide opening working capital requirement to be a 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 and thus require no further deliberation at this juncture, as the matter is sub judice before Hon'ble Supreme Court of India."

3B.77 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble APTEL 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.78 Without prejudice to the contentions in the Appeal, it is respectfully submitted that the Hon'ble Commission may be pleased to allow the impact on account of the said issue.
- 3B.79 The implementation of the aforesaid direction shall translate into increase in WACC which in turn will increase RoCE from FY 2007-08 to FY 2018-19. 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.106 to Para-3B. 174.

Issue-6: Recasting of means of finance based on actual consumer contribution capitalised

Issue in brief:

- 3B.80 This issue pertains to the non-implementation of the Judgment of the Hon'ble APTEL 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	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. 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>



S.No	Date	Event
2.	17.06.2009	The Hon'ble Commission wrote a letter to the Petitioner stating that the 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.



S.No	Date	Event
3.	3.12.2009	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: <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> The Hon'ble Commission further gave the following directions to the Petitioner: <i>"Accordingly, the Commission hereby orders as under:</i> <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	The Petitioner filed a petition before the 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 the Hon'ble Commission being Petition No. 02/2010. In the said Petition, the Petitioner inter alia sought the following reliefs from the Hon'ble Commission: - 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	The Hon'ble Commission vide its order dated March 11, 2014 passed in Petition No. 02/2010, was pleased to partly allow the Petition filed by the Petitioner. The Hon'ble Commission vide its Order dated March 11, 2014 was pleased to expunge the remark '<i>...but also a dishonest one,</i>'. However, the Hon'ble Commission declined to interfere with the directions of the Hon'ble Secretary (DERC) as contained in the letter dated December 3, 2009.



S.No	Date	Event
6.	----	Being aggrieved by the order dated March 11, 2014 passed by the 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. 111 of 2014. Briefly put, the Petitioner's case before the Hon'ble Tribunal was that the 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 the Hon'ble Commission to adopt either of the following methodologies: - 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 the 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 the 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	The Hon'ble APTEL was pleased to allow the Appeal with the following directions: "18. Summary of findings: <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 consumers 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> 19. <i>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</i>



S.No	Date	Event
		<i>thinks fit and proper in the facts and circumstances of these matters. No order as to costs."</i>
8.	23.12.2015	The Hon'ble Commission disposed off 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.	17.03.2016	The Petitioner, vide letter number RA/BYPL/2015-16/355 dated 17.03.2016 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.	30.06.2016	The Petitioner, vide letter number RA/BYPL/2016-17/91 dated 30.06.2016 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).



S.No	Date	Event
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.	02.2017	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.
14.	08.2017	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. 2 of 2010 (which already stood disposed off 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 ARRs of previous years upto FY 2015-16 have already been trued up and it would not be desirable to recast ARRs 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 ARRs."</i>
16.	---	Aggrieved from the aforesaid interim order, the Petitioner has challenged the same before Hon'ble APTEL which is pending adjudication.
17.	31.07.2019	The Hon'ble Commission has relied on its Order dated 18.06.2018 and has stated that the Petitioner has filed an Appeal before Hon'ble APTEL which is pending adjudication.



S.No	Date	Event
18.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order.

Detailed Submissions:

- 3B.81 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.82 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.83 The Petitioner on January 5, 2010 filed a petition bearing No.02/2010 before the Hon'ble Commission requesting to modify its letter dated December 3, 2009 and consider implementing the principles prospectively.
- 3B.84 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.85 The said issue was challenged by all DISCOMs including the Petitioner, BRPL and TPDDL before Hon'ble APTEL in Appeal 109, 110 and 111 of 2014. The Hon'ble APTEL 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 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 ARR's from FY 2002-03 onwards in reducing the retail supply tariffs...."

- 3B.86 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.87 With reference to the aforesaid directions, the Petitioner vide its letter dated March 17, 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.88 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.89 The Petitioner vide its letter dated June 30, 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.90 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.91 The issue was challenged before Hon'ble APTEL in Appeal No. 104 of 2017. The Hon'ble APTEL 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.92 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 re-casting the ARR's for the simple reason that the Order dated 18.06.2018 was a quorum non-judice since the same had been passed while the Commission was *functus officio* in a disposed off proceeding.

3B.93 The Hon'ble Commission has issued three Tariff Order dated 28.03.2018,



31.07.2019 and 28.08.2020 after the aforesaid Judgment of Hon'ble Supreme Court. However, the means of finance has yet not been re-casted in respective ARR's.

PRAYER(S):

- 3B.94 Without prejudice to the contentions in the Appeal, the Petitioner once again requests the Hon'ble Commission to re-cast the ARR's of respective years by considering the impact on account of the aforesaid direction.
- 3B.95 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 in Para-3B.109 to Para-3B.177.

Issue-6a: Reopening of debt-equity ratio stipulated in transfer scheme and erroneous net-worth computations:

Issue in brief:

- 3B.96 As per Transfer Scheme, 2001, Genco, Transco and three DISCOMs were handed over the assets and liabilities. The debt-equity ratio as per Transfer Scheme, 2001 is tabulated below:

Table 3B- 5 : Debt-Equity ratio as per Transfer Scheme, 2001

S. No	Particulars	Amount (Rs. Cr.)	Percentage
1	GFA	360	
2	Accumulated Depreciation	70	19%
3	Equity	116	32%
4	Debt	174	48%

- 3B.97 The Hon'ble Commission in Tariff Order dated 23.02.2008 considered the funding of assets covered under transfer scheme as per the funding provided in Balance Sheet of Transfer Scheme, 2001. Further the Hon'ble Commission approved the means of finance for the capitalisation approved from FY 2002-03 to FY 2006-07 in the following priority:



- a. Consumer Contribution;
- b. APDRP Grants;
- c. APDRP Loans;
- d. Unutilised Depreciation;
- e. Balance through internal accruals and loans in debt-equity ratio of 70:30.

3B.98 For first control period starting from 1.03.2008, 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 30.05.2007 which was made applicable from 01.03.2008 to FY2011-12. 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.

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, 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)

- 3B.99 On 2.12.2011, the Hon'ble Commission notified the 2011, MYT Regulations, which were to come into force on April 1, 2012. Regulation 5.11 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; ..."

- 3B.100 In accordance with the aforesaid Regulations, the Hon'ble Commission in Tariff Order dated 31.07.2013 allowed the funding of provisionally approved capitalisation from FY 2007-08 to FY 2011-12 in debt-equity ratio of 70:30. Further the debt-equity ratio for the assets funded till FY 2006-07 was not altered. The depreciation was deducted from GFA and was not utilised as means a finance. Accordingly the returns were provided on net fixed assets.
- 3B.101 In accordance with the MYT Regulations, 2011, the Hon'ble Commission in Tariff Order dated 23.07.2014 allowed the funding of provisionally approved capitalisation during FY 2012-13 in debt-equity ratio of 70:30. Further the debt-equity ratio for the assets funded till FY 2011-12 was not altered. The depreciation was deducted from GFA and was not utilised as means a finance. Accordingly the returns were provided on net fixed assets.



- 3B.102 The Hon'ble Commission in Tariff Order dated 29.09.2015 (Para-3.180), contrary to Transfer Scheme, 2001 suo-motu reopened the debt-equity ratio specified in transfer scheme, 2001 and also the principle for financing of capital expenditure from FY 2002-03 to FY 2006-07 carved out at Para-3.64 of DERC Tariff Order dated 23.02.2008 and capped average equity upto 30% from FY 2002-03 onwards for the years where average equity was more than 30%. Further it is a settled financial principle that the amount of capital expenditure/ capitalisation is required to be matched with the funds, i.e., consumer contribution, grants, equity and debt. However 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.
- 3B.103 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- 6 :Equity schedule based on average equity numbers considered in Table-3.36 and Table-3.50 of Tariff Order dated September 29, 2015

(Rs. Crore)

S. No	Financial Year	Opening Equity	Additions	Closing Equity	Average Equity Considered
1	FY 2002-03	116	-102	14	65
2	FY 2003-04	14	-28	-14	0
3	FY 2004-05	-14	28	14	0
4	FY 2005-06	14	-20	-6	4
5	FY 2006-07	-6	112	107	50
6	FY 2007-08	107	-121	-15	46
7	FY 2008-09	-15	122	107	46
8	FY 2009-10	107	10	118	112
9	FY 2010-11	118	220	337	228
10	FY 2011-12	337	173	511	424
11	FY 2012-13	511	-235	276	394
12	FY 2013-14	276	239	516	396

Table 3B- 7 :Debt schedule based on average debt numbers considered in Table-3.35 and Table-3.50 of Tariff Order dated September 29, 2015

(Rs. Crore)

S. No	Financial Year	Opening Debt	Additions	Closing Debt	Average Debt Considered
1	FY 2002-03	174	25	199	186
2	FY 2003-04	199	23	222	210



3	FY 2004-05	222	227	448	335
4	FY 2005-06	448	231	680	564
5	FY 2006-07	680	194	873	777
6	FY 2007-08	873	-125	749	811
7	FY 2008-09	811	499	1310	1060
8	FY 2009-10	1060	215	1276	1168
9	FY 2010-11	1168	-84	1084	1126
10	FY 2011-12	1126	-272	854	990
11	FY 2012-13	990	240	1230	1110
12	FY 2013-14	1110	128	1237	1173

3B.104 Based on the above the funding of capitalisation is tabulated below:

Table 3B- 8 :Means of finance for Policy Direction Period

(Rs. Crore)

Table 3B- 9:Means of finance from FY 2007-08 to FY 2013-14

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Capex	56	88	414	299	209
2	Closing sundry creditors				104	85
3	Total financing reqd.	52	88	414	403	295
4	Means of finance					
a	Consumer contribution	8	14	34	17	21
b	APDRP Grants		16			
c	APDRP Loans		16			
d	Depreciation	8	9	9	38	43
e	Internal accruals	-102	-28	28	-20	112
f	Loan	25	23	227	231	194
g	Sundry creditors			104	85	
5	Gap left in funding	113	38	12	51	-76

(Rs. Crore)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
A	Capitalisation	133	156	98	103	50	23	140



S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
B	Working Capital	140	21	-12	-32	-2	80	54
C	Total	273	177	86	71	48	103	194
D	Means of Finance							
1	Consumer contribution	2	10	23	62	11	9	27
2	Equity	-121	122	10	220	173	-235	239
3	Debt	-125	499	215	-84	-272	240	128
4	Total	-244	631	248	197	-88	15	394
E	Gap left in funding	517	-453	-163	-126	136	88	-200

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.105 The Petitioner in its Petition for True-up of FY 2016-17 and ARR and Tariff for FY 2018-19 raised this issue. The Hon'ble Commission in Tariff Order dated 28.03.2018 directed the Petitioner as under:

*"3.319 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.106 Accordingly the Petitioner in its Petition for Truing-up of FY 2017-18 and ARR and Tariff for FY 2019-20 again raised this issue and also submitted detailed computation of Debt-equity and RoCE. However the Hon'ble Commission in Tariff Order dated July 31, 2019 did not gave any specific finding on this issue and ruled as under:

"3.199 The Commission has been dealing the issues in respective Tariff Orders as per applicable Tariff Regulations issued from time to time. As the issues pleaded for merit reconsideration by the Petitioner are already under challenge in various Tariff Appeals filed by the Petitioner and which are presently pending adjudication before Hon'ble APTEL, no further deliberation



at this juncture is required.”

- 3B.107 The Petitioner again requests the Hon’ble Commission to rectify the error on the following grounds:
- Inconsistency in capital expenditure and capitalisation allowed vis-a-vis funding of the same;
 - Suo-motu reopening of principle for funding of capital expenditure from FY 2002-03 to FY 2006-07 established in Tariff Order dated 23.02.2008;
 - The Hon’ble Commission has derived net-worth from audited statements. However 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.
 - The Hon’ble Commission has not implemented various APTEL Directions given in Judgment dated 06.10.2009, 12.07.2011, 28.11.2014, 2.03.2015 pending outcome of civil appeal filed by the Hon’ble Commission challenging these APTEL Directions before Hon’ble Supreme Court. However there is no stay on implementation of these APTEL Directions. Thus the financial books do not correctly reflect the actual net-worth as the revenue on account of implementation of these directions which pertain to period from FY 2004-05 to FY 2017-18 has yet not been realised.
 - The Hon’ble Commission has yet not given effect of actual capitalisation on account of pendency of physical verification exercise which is pending since FY 2004-05. The Petitioner submits that when actual capitalisation appearing in audited financial statements is not being considered for computation of RoCE and depreciation pending physical verification of assets then how the audited financial statements can be utilised for computation of net-worth pending physical verification of assets.
- 3B.108 The impact on account of correction of aforesaid error has been considered along with impact of other capex related issues at Para-3B.109 to Para-3B.177 of the Petition.

Impact on account of the directions related to capitalisation from FY 2002-03 to FY 2018-19:



- 3B.109 The Petitioner has considered the capital expenditure and capitalisation from FY 2002-03 to FY 2018-19 as per the directions of Hon'ble APTEL given in Judgment dated October 6, 2009 (Appeal 36 of 2008), March 2, 2015 (Appeal 178 of 2012) and September 30, 2019 (Appeal 246 of 2014) which is the law as of date. The Hon'ble APTEL has also opined the same in Judgment dated February 11, 2014 (Appeal Nos. 112, 113 and 114 of 2013) which is reproduced 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.110 Also the Hon'ble Commission has tendered an unconditional apology on Affidavit before Hon'ble APTEL 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 APTEL. 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.111 However, the implementation of directions of Hon'ble APTEL in various Judgments has not found any place till now in the previous tariff orders.
- 3B.112 Since the implementation of APTEL 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.113 The REL Disallowances as considered by the Hon'ble Commission in Tariff Order dated February 23, 2008 is tabulated below:

Table 3B- 10: Year-wise REL Disallowances

(Rs. Crore)



S. No	Particulars	FY 05	FY 06	FY 07	FY 08
1	REL Disallowances	6.37	41.08	65.92	57.47

EIC Disallowances:

3B.114 As regards the issue of allowance of capitalisation based on EI Certificates, the Hon'ble APTEL 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.115 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.116 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.117 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 in terms of its Order dated 28.05.2018 passed in Petition No. 35 of 2013.

3B.118 Consequently, the Closing GFA as on March 31, 2007 will get revised which is tabulated as under:

Table 3B- 11 : GFA from FY 2002-03 to FY 2006-07

(Rs. Crore)

S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
1	Opening GFA	360.0	382.7	461.5	687.2	1,043.9
2	Opening CWIP	-	33.7	42.5	232.5	229.9
3	Investment during Year	56.4*	87.7*	415.8	358.2	282.6
4	Assets capitalised	22.7*	78.8*	225.8	360.8	237.3
5	Closing WIP	33.7	42.5	232.5	229.9	275.2
6	Less: Retirements	-	-	0.1	4.1	1.9



S. No	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
7	Closing GFA	382.7	461.5	687.2	1,043.9	1,279.3

* Includes amount transferred from R&M and A&G expenses to capex(as considered by the Hon'ble Commission in Tariff Order dated 26.03.2003 & 09.06.2004).

b) Capital Expenditure and Capitalisation from FY 2007-08 to FY 2018-19:

3B.119 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 have not been considered as it is expected that the Hon'ble Commission will implement Hon'ble APTEL Judgment dated October 6, 2009.

3B.120 Further, the Petitioner has also considered de-capitalisation of assets from FY 2007-08 to FY 2018-19 provided that the Hon'ble Commission also allows the loss on assets retirement of assets in terms of its Order dated 28.05.2018 passed in Petition No. 35 of 2013.

3B.121 Based on the above submissions, the capitalisation from FY 2007-08 to FY 2018-19 is tabulated below:

Table 3B- 12: Capitalisation from FY 2007-08 to FY 2018-19

(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	FY 19
1	Capitalisation during FY	249.2	276.7	188.3	208.9	97.0	69.1	148.6	245.0	261.9	242.2	347.0	338.3
2	De-capitalisation	2.3	1.3	1.3	1.4	5.7	45.8	8.2	20.0	45.9	24.7	27.9	23.4

3B.122 Accordingly the GFA from FY 2007-08 to FY 2018-19 is tabulated below:

Table 3B- 13:Gross Fixed Assets from FY 2007-08 to FY 2018-19

(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	FY 19
A	Opening GFA	1279.3	1526.3	1801.7	1988.8	2196.2	2287.5	2310.8	2451.1	2676.1	2892.1	3109.6	3428.7
B	Capitalisation during FY	249.2	276.7	188.3	208.9	97.0	69.1	148.6	245.0	261.9	242.2	347.0	338.3

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	FY 19
C	De-capitalisation	2.3	1.3	1.3	1.4	5.7	45.8	8.2	20.0	45.9	24.7	27.9	23.4
D	Closing GFA	1526.3	1801.7	1988.8	2196.2	2287.5	2310.8	2451.1	2676.1	2892.1	3109.6	3428.7	3743.6
E	Average GFA	1402.8	1664.0	1895.3	2092.5	2241.8	2299.1	2381.0	2563.6	2784.1	3000.9	3269.2	3586.1

3B.123 The Petitioner requests the Hon'ble Commission to allow the GFA from FY 2002-03 to FY 2018-19 as stated in above tables.

c) Means of finance:

3B.124 The Petitioner has considered the funding of capitalisation from FY 2002-03 to FY 2018-19 in debt-equity ratio of 70:30 after deducting actual consumer contribution capitalised from FY 2002-03 to FY 2018-19 (unspent consumer contribution not considered) in terms of Hon'ble APTEL directions in Judgment dated February 23, 2015.

d) Funding of capital expenditure from FY 2002-03 to FY 2006-07:

3B.125 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- 14: 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	Capital Expenditure	56	88	414	299	209
B	Closing value of sundry creditors				104	85
C	Financing Required	52	88	414	403	295
	Funding					
D	Consumer Contribution	8	14	34	17	21
E	APDRP Grants		16			
F	APDRP Loans		16			
G	Depreciation	8	9	9	38	44



H	Internal accruals	11	10	40	31	36
I	Loan	25	23	227	231	194
J	Closing value of sundry creditors			104	85	
K	Total	52	88	414	403	295

3B.126 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.127 In case of EI, only capitalisation was disallowed. However in case of REL Purchase, both capital expenditure and capitalisation was disallowed by the Hon'ble Commission.

3B.128 The implementation of Hon'ble APTEL 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- 15 : Revised Utilisation of depreciation from FY 03 to FY 07

(Rs. Crore)

S.No.	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
A	Depreciation Available for the year	18.1	25.6	30.9	46.0	69.8
1	Utilised for repayment of loan			2.5	4.8	5.2
2	Utilised for working capital requirement	10.1	14.4	17.3		
3	Utilised for Capital Investment	7.9	11.3	11.1	41.2	64.7

3B.129 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- 16: Revised means of finance from FY 03 to FY 07



(Rs. Crore)

S.No.	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
A	Financing Required	56.4	87.7	415.8	358.2	282.6
	Funding					
B	Consumer Contribution	-	-	1.0	2.7	5.0
C	APDRP Grant		16.2			
D	APDRP Loan		16.2			
E	Depreciation	7.9	11.3	11.1	41.2	64.7
F	Equity	14.5	13.2	121.1	94.3	63.9
G	Loan	33.9	30.8	282.6	220.0	149.1
H	Total	56.4	87.7	415.8	358.2	282.6

e) Funding of capitalisation from FY 2007-08 to FY 2018-19:

3B.130 For calculation of debt-equity during respective Financial Years, the amount of consumer contribution capitalised has been deducted from the capitalisation during the year 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 APTEL Directions in various Judgments.

3B.131 The financing of investment capitalised from FY 2007-08 to FY 2018-19 has been shown below:

Table 3B- 17: Financing of Investment capitalised from FY 2007-08 to FY 2018-19

(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	FY 19
A	Capitalisation	249.2	276.7	188.3	208.9	97.0	69.1	148.6	245.0	261.9	242.2	347.0	338.3
B	De-capitalisation	2.3	1.3	1.3	1.4	5.7	45.8	8.2	20.0	45.9	24.7	27.9	23.4
C	Consumer contribution	9.0	14.7	22.2	58.3	10.0	9.4	27.2	25.5	16.3	18.0	51.4	19.1
D	Net	238.0	260.8	164.9	149.2	81.2	13.9	113.2	199.5	199.7	199.5	267.7	295.8
E	Equity (30%)	71.4	78.2	49.5	44.7	24.4	4.2	34.0	59.8	59.9	59.8	80.3	207.1
F	Debt (70%)	166.6	182.5	115.4	104.4	56.9	9.8	79.2	139.6	139.8	139.6	187.4	88.7

f) Funding of change in working capital from FY 2002-03 to FY 2018-19:i. Funding of working capital in debt-equity ratio of 70:30:

3B.132 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 APTEL 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.133 As evident from above, the Hon'ble APTEL 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 APTEL 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 APTEL.

3B.134 Therefore, the funding of working capital has been considered in debt-equity ratio of 70:30 based on the directions given by Hon'ble APTEL 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.135 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.136 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);
- KeshavanMadhava 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.137 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.138 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.

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

3B.139 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. 41.79 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. 41.79 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. 41.79 Crore is considered as a part of equity from FY 2007-08 to FY 2011-12 as



per directions given by Hon'ble APTEL 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.140 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 2007-08 to FY 2018-19 has been shown below:

Table 3B- 18: Financing of working capital

(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	FY 19
A	Financing of working capital	124.3	16.9	98.8	59.3	36.3	- 113.3	66.5	66.9	92.1	-19.0	17.6	7.4
B	Equity (30%)	37.3	5.1	29.6	17.8	10.9	-	-	-	-	-	-	-
C	Debt (70%)	87.0	11.8	69.2	41.5	25.4	- 113.3	66.5	66.9	92.1	-19.0	17.6	7.4

3B.141 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.

g) Details of consumer contribution:

3B.142 The average consumer contribution from FY 2002-03 to FY 2018-19 is tabulated below:

Table 3B- 19: Consumer contribution

(Rs. Crore)

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	FY 19
Opening	0	1	4	9	18	32	55	113	123	132	159	185	201	219	271
Capitalised during the year	1	3	5	9	15	22	58	10	9	27	26	16	18	51	19

Closing	1	4	9	18	32	55	113	123	132	159	185	201	219	271	290
Average	1	2	6	13	25	43	84	118	128	146	172	193	210	245	280

h) Details of Grants:

3B.143 The average grants from FY 2002-03 to FY 2018-19 are tabulated below:

Table 3B- 20: Grants

(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	FY 19
A	Opening Balance	16	16	16	16	16	16	16	16	16	16	16	16
B	Additions during the year	0	0	0	0	0	0	0	0	0	0	0	0
C	Closing Balance	16	16	16	16	16	16	16	16	16	16	16	16
D	Average Grant balance	16	16	16	16	16	16	16	16	16	16	16	16

i) Depreciation:

3B.144 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 APTEL 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- 21: Computation of depreciation from FY 2002-03 to FY 2006-07

(Rs. Crore)

S.No.	Particulars	FY 03	FY 04	FY 05	FY 06	FY 07
A	Opening GFA	360.0	382.7	461.5	687.2	1,043.9
B	Additions	22.7	78.8	225.8	360.8	237.3
C	De-capitalisation	-	-	0.1	4.1	1.9
D	Closing	382.7	461.5	687.2	1,043.9	1,279.3
E	Depreciation@6.69%	18.1	25.6	30.9	46.0	69.8

3B.145 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.

Table 3B- 22: 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.146 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 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.147 Further as regards rate of depreciation, the Hon'ble APTEL in Judgment dated 30.09.2019 (Appeal 246 of 2014) has directed the Hon'ble Commission as under:

"23.4.4 In the light of these provisions and facts, we are of the opinion that the Respondent Commission ought to have computed the average depreciation rate strictly based on Tariff Regulations, 2011 and none else. It is a settled principle of law that once Regulations have been framed and are put in place, the same should be followed scrupulously by all stakeholders including the State Commission. Therefore, we decide this issue in favour of the Appellant."

3B.148 Accordingly, the Petitioner has calculated the depreciation after excluding consumer contribution from the Gross Fixed Assets in accordance with DERC Tariff Regulations, 2007, DERC MYT Regulations, 2011 and DERC Tariff Regulations, 2017. The Petitioner is now submitting the total depreciation from FY 2007-08 to FY 2018-19 as under:

Table 3B- 23: Depreciation from FY 2007-08 to FY 2018-19



(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	FY 19
A	Average GFA	1,402.8	1,664.0	1,895.3	2,092.5	2,241.8	2,299.1	2,381.0	2,563.6	2,784.1	3,000.9	3269.2	3586.1
B	Average Consumer Contribution and Grants	29.4	41.3	59.7	99.9	134.1	143.8	162.0	188.4	209.3	226.4	261.1	296.3
C	Average assets net of consumer contribution & Grants	1,373.4	1,622.7	1,835.6	1,992.6	2,107.8	2,155.4	2,218.9	2,375.2	2,574.9	2,774.5	3008.1	3289.8
D	Average rate of depreciation	3.89%	3.86%	3.83%	3.81%	3.81%	3.81%	3.80%	3.80%	3.79%	3.96%	5.23%	5.13%
E	Depreciation	53.4	62.7	70.3	75.9	80.3	82.0	84.4	90.3	97.6	109.8	157.5	168.8

3B.149 The cumulative depreciation on fixed assets from FY 2002-03 to FY 2018-19 is tabulated below:

Table 3B- 24: Cumulative Depreciation on fixed assets from FY 2007-08 to FY 2018-19

(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	FY 19
A	Opening balance of cumulative depreciation	196.4	249.8	312.4	382.7	458.6	538.9	620.9	705.3	795.6	893.2	1003.0	1160.5
B	Additions during the year	53.4	62.7	70.3	75.9	80.3	82.0	84.4	90.3	97.6	109.8	157.5	168.8
C	Closing balance of cumulative depreciation	249.8	312.4	382.7	458.6	538.9	620.9	705.3	795.6	893.2	1003.0	1160.5	1329.3

3B.150 As regards utilisation of depreciation, the Hon'ble Commission in Tariff Order dated July 31, 2013 ruled as under:

"3.151 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.151 Accordingly, the depreciation has been utilised for repayment of loan during respective financial years.

j) Working Capital

3B.152 The Working Capital from FY 2007-08 to FY 2018-19 has been calculated in accordance with DERC Tariff Regulations.

3B.153 Accordingly, the Working Capital Calculation from FY 2007-08 to FY 2018-19 is tabulated below:

Table 3B- 25: Working Capital Requirement

(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	FY 19
1	O&M Expenses- 1 Month	19	17	28	22	24							
2	Receivables- 2 Months	228	260	391	513	584	554	633	706	746	739	770	777
3	Less: PP Cost- 1 Month	80	95	138	194	230	290	303	308	257	269	281	281
4	Total WC Requirement	166	183	282	341	377	264	331	397	490	471	489	496
5	Opening WC	42	166	183	282	341	377	264	331	397	490	471	489
6	Change in WC	124	17	99	59	36	-113	67	67	92	-19	18	7

3B.154 The Working capital as shown above has been considered for calculation of Regulated Rate Base from FY 2007-08 to FY 2018-19.

k) Debt and Equity

3B.155 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- 26: Debt-Equity ratio as per Transfer Scheme

S. No	Particulars	Amount (Rs. Cr.)	Percentage



S. No	Particulars	Amount (Rs. Cr.)	Percentage
1	GFA	360	
2	Accumulated Depreciation	70	19%
3	Equity	116	32%
4	Debt	174	48%

3B.156 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.157 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.);

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)

3B.158 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 23, 2008.

3B.159 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.160 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 48% to 32%.

- 3B.161 Further, the Hon'ble APTEL vide Judgment dated November 28, 2014 (Appeal No. 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 RoCE payable to the Appellant. The issue is decided in favour of the Appellant."

- 3B.162 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 2018-19 is tabulated below:

Table 3B- 27: Average Debt Balance from FY 2002-03 to FY 2018-19

(Rs. Crore)

S. No	Financial Years	Opening	Capex	Working Capital	Repayment	Closing	Average
1	FY 2002-03	174	34		17	190	182
2	FY 2003-04	190	31		19	202	196
3	FY 2004-05	202	283		20	465	333
4	FY 2005-06	465	220		46	638	551
5	FY 2006-07	638	149		64	723	681
6	FY 2007-08	723	167	87	72	905	814
7	FY 2008-09	905	183	12	90	1009	957
8	FY 2009-10	1009	115	69	101	1092	1050
9	FY 2010-11	1092	104	41	109	1129	1111
10	FY 2011-12	1129	57	25	113	1098	1114
11	FY 2012-13	1098	10	-113	110	885	992
12	FY 2013-14	885	79	67	88	942	914
13	FY 2014-15	942	140	67	94	1055	998
14	FY 2015-16	1055	140	92	105	1181	1118
15	FY 2016-17	1181	140	-19	118	1184	1182

S. No	Financial Years	Opening	Capex	Working Capital	Repayment	Closing	Average
16	FY 2017-18	1184	187	18	118	1271	1227
17	FY 2018-19	1271	207	7	127	1358	1315

3B.163 The average equity from FY 2002-03 to FY 2018-19 is tabulated below:

Table 3B- 28: Average Equity Balance from FY 2002-03 to FY 2018-19

(Rs. Crore)

S. No	Financial Years	Opening	Capex	Working Capital	Closing	Average
1	FY 2002-03	116	15		131	123
2	FY 2003-04	131	13		144	137
3	FY 2004-05	144	121		265	204
4	FY 2005-06	265	94		359	312
5	FY 2006-07	359	64		423	391
6	FY 2007-08	423	71	37	532	477
7	FY 2008-09	532	78	5	615	573
8	FY 2009-10	615	49	30	694	655
9	FY 2010-11	694	45	18	757	725
10	FY 2011-12	757	24	11	792	774
11	FY 2012-13	792	4		796	794
12	FY 2013-14	796	34		830	813
13	FY 2014-15	830	60		890	860
14	FY 2015-16	890	60		950	920
15	FY 2016-17	950	60		1010	980
16	FY 2017-18	1010	80		1090	1050
17	FY 2018-19	1090	89		1179	1134

3B.164 The Petitioner has considered the aforesaid debt and equity balance for the purpose of computation of RoCE.

l) Advance against depreciation



3B.165 Clause-5.18 of DERC MYT Regulations, 2007 and Clause-5.21 of DERC MYT Regulations, 2007 & 2011 provides for the provision of Advance against depreciation (AAD) for the period FY 2007-08 to FY 2016-17. In accordance with the aforesaid set of computations, AAD has been computed considering the actual capitalisation as per audited accounts and revised depreciation. However, in case the Hon'ble Commission does not implement the APTEL directions and the Petitioner's entitlements as explained above, the Petitioner requests the Hon'ble Commission to allow AAD as per the numbers approved by it in the Tariff Orders. The said issue was taken up in Review Petition No. 64 of 2019 pending before the Hon'ble Commission. All information in this regard along with desired computations has also been submitted to the Hon'ble Commission vide letter dated 07.09.2020.

m) Regulated Rate Base (RRB)

3B.166 Based on the above discussions, the Regulated Rate Base (RRB) during FY 2018-19 is tabulated below:

Table 3B- 29: Regulated Rate Base

(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	FY 19
1	Opening balance of OCFA	1279											
2	Opening balance of WC	42											
3	Opening Balance of Accumulated Depreciation including AAD	223											
4	Opening Balance of Accumulated CC & Grants	25											
5	RRB - Opening	1073	1383	1571	1735	1835	1844	1665	1764	1952	2170	2254	2401



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	FY 19
6	Net Capitalisation during the year	247	275	187	207	91	23	140	225	216	218	319	315
7	Depreciation including AAD	53	90	101	109	113	110	88	94	105	112	157	169
8	CC and grants	9	15	22	58	10	9	27	26	16	18	51	19
9	Add: Depreciation on De-capitalised Assets	2	1	1	1	4	30	7	16	32	15	19	13
10	Change in WC	124	17	99	59	36	-113	67	67	92	-19	18	7
11	ΔAB	186	171	65	41	-27	-65	32	122	126	103	130	140
12	RRB - Closing	1383	1571	1735	1835	1844	1665	1764	1952	2170	2254	2402	2549
13	RRB (i)	1290	1486	1702	1815	1858	1698	1748	1891	2107	2202	2337	2479

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

3B.167 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.168 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- 30: 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	10.77%	11.31%	11.42%	12.09%	14.09%	14.66%	14.43%	14.39%	14.14%	13.84%

Rate of Interest for FY 2017-18 and FY 2018-19:

- 3B.169 As regards interest of loans for the purpose of computation of FY 2017-18 and FY 2018-19, DERC Tariff Regulations, 2017 states as under:

“85. Rate of Interest On Working Capital shall be considered as the bank rate as on 1st April of the year plus margin as specified by the Commission for the Control Period and shall be trued up on the basis of prevailing bank rate as on 1st April of the respective financial year:

Provided that the rate of interest availed through open tendering process (Competitive Bidding) among Scheduled Banks, Financial Institutions etc., shall not be trued up.

86. Interest on working capital shall be payable on normative basis notwithstanding that the Utility has availed any loan for the working capital.”

As per the aforesaid Regulation, the interest on working capital is required to be trued-up based on bank rate as on 1st April of the year plus margin as specified by the Hon’ble Commission for control period.

The margin referred to in Regulation 85 of the Tariff Regulations, 2017 is specified by the Hon’ble Commission in Regulation 22 of the Business Plan Regulations, 2017. The said Regulation provides for the margin to be 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 1 April 2017 provided that total rate of interest (i.e., MCLR plus margin) shall not exceed 14.00%.

- 3B.170 The Hon’ble Commission in Tariff Order dated 31.08.2017 determined the margin for working capital/ Regulatory Assets loans as under:

“4.116 The Commission has approved Return on Equity in terms of Regulation 2(16) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for computation of weighted average rate of interest for funding of Regulatory Asset/accumulated Revenue Gap through debt and equity shall be considered at 14.00% on pre-tax basis in its Business Plan Regulations, 2017. The rate of interest has been considered at 14% based on the Regulation 77 of DERC Tariff Regulations 2017 that Provided that in no case the rate of interest on loan shall exceed approved rate of return on equity. “

- 3B.171 The variations in SBI MCLR from 1st April 2017 to 1st April 2019 as notified by SBI on its website is tabulated below:

Table 3B- 31: Variations in SBI MCLR

S. No	Particulars	Percentage
1	SBI MCLR as on 1 st April 2017	8%
2	SBI MCLR as on 1 st April 2018	8.15%



3	SBI MCLR as on 1 st April 2019	8.55%

Therefore in terms of Tariff Regulations, 2017 even if a truing-up on the basis of MCLR had to take place, the allowable rate of interest would have to be more than 14% capped at 14%.

3B.172 Accordingly the weighted average rate of interest for debt portion for FY 2017-18 and FY 2018-19 is tabulated below:

Table 3B- 32: Weighted average rate of Interest for FY 2017-18 and 2018-19

Particulars	FY 2017-18	FY 2018-19
Rate of interest	13.75%	13.98%

3B.173 Accordingly the weighted average cost of capital from FY 2007-08 to FY 2018-19 is tabulated below:

Table 3B- 33: Weighted Average Cost of Capital (WACC)

(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	FY 19
1	Average Equity	477	573	655	725	774	794	813	860	920	980	1050	1134
2	Average debt	814	957	1050	1111	1114	992	914	998	1118	1182	1227	1315
3	Rate of debt	10.7 7%	11.3 1%	11.4 2%	12.0 9%	14.0 9%	14.6 6%	14.4 3%	14.3 9%	14.1 6%	13.8 4%	13.7 5%	13.9 8%
4	Rate of RoE	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%
5	WACC	12.7 0%	13.0 7%	13.1 8%	13.6 4%	14.8 7%	15.2 5%	15.1 7%	15.1 3%	14.9 9%	14.8 2%	14.7 9%	14.9 2%

Return on Capital Employed (RoCE)

3B.174 Based on the aforesaid discussion, the RoCE from FY 2007-08 to FY 2018-19 is tabulated below:

Table 3B- 34: RoCE from FY 2007-08 to FY 2018-19

(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	FY 19
1	RRB(i)	1290	1486	1702	1815	1858	1698	1748	1891	2107	2202	2336	2478.4
2	WACC	12.7 0%	13.0 7%	13.1 8%	13.6 4%	14.8 7%	15.2 5%	15.1 7%	15.1 3%	14.9 9%	14.8 2%	14.7 9%	14.9 2%
3	RoCE @16%	163.9	194.1	224.4	247.4	276.3	259.0	265.1	286.2	315.9	326	345	370

3B.175 The Petitioner requests the Hon'ble Commission to allow RoCE based on above computations.

3B.176 The total impact on account of capitalisation related issues as discussed above along with carrying cost is tabulated below:

Table 3B- 35: Impact of capitalisation

(Rs. Crore)

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
A	Opening balance	0	27	69	123	206	295	445	612	810	1,055	1,343	1,675
B	Addition	26	38	46	69	67	103	99	111	127	123	121	123
C	Closing Balance (A+B)	26	64	115	192	273	398	544	723	938	1,177	1,464	1,798
D	Avg. Balance	13	46	92	157	240	346	495	667	874	1,116	1,404	1,736
E	Carrying Cost rate	9%	9%	9%	9%	9%	14%	14%	13%	13%	15%	15%	15%
F	Carrying Cost (D*E)	1	4	8	14	22	47	68	88	117	166	211	261
G	Grand closing Balance (C+F)	27	69	123	206	295	445	612	810	1,055	1,343	1,675	2,058

(Rs. Crore)

S.No.	Particulars	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Opening balance	2,058	2,498	2,998	3,568	4,143	4,809
B	Addition	119	121	123	71	80	
C	Closing Balance (A+B)	2,177	2,619	3,120	3,639	4,223	4,809
D	Avg. Balance	2,118	2,558	3,059	3,604	4,183	4,809
E	Carrying Cost rate	15%	15%	15%	14%	14%	14%
F	Carrying Cost (D*E)	320	379	448	504	586	673
G	Grand closing Balance (C+F)	2,498	2,998	3,568	4,143	4,809	5,482

3B.177 Without prejudice to the contentions in the Appeal, 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: Revision in Distribution loss from FY 2007-08 to FY 2009-10

Issue in brief:



- 3B.178 This issue pertains to the non-implementation of the Judgments of the Hon'ble APTEL 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 2009-10, 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	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. 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. 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. The said MYT control period had been extended for a further year to FY 2011-12 by DERC Order dated May 10, 2011. The said MYT order was carried in Appeal before this Hon'ble Tribunal in Appeal No.36 of 2008.



3	6.10.2009	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:- <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> <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>



4	20.11.2009	A Petition was filed before the Hon'bleCommission <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. The said petition was numbered in the year 2014 as Petition No. 13-14 of 2014.
5	17.07.2014	The Hon'bleCommission dismissed the aforesaid petition. In the respectful submission of the Petitioner, the Hon'bleCommission incorrectly recorded therein that the issues raised in the said petition have already been addressed in the past tariff orders of the Hon'bleCommission.
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.



7	28.11.2014	The Hon'ble Tribunal was <i>inter alia</i> pleased to pass Judgment in Appeal No.62 2012 ("Appeal 61 Judgment") in respect of the Hon'bleCommission'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. 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'bleCommission that: The loss target could not be revised without amending the MYT Regulations; and Since other licensees have over achieved their respective targets the targets should not be reviewed. After considering both the aforesaid arguments of the Hon'bleCommission, the Hon'ble Tribunal was <i>inter alia</i> pleased to direct the Hon'bleCommission to reconsider the matter within 3 months from the date of issuance of the judgment and pass a reasoned order.
8	02.03.2015	The Hon'ble Tribunal was pleased to pass judgment in Appeal No.177-178 of 2012 ("Appeal 178 Judgment"). In para 13 of the said Judgment, once again the Hon'ble Tribunal was <i>inter alia</i> pleased to direct the Hon'bleCommission to implement the judgment of the Hon'ble Tribunal in the Appeal 36 Judgment and the Appeal 61 Judgment.
9	20.04.2015	The Hon'bleCommission passed an order the Petition No.13-14/2014, which already stood dismissed <i>in limine</i> vide order dated July 17, 2014. The Hon'bleCommission 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.



10	May 26, 2015	The abovementioned order dated April 20, 2015 was challenged by the Petitioner in Appeal No. 156 of 2015.
11	29.09.2015	The Petitioner in the ARR Petitions has been consistently seeking for the implementation of the directions of the Hon'ble Tribunal in the Appeal 62 Judgment (and the Appeal 178 Judgment), wherein the Hon'ble Commission was directed to reconsider the captioned issue within 3 months and pass a reasoned order. 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. 156 of 2015). The proceedings are presently pending before the Hon'ble Tribunal.
12	31.08.2017 , 28.03.2018 & 31.07.2019	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.
13	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order.

Detailed Submissions:

3B.179 The Hon'ble APTEL 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.180 The Petitioner vide letter dated December 02, 2009 submitted the representation within one day of the date of receipt of certified copy of the Judgment. The same was listed for admittance hearing by 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.181 The Petitioner challenged the aforesaid issue in Appeal 231 of 214 before Hon'ble APTEL. During the course of proceedings before Hon'ble APTEL, 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.182 It is respectfully submitted that the Hon'ble Commission in Order dated April 20, 2015 did not implement the direction given by Hon'ble APTEL in its real intended scope. The Petitioner has challenged the same in Appeal No. 156 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 APTEL in Judgment dated October 6, 2009 was to:
- Consider the plea for necessary amendment in distribution loss based on representation of DISCOMs;
 - Amend the Regulations if required.
- 3B.183 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:



"3.84 The Commission has already clarified this issue in Tariff Order dated. 31/08/2017, and needs no further deliberation, as follows:

"3.86 The Commission in its Tariff Order dated. 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.184 As regards above, it is submitted that the Hon'ble Commission's Order dated April 20, 2015 was based upon the finding that the Petitioner had achieved the loss targets. The Petitioner reiterates that the same fact cannot deprive the Petitioner of its legitimate entitlement in terms of the APTEL judgment.
- 3B.185 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 8.19% 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.186 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 afixation 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.187 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:

*"3.148 In the MYT petition, the Petitioner had claimed total power purchase of 5297 MU, 3059 MU as unit billed and units realized as 3230 MU. It has shown **distribution losses of 42.3%**, collection efficiency of 105.58% and AT&C loss level of 39.03%.*

.....

4.31 Further, the Commission has assumed collection efficiency of 99.00%, 99.25%, 99.50% and 99.50% for current dues for 34.11%, 29.99%, 25.89% and 21.61% 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 51: Commission Approved AT&C and Distribution Loss Reduction Trajectory

Particular	FY08	FY09	FY10	FY11
AT & C loss target	34.77%	30.52%	26.26%	22.00%
A T & C loss Reduction over previous year	4.26%	4.26%	4.26%	4.26%
Distribution loss target	34.11%	29.99%	25.89%	21.61%
Collection Efficiency	99.00%	99.25%	99.50%	99.50%

"

As evident from above, the Hon'ble Commission has set distribution loss target of 34.11% in one month, i.e., March 2008.

- 3B.188 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- 36: AT&C Loss trajectory from FY 08 to FY 11

S. No	Particulars	Closing of FY 07	FY 08	FY 09	FY 10	FY 11
A	As per MYT Order dated 23.02.2008					

a	AT&C loss Reduction Target	39.03%	34.77%	30.52%	26.26%	22.00%
b	Distribution Loss	42.3%	34.11%	29.99%	25.89%	21.61%
c	Collection Efficiency		99.00%	99.25%	99.50%	99.50%
d	Reduction in AT&C Loss		4.26%	4.26%	4.26%	4.26%
e	Reduction in Distribution Loss		8.19%	4.12%	4.10%	4.28%
B	New Proposal					
a	AT&C loss Reduction Target	39.03%	37.76%	32.47%	27.15%	22.00%
b	Distribution Loss	42.3%	37.13%	31.96%	26.78%	21.61%
c	Collection Efficiency		99.00%	99.25%	99.50%	99.50%
d	Reduction in AT&C Loss		1.27%	5.29%	5.32%	5.15%
e	Reduction in Distribution Loss		5.17%	5.17%	5.18%	5.17%

As evident from the above, the Petitioner is not praying to change the AT&C loss Target of FY 2010-11 but to amend the target from FY 2007-08 to FY 2009-10 based on distribution loss so to have realistic AT&C Loss Targets.

3B.189 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- 37: Impact on account of revision in Distribution Loss from FY 2007-08 to FY 2010-11

(Rs. Crore)

S.No.	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
A	Opening balance	0	37	67	88	100	115	132
B	Addition	35	23	12				
C	Closing Balance (A+B)	35	60	79	88	100	115	132
D	Avg. Balance	17	49	73	88	100	115	132
E	Carrying Cost rate	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%
F	Carrying Cost (D*E)	2	7	10	12	15	17	20
G	Grand closing Balance (C+F)	37	67	88	100	115	132	152

S.No.	Particulars	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Opening balance	152	175	201	230	263	299
B	Addition						
C	Closing Balance (A+B)	152	175	201	230	263	299
D	Avg. Balance	152	175	201	230	263	299
E	Carrying Cost rate	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	23	26	29	32	37	42
G	Grand closing Balance (C+F)	175	201	230	263	299	341

PRAYER(S):

3B.190 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to consider the impact on account of the same.



Issue-8: Computation of AT&C Loss for FY 2009-10Issue in brief:

- 3B.191 This issue pertains to the non-implementation of the Judgments of the Hon'ble APTEL 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	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 22.81 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. 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.
2.	28.11.2014	The aforesaid findings in the above Order dated 26.08.2011 were set aside by the Hon'ble Tribunal vide its Appeal 62 Judgment.



S.No	Date	Event
3.	29.09.2015	The Hon'ble Commission, in the Tariff Order dated 29.09.2015, stated as follows [Refer: para 3.104]: <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>
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.



S.No	Date	Event
5.	31.08.2017	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. 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 equipments 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. 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.62 of 2012 where it was held that the Hon'ble Commission has erred in computing kWh based on kVAh and power factor.
6.	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.



S.No	Date	Event
7.	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.
8.	31.07.2019	In the Tariff Order at Para 3.103 – 3.105, the Hon'ble Commission has merely reiterated its findings in the earlier tariff order dated 28.03.2018.
9.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judiced before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.192 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 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.193 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.194 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.195 The Hon'ble Tribunal vide Judgment dated October 31, 2017 dismissed the clarificatory application filed by the Hon'ble Commission.

3B.196 However, the Hon'ble Commission in Tariff Order dated March 28, 2018 stated as under:

"3.166 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 dated. 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)"

3.167 In view of the above, the Commission is of the view that this issue does not merit consideration at this point of time. "

In Tariff Order dated July 31, 2019, the Hon'ble Commission has simply reiterated the statement given in Tariff Order dated March 28, 2018.

3B.197 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble APTEL 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.198 It is further submitted that the Hon'ble Tribunal in Judgment dated November 28, 2014 (Appeal 62 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 the Tariff Order has stated that the energy sales in kWh was verified by the Hon'ble Commission during prudence check exercise.

3B.199 Therefore, the Petitioner requests the Hon'ble Commission to implement the direction of Hon'ble APTEL as per Judgment dated November 28, 2014. The computation of AT&C Loss for FY 2009-10 is tabulated below:

Table 3B- 38: AT&C Loss for FY 2009-10

S. No	Particulars	Units	FY 2009-10
A	Units consumed at BYPL Periphery	MU	5708
B	Units billed	MU	4310
C	Amount billed	Rs. Cr.	1944
D	Distribution Loss	%	24.50%
E	Amount collected	Rs. Cr.	1959
F	Collection efficiency	%	100.76%
G	Units realised	MU	4343
H	AT&C Loss level	%	23.92%

3B.200 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- 39: Over-achievement of AT&C Loss during FY 2009-10

Particulars	UoM	MYT Order	Actuals	Reference
AT&C Loss	%	26.26%	23.92%	A
Over achievement/ (Under achievement)	%		2.34%	B
Energy Input	MU	5708	5708	C
Units realised	MU	4209	4343	D=C*(1-A)
Average Billing Rate	Rs./ kWh	4.51	4.51	E
Amount realised	Rs. Cr.	1899	1959	
Over-achievement	Rs. Cr.		60	



Particulars	UoM	MYT Order	Actuals	Reference
Proposed to be transferred to consumers	Rs. Cr.		30	
Proposed to be retained	Rs. Cr.		30	
Less: E. Tax	Rs. Cr.		82	
Less: LPSC	Rs. Cr.		21	
Total revenue	Rs. Cr.		1796	

3B.201 The impact on account of re-computation of AT&C Loss of FY 2009-10 is as under:

Table 3B- 40: Re-computation of AT&C Loss during FY 2009-10

(Rs. Cr.)

S. No	Particulars	FY 2009-10
1	Revenue submitted by Petitioner	1796
2	Revenue considered in Tariff Order	1817
3	Net Impact	21

3B.202 The total impact including carrying cost is tabulated below:

Table 3B- 41: Impact on account of revision of AT&C Loss during FY 2009-10

(Rs. Cr.)

S.No.	Particulars	FY 10	FY 11	FY 12	FY 13	FY 14
A	Opening balance	0	22	26	29	34
B	Addition	21				
C	Closing Balance (A+B)	21	22	26	29	34
D	Avg. Balance	11	22	26	29	34
E	Carrying Cost rate	13.11%	13.38%	14.88%	15.03%	15.01%
F	Carrying Cost (D*E)	1	3	4	4	5
G	Grand closing Balance (C+F)	22	26	29	34	39

S.No.	Particulars	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Opening balance	39	45	51	59	67	76
B	Addition						
C	Closing Balance (A+B)	39	45	51	59	67	76
D	Avg. Balance	39	45	51	59	67	76
E	Carrying Cost rate	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	6	7	7	8	9	11
G	Grand closing Balance (C+F)	45	51	59	67	76	87

PRAYER(S):



3B.203 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to consider the impact on account of the same.

Issue-9: Revision in AT&C Loss target of FY 2011-12

Issue in brief:

3B.204 This issue pertains to the non-implementation of the directions of the Hon'ble APTEL wherein the Hon'ble Commission was directed to re-fix the AT&C Loss targets for FY 2011-12 to 21% 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 22%.
2.	08.03.2011	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:- <i>" The AT&C loss target for FY 2011-12 will be the lower of the following two figures.</i> <i>i. Actual AT&C loss for 2010-11 &</i> <i>ii. Reduction at 1% over the AT&C target for FY 2010-11".</i> Since the AT&C loss targets for FY 2010-11 was 22%, the AT&C loss target for FY 2011-12 in terms of the said letter dated 08.03.2011 was to be 21% i.e. (i.e. 22%-1%).
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 18%.



S.No	Date	Event
4.	26.08.2011	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 18%. 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:- <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> 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 18%.
5.	28.11.2014	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 62 of 2012 ("Appeal 62 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.
6.	18.12.2014	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 62 Judgment and the Appeal 178 Judgment of the Hon'ble Tribunal.



S.No	Date	Event
7.	02.03.2015	In the subsequent judgment in Appeal No. 178 of 2012 (" Appeal 178 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 21% for the Petitioner as per the decision of the Hon'ble Tribunal in Appeal No.61-62/2012.
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 the 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.
12.	31.07.2019	The Respondent Commission in said Tariff Order at Para. 3.112 and 3.113 has stated that the matter is <i>sub judice</i> before Hon'ble Supreme Court and Hon'ble APTEL, and the same will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court in the pending appeal.

S.No	Date	Event
13.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions :

3B.205 The Hon'ble APTEL 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.206 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.207 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 APTEL. Similar stand has been taken by the Hon'ble Commission in Tariff Order dated August 31, 2017. The Hon'ble APTEL vide Judgment dated October 31, 2017 has dismissed clarificatory application filed by the Hon'ble Commission.

3B.208 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:

"3.113 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.209 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble APTEL 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.210 Accordingly, 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 APTEL in Judgment dated November 28, 2014 (Appeal 61 of 2012) only as under:

Table 3B- 42: Impact due to revision in AT&C Loss Target for FY 2011-12

(Rs. Crore)

S. No	Particulars	UoM	Target	Revised
1	AT&C Loss	%	21.00%	22.07%
2	Over achievement/ (Under achievement)	%	-1.07%	
3	Energy Input	MU	6203.2	6203.2
4	Units realised	MU	4900.6	4834.2
5	Average Billing Rate	Rs./ kWh	5.1	5.1
6	Amount realised	Rs. Cr.	2504.2	2470.3
7	Under-achievement	Rs. Cr.		33.9
8	Considered in TO dated. July 31, 2013	Rs. Cr.		129.1
9	Impact to be allowed	Rs. Cr.		95.2

PRAYER(S):

3B.211 It is requested that the above amount ought to be allowed along with carrying cost as under:

Table 3B- 43: Impact due to revision in AT&C Loss Target 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	FY 19	FY 20
A	Opening balance	0	102	118	135	156	179	205	234	266
B	Addition	95								
C	Closing Balance (A+B)	95	102	118	135	156	179	205	234	266
D	Avg. Balance	48	102	118	135	156	179	205	234	266
E	Carrying Cost rate	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	7	15	18	20	23	26	29	33	37

G	Grand closing Balance (C+F)	102	118	135	156	179	205	234	266	304

3B.212 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the impact on account of revision in AT&C Loss of FY 2011-12.

Issue-10: Non-revision of AT&C Loss for Second MYT Period (FY 2012-13 to FY 2015-16)

Issue in brief:

3B.213 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 APTEL in Appeal No. 178 of 2012, Appeal No. 265 of 2013 and Appeal No. 235 of 2014. The Hon'ble APTEL had, in its Judgment dated March 2, 2015 in Appeal No. 178 of 2012, read with its directions in its judgment in Appeal No. 62 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 178 of 2012. The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) at Para-30.12 re-fixed the AT&C Loss target from FY 2012-13 to FY 2014-15.



S.No	Date	Event
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 62 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 the Hon'ble Tribunal.
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.
7.	31.07.2019	The Hon'ble Commission has simply reiterated its stand in tariff order dated 28.03.2018.
8.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.214 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 177 and 178 of 2012) has ruled as under:

"30.13 As regards BYPL, the AT&C target for FY 2011-12 has to be refixed as per the directions given in the judgment in Appeal no. 61 of 2012. When the target level for FY 2011-12 has to be refixed, the AT&C loss targets for FY 2012-13 to 2014-15 have also to be refixed by the State Commission accordingly. 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.215 The Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.113 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 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.216 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon'ble APTEL 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.217 The Hon'ble APTEL in Judgment dated 2.03.2015 has directed the Hon'ble Commission to re-determine the AT&C Loss of FY 2010-11 in case the Petitioner was unable to achieve the AT&C Loss during FY 2010-11 due to non-timely on approval of capex schemes. The Hon'ble Commission vide Order dated 18.5.2018 rejected the claim of the Petitioner without determining the question of remand as to why the capex schemes were not timely approved. The said Order has been challenged by the Petitioner in separate appeal pending before Hon'ble APTEL. Pending the same, the Petitioner has computed impact of FY 2012-13 to FY 2013-14 based on revised trajectory as under:

Table 3B- 44: Revised trajectory of AT&C Loss from FY 2012-13 to FY 2015-16

S.No.	Particulars	DERC	Submission based on APTEL judgment
1	AT&C Loss for FY 2011-12 (base year)	18.00%	21.00%
2	AT&C Loss for FY 2012-13	16.82%	19.62%
3	AT&C Loss for FY 2013-14	15.66%	18.27%
4	AT&C Loss for FY 2014-15	14.50%	16.92%
5	AT&C Loss for FY 2015-16	13.33%	15.55%

3B.218 Accordingly the impact on account of revision in AT&C loss target from FY 2012-13 to FY 2015-16 is tabulated below:



Table 3B- 45: Impact due to revision of AT&C Loss Target from FY 2012-13 to FY 2015-16

(Rs. Crore)

Particulars	FY 12-13		FY 13-14		FY 14-15		FY 15-16	
	Revised Target	Actual	Revised Target	Actual	Revised Target	Actual	Revised Target	Actual
AT&C loss (%)	19.62%	21.14%	18.27%	22.19%	16.92%	19.44%	15.55%	15.96%
Over/under achievement (%)		-1.52%		-3.92%		-2.52%		-0.41%
Units Input (MU)		6333		6577		6717		6780
ABR (Rs./Unit)		6.31		6.85		7.38		7.64
Impact on account of Underach. (Rs. Cr)		-61		-177		-125		-21
Underach. Approved in respective True up Orders		-173		-294		-245		-136
Impact to be allowed		112.0		117.6		119.8		115.1

3B.219 The aforesaid impact along with carrying cost is tabulated below:

Table 3B- 46: Impact due to revision of AT&C Loss Target from FY 2012-13 to FY 2015-16 along with carrying cost

(Rs. Crore)

S.No.	Particulars	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Opening balance	0	120	265	434	622	713	812	926
B	Addition	112	118	120	115				
C	Closing Balance (A+B)	112	238	385	549	622	713	812	926
D	Avg. Balance	56	179	325	491	622	713	812	926
E	Carrying Cost rate	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	8	27	49	73	91	100	114	130
G	Grand closing Balance (C+F)	120	265	434	622	713	812	926	1056

PRAYER(S):

3B.220 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.

Issue-11: Efficiency factor for FY 2010-11

Issue in brief:

3B.221 This issue pertains to the non-implementation of the Judgments of the Hon'ble APTEL in Appeal No. 178 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.178 of 2012("Appeal 178 Judgment"), in para 44 thereof has directed the Hon'ble Commission to reconsider the efficiency factor of 4% for FY 2010-11.
2.	29.04.2015	The Petitioner vide its letter dated April 29, 2015 <i>inter alia</i> requested the Hon'ble Commission to implement the said Appeal 178 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 the 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.



5.	31.07.2019	At Para 3.131 and 3.132 of the Tariff Order, the Hon'ble Commission has reiterated its findings in the tariff order dated 28.03.2018.
6.	28.08.2020	The Hon'ble Commission has once again that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.222 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 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.223 The Hon'ble Commission in Tariff Order dated March 28, 2018 ruled as under:

"3.157 The Commission has already clarified this issue in tariff order dated 31/08/2017 as follows:

"3.144 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.”

3.145 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....”

3.146 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 dated. 23/02/2008 for all the Distribution Licensees. The Petitioner has not challenged the issue of Efficiency Factor in its Appeal against MYT Order dated. 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.”

3.158 In view of the above the Commission has not re-considered this issue. “

3B.224 It is submitted that the Hon’ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) has set aside the efficiency factor for FY 2010-11. Further, the Hon’ble APTEL 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 178 of 2012). The impact on account of efficiency factor for FY 2010-11 is tabulated below:

Table 3B- 47: Impact on account of efficiency factor for FY 2010-11

S. No	Particulars	FY 2010-11
1	Employee Expenses	268.9
2	Eff. Fact. %	4%
3	Eff. Factor	10.8



3B.225 The impact on account of the said issue along with carrying cost is tabulated below:

Table 3B- 48: Impact on account of efficiency factor during FY 2010-11 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	FY 19	FY 20
A	Opening balance	0	11	13	15	17	20	23	26	30	34
B	Addition	11									
C	Closing Balance (A+B)	11	11	13	15	17	20	23	26	30	34
D	Avg. Balance	5	11	13	15	17	20	23	26	30	34
E	Carrying Cost rate	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	1	2	2	2	3	3	3	4	4	5
G	Grand closing Balance (C+F)	11	13	15	17	20	23	26	30	34	39

PRAYER(S):

3B.226 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the impact in the ARR.

Issue-12: Lower rates of carrying cost

Issue in brief:

3B.227 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 147 of 2009), November 28, 2014 (Appeal 62 of 2012) and March 2, 2015 (Appeal 178 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



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 147 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. 147 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	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: <i>"3.146 The Hon'ble APTEL in its Order dated July 30, 2010 on appeal no 153 of 2009 filed by NDPL has observed as follows:</i> <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> <i>3.147 The Commission has decided to go in appeal against the Hon'ble APTEL Order on allowing carrying cost in the debt/ equity of 70:30. The Commission therefore has not implemented the Judgement of the Hon'ble APTEL in this regard."</i>
5.	01.04.2012	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: <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> <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>



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	The Hon'ble Commission in Tariff Order, at para 3.186-3.190 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. The Petitioner has challenged the aforesaid treatment in Appeal No. 265-266 of 2013 which is pending adjudication before Hon'ble Tribunal.
9.	23.07.2014	The Hon'ble Commission in its Tariff Order, in para 4.166 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. The Petitioner has challenged the aforesaid treatment in Appeal No. 236 of 2014 which is pending adjudication before Hon'ble Tribunal.



S.No	Date	Event
10.	28.11.2014	Aggrieved by the aforesaid treatment in the tariff order dated August 26, 2011, the Petitioner challenged the same in Appeal 62 of 2012. The Hon'ble Tribunal in Judgment dated November 28, 2014 ruled as under: <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> ... <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> (Emphasis supplied)
11.	2.03.2015	Aggrieved by the treatment in its Tariff Order dated July 13, 2012, the Petitioner challenged the same in Appeal 178 of 2012. The Hon'ble Tribunal in Judgment dated March 2, 2015 ("Appeal 178 Judgment") ruled as under: <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> <i>5.9 Therefore, we direct the State Commission to recompute 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>



S.No	Date	Event
12.	29.09.2015	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. 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: 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. At Table-3.54 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.
13.	31.08.2017	The Hon'ble Commission further in its tariff order dated 31.08.2017 has not allowed the claim on two primary grounds namely: - 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 the Hon'ble Tribunal in Appeal 271 of 2013.



S.No	Date	Event
14.	28.03.2018& 31.07.2019	In its tariff order dated 28.03.2018 and 31.07.2019, the Hon'ble Commission has merely reiterated its findings in its tariff order dated 31.08.2017.
15.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.228 The Hon'ble APTEL 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 theyear. 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.229 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-3.314 to Para-3.317 of the Tariff Order dated March 28, 2018. However, the Hon'ble Commission has not dealt with the submission and stated as under:

“3.319 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.230 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 upto 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 APTEL in Judgments dated October 6, 2009 (Appeal 36 of 2008), July 12, 2011 (Appeal 142 of 2009), November 28, 2014 (Appeal 62 of 2012) and March 2, 2015 (Appeal 178 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.231 It is further submitted that the Hon'ble APTEL in Judgment dated February 10, 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.232 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 February 10, 2015 (Appeal 171 of 2012).
- 3B.233 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 from FY 2007-08 to FY 2016-17 considering ROE as 16% and rate of interest as SBI PLR while computing the impact.

3B.234 Accordingly the rates of carrying cost are tabulated below:

Table 3B- 49: 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.235 As regards FY 2017-18, Regulation-2 (16) of DERC Tariff Regulations, 2017 notified on 31.01.2017 states as under:

“2. Definitions and Interpretation

....

(16) “Carrying Cost Rate” means the weighted average rate of interest for funding of Regulatory Asset/accumulated Revenue Gap through debt and equity in an appropriate ratio, as specified by the Commission in the relevant Orders.”

Further Regulation 86 of the 2017 Regulations provides that the interest on working capital shall be payable on a normative basis. The said norm is to be calculated as per the methodology specified in Regulation 85, which provides that the rate of interest on working capital shall be considered as the bank rate as on 1 April of the year plus the margin specified by the Hon’ble Commission for the Control Period and that the same shall be trued up on the basis of the prevailing bank rate bank rate as on 1 April of the respective financial year.

3B.236 The margin referred to in Regulation 85 of the Tariff Regulations, 2017 is specified by the Hon’ble Commission in Regulation 22 of the Business Plan Regulations, 2017. The said Regulation provides for the margin to be 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 1 April 2017 provided that total rate of interest (i.e., MCLR plus margin) shall not exceed 14.00%.

3B.237 The Hon’ble Commission in Tariff Order dated 31.08.2017 determined carrying cost of 14% for FY 2017-18 in accordance with Regulation-2 (16) of Tariff Regulations, 2017 as under:



"4.116 The Commission has approved Return on Equity in terms of Regulation 2(16) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for computation of weighted average rate of interest for funding of Regulatory Asset/accumulated Revenue Gap through debt and equity shall be considered at 14.00% on pre-tax basis in its Business Plan Regulations, 2017. The rate of interest has been considered at 14% based on the Regulation 77 of DERC Tariff Regulations 2017 that Provided that in no case the rate of interest on loan shall exceed approved rate of return on equity.

4.117 Accordingly, the Commission has computed Carrying Cost as follows:

Table 235: Carrying cost approved by the Commission for FY 2017-18 (Rs. Crore)

Sr. No.	Particulars	Approved
A	Rate of Return on Equity	14.00%
B	Rate of Interest on Loan	14.00%
C	Rate of Carrying Cost	14.00%
D	Opening Revenue Gap	2327.00
E	Surcharge @ 8%	358.65
F	Carrying Cost	278.24

”

3B.238 It is submitted that Regulations 85 and 86 of the Tariff Regulations, 2017 read with Regulation 22 of the Business Plan Regulations, 2017 clearly and unequivocally provide for the manner in which the interest is to be computed and the same is capped at 14%. However, for reasons best known to the Hon'ble Commission, while the Hon'ble Commission has stated that the truing up of the interest rate has been done in accordance with the Tariff Regulations, 2017, it has allowed an interest rate of 13.76% and 13.77% in FY 2017-18 and FY 2018-19 respectively when clearly the rate of interest as per the prescribed formula in the Hon'ble Commission's own Regulations, ought to have been more than 14%,(capped at 14%). Therefore, the Hon'ble Commission fell into error by not complying with its own Regulations by providing the lower rate of interest.

3B.239 Hence, at the stage of truing-up, the Hon'ble Commission contrary to its own Regulations and Tariff Order dated 31.08.2017 revised the rate of carrying cost.

3B.240 The variations in SBI MCLR from 1st April 2017 to 1st April 2018 as notified by SBI on its website is tabulated below:

Table 3B- 50: Variations in SBI MCLR

S. No	Particulars	Percentage



1	SBI MCLR as on 1 st April 2017	8%
2	SBI MCLR as on 1 st April 2018	8.15%
3	SBI MCLR as on 1 st April 2019	8.55%

3B.241 Therefore in terms of Tariff Regulations, 2017 even if a truing-up on the basis of MCLR had to take place, the allowable rate of interest for FY2017-18 and FY 2018-19 would have to be 14%. Accordingly the Petitioner has considered rate of interest for the purpose of carrying cost during FY 2017-18 and FY 2018-19 as 14%.

3B.242 The carrying cost on already recognised Regulatory Assets upto FY 2018-19 is tabulated below:

Table 3B- 51: Impact due to difference in rates of carrying cost

(Rs. Crore)

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
A	Opening Balance	40	20	-160	39	887	2309	2976
B	Adjustments: Contingency Reserve				-7			
C	Additions	-24	-171	207	798	1201	534	199
D	Adjustment from surcharge						237	280
E	Closing	16	-151	47	829	2088	2606	2894
F	Average	28	-65	-57	431	1487	2458	2935
G	Carrying cost	13.68 %	13.75 %	13.11 %	13.38 %	14.88 %	15.03 %	15.01 %
H	Carrying cost	4	-9	-7	58	221	369	440
I	Grand Closing balance	20	-160	39	887	2309	2976	3335
J	Additional true-up past impact							
K	Total balance	20	-160	39	887	2309	2976	3335

S. No	Particulars	FY 15	FY 16	FY 17	FY 18	FY 19
A	Opening Balance	3335	3539	3349	3963	3888
B	Adjustments: Contingency Reserve					
C	Additions	27	-804	-511	-336	-503
D	Adjustment from surcharge	306	333	353	377	382
E	Closing	3056	2402	2485	3250	3003
F	Average	3195	2971	2917	3606	3445
G	Carrying cost	15.13%	14.80%	14.64%	14.00%	14.00%
H	Carrying cost	483	440	427	505	482
I	Grand Closing balance	3539	2842	2912	3755	3485
J	Additional true-up past impact		507	1051	133	302



K	Total balance	3539	3349	3963	3888	3787

3B.243 There is difference of Rs. 1494 Crore on account of carrying cost, i.e, the Regulatory Assets would be Rs. 3787 Crore when compared with Regulatory Assets recognised up to FY 2018-19, i.e., Rs. 2292 Crore.

3B.244 The impact of difference in carrying cost rates on recognised Regulatory Assets till FY 2019-20 is tabulated below:

Table 3B- 52: Impact due to difference in rates of carrying cost

(Rs. Crore)

S. No	Particulars	FY 20
A	Opening balance	1494
B	Addition	
C	Closing Balance (A+B)	1494
D	Avg. Balance	1494
E	Carrying Cost rate	14.00%
F	Carrying Cost (D*E)	209
G	Grand closing Balance (C+F)	1704

PRAYER(S):

3B.245 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the impact on account of the aforesaid issue in ARR of the Petitioner.

Issue-13: Financing cost of LPSC based on SBI PLR

Issue in brief:

3B.246 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. 147 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. 178 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 the 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.147/2009 ("Appeal 147 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. 178 of 2012, in para 39 thereof ("Appeal 178 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 Appellant and the market rate of debt.
4.	29.09.2015	In the Tariff Order of even date, the Hon'ble Commission appears to have done the following:- - 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; - 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 3.30, 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.



5.	31.08.2017	In the In its tariff order dated 31.08.2017, (Para Nos. 3.160 – 3.161), the Hon'ble Commission has held as under: <i>"3.160 The Commission has already dealt this issue in its Tariff Order dated. 29/09/2015 as follows:</i> <i>"3.42 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> <i>3.161 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> 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.
6.	31.10.2017	The Hon'ble Commission had filed a Clarificatory Application in Appeal 178 of 2012 seeking clarification/ review of ten tariff issues including the present one. On 31.10.2017, the Hon'ble Tribunal has dismissed the said Clarificatory Application.



7.	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.
8.	31.07.2019	In the Tariff Order at Para 3.161 and 3.162, the Hon'ble Commission stated that it has deliberated the issue in the Tariff order dated 28.03.2018 and reiterated its findings.
9.	28.08.2020	The Hon'ble Commission has once again reiterated in the Tariff Order dated 28.08.2020 that the matter is sub judice before the Higher Court and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

3B.247 The issue of financing cost of LPSC arose for the first time in Appeal 147 of 2009 which was filed with respect to Tariff Order dated May 28, 2009. The relevant extracts from Judgment dated July 12, 2011 (Appeal 147 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.248 Further the Hon’ble APTEL in Judgment dated March 2, 2015 (Appeal 178 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.249 The Petitioner raised the issue of lower financing cost of LPSC allowed in various Tariff Orders in its Petition for truing-up of FY 2017-18 and ARR and Tariff for FY 2019-20. 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 APTEL in Judgment dated July 12, 2011 (Appeal 147 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 Rates 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.250 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- 53: Borrowing rate comparison

S. No	Financial Year	Rates considered in Tariff Order	SBI PLR rates	Actual rates



S. No	Financial Year	Rates considered in Tariff Order	SBI PLR rates	Actual rates
1	FY 2007-08	9.30%	12.69%	11.63%
2	FY 2008-09	9.57%	12.79%	11.66%
3	FY 2009-10	9.89%	11.87%	11.02%
4	FY 2010-11	10.34%	12.26%	11.62%
5	FY 2011-12	12.72%	14.40%	13.31%
6	FY 2012-13	9.99%	14.61%	15.39%
7	FY 2013-14	9.89%	14.58%	15.41%
8	FY 2014-15	10.44%	14.75%	15.53%
9	FY 2015-16	10.47%	14.28%	14.57%
10	FY 2016-17	10.47%	14.05%	14.25%

3B.251 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 APTEL direction is still pending to be implemented.

3B.252 Accordingly the Petitioner has computed the financing cost of LPSC based on SBI PLR as under:

Table 3B- 54: Difference in financing cost of LPSC due to rate of interest

(Rs. Crore)

S. No	Particulars	UoM	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
1	Delayed Payment Surcharge	Rs. Cr.	26.7	20.7	20.9	17.3	28.4	24.1
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.	148.1	114.9	115.9	96.3	157.5	134.1
5	SBI PLR	%	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%
6	Financing Cost of LPSC	Rs. Cr.	18.8	14.7	13.8	11.8	22.7	19.6
7	Allowed by DERC	Rs. Cr.	13.8	11.0	11.5	10.0	20.0	12.8
8	Difference	Rs. Cr.	5.0	3.7	2.3	1.8	2.6	6.8

3B.253 The aforesaid difference has been considered along with carrying cost as under:

Table 3B- 55: Impact along with carrying cost

(Rs. Crore)

S.No.	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14
A	Opening balance	0	5	10	14	18	23	34

B	Addition	5	4	2	2	3	7	
C	Closing Balance (A+B)	5	9	12	16	20	30	34
D	Avg. Balance	3	7	11	15	19	26	34
E	Carrying Cost rate	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%
F	Carrying Cost (D*E)	0	1	1	2	3	4	5
G	Grand closing Balance (C+F)	5	10	14	18	23	34	39

S.No.	Particulars	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Opening balance	39	45	51	59	67	77
B	Addition						
C	Closing Balance (A+B)	39	45	51	59	67	77
D	Avg. Balance	39	45	51	59	67	77
E	Carrying Cost rate	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%
F	Carrying Cost (D*E)	6	7	8	8	9	11
G	Grand closing Balance (C+F)	45	51	59	67	77	87

PRAYER(S):

3B.254 Without prejudice to the contentions in the pending Appeal(s), the Petitioner requests the Hon'ble Commission to allow the aforesaid impact in the ARR.

3B.255 Based on the above submissions, the total impact claimed on account of implementation of Hon'ble APTEL Judgments (including interest upto FY 2019-20) is tabulated below:

Table 3B- 56: Total impact claimed on account of implementation of Hon'ble APTEL Judgment

(Rs. Crore)

S. No	Particulars	Principal	Interest	Total
1	EIC Deferment and Physical Verification	1565	3917	5482
2	REL Disallowance			
3	Correction in quantum and funding of Working Capital (WC)			
4	Consideration of repayment of loan			
5	True-up of Interest rates of debt			
6	Correction of Consumer Contribution			

Pending and linked with physical verification of assets for last 10 years

S. No	Particulars	Principal	Interest	Total
6A	Net-worth computations			
7	Revision in Distribution Loss targets for FY 2007-08 to FY 2009-10	70	271	341
8	Computation of AT&C Loss for FY 2009-10	21	66	87
9	AT&C loss for FY 2011-12	95	208	304
10	Non-revision of AT&C Loss for second MYT Period	464	591	1056
11	Carrying cost to be allowed in debt-equity ratio of 70:30	1494	209	1704
12	Financing cost of LPSC based on SBI PLR	22	65	87
13	Efficiency factor for FY 2010-11	11	28	39
14	Total	3743	5357	9100

Pending only because Civil Appeals are sub-judice before Hon'ble Supreme Court despite no stay for last 10 years

Category-2: Impact of Review Petitions pending before Hon'ble Commission

3B.256 The Hon'ble Commission in Tariff Order dated 28.08.2020 has partially implemented the impact pertaining to Review Order dated 13.12.2019 passed in review Petition 31 of 2018. On the issue of Write Back Miscellaneous provisions written back upto FY 2018-19 considered as Non Tariff Income, the Hon'ble Commission has held in favour of BYPL, however the Hon'ble Commission in the Tariff Order dated 28.08.2020 has not allowed the impact of the same stating as under:

"The information submitted by the Petitioner is under consideration and the effect thereof shall be taken after verification and prudence check of such information."

Further, in case of issue of power purchase cost on account of Merit Order Despatch during FY 2013-14, the Hon'ble Commission had allowed only 50% of the impact stating as under:

"The Commission has also sought Plant-wise, month-wise and day-wise violations for FY 2012-13 and FY 2013-14 prior to implementation of DISCOM-wise from SLDC is still awaited. Therefore, penalty of Rs. 54.01 Cr. For FY 2013-14 has been provisionally reversed by 50%."

Thus, the Petitioner requests the Hon'ble Commission to allow the remaining 50%



impact which is being claimed under this category along with interest.

- 3B.257 Further there are certain arithmetical/computational errors, apparent errors and omissions in the Tariff Order dated 31.07.2019 and 28.08.2020 for which the Petitioner has filed Review Petition which are pending before the Hon'ble Commission.
- 3B.258 The Petitioner had filed a Review Petition No. 64 of 2019 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. Similarly the Petitioner has also filed Review Petition on 07.12.2020 in respect of Tariff Order dated 28.8.2020.
- 3B.259 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.260 The financial impact on account of the issues related to Review Petitions (including interest upto FY 2019-20) is tabulated below:

Table 3B- 57: Impact on account of issue raised in Review Petitions

(Rs. Crore)

S. No	Particulars	Principal	Interest	Total
A	Review Petition No. 31 of 2018			
1	Write Back of Miscellaneous Provisions	238	598	835
2	Disallowance of PP Cost on MOD basis during FY 14	27	38	65
	Sub-total	265	636	901
B	Review Petition No. 64 of 2019			
1	Carrying cost on Anta, Auraiya and Dadri Gas Stations	69	21	89
2	Advance Against Depreciation	286	782	1068
3	Erroneous computation of deemed revenue in excess of 1% cap on billing during FY 2017-18	4	2	5
4	Net Metering during FY 2017-18	0.3	0.1	0.4
	Sub-total	358	804	1162
C	Review Petition in respect of TO dated 28.08.2020			
1	Error in computation of carrying cost at Table-3.6 of Tariff Order	64	9	73
	Sub-total	64	9	73



S. No	Particulars	Principal	Interest	Total
	Total	687	1449	2136

3B.261 The Petitioner requests the Hon'ble Commission to allow the impact as indicated in the aforesaid table on account of review while truing-up of FY 2019-20.

Category-3: Impact of Appeals pending adjudication before APTEL

3B.262 The Petitioner has preferred appeals against Tariff Orders issued by the Hon'ble Commission which are pending adjudication before Hon'ble APTEL. The details of the Appeals are tabulated below:

Table 3B- 58: Appeals pending before Hon'ble APTEL

S. No	Years in subject	Date of Tariff Order	Appeal Number
1	Truing-up of FY 12 and ARR and Tariff of FY 14	31.07.2013	265 of 2013
2	Truing-up of FY 13 and ARR and Tariff of FY 15	23.07.2014	236 of 2014
3	Truing-up of FY 14 and ARR and Tariff of FY 16	29.09.2015	290 of 2015
4	Truing-up of FY 15 and FY 16 and ARR and Tariff of FY 18	31.08.2017	70 & 71 of 2018
5	Truing-up of FY 17 and ARR and Tariff of FY 19	28.03.2018	214 of 2018
6	Truing-up of FY 18 and ARR and Tariff of FY 20	31.07.2019	105 of 2020
7	Truing-up of FY 19 and ARR and Tariff of FY 21	28.08.2020	Limitation period of filing appeal from date of receipt of certified copy yet not over

3B.263 The impact of issues on account of the aforesaid appeals pending before Hon'ble APTEL (including interest upto FY 2019-20) is tabulated below:

Table 3B- 59: Impact of Appeals pending before Hon'ble APTEL

(Rs. Crore)



S. No	Particulars	Pending in Appeal	Principal	Interest	Total
1	Power Purchase Cost				
1.1	Disallowance of Trading Margin	265 of 2013/ 236 of 2014	3	5	8
1.2	Disallowance of Fixed charges for regulated power	All appeals	298	363	661
1.3	Consideration of normative rebate during truing-up	All appeals except 265 of 2013	404	355	759
1.4	Disallowance of Power Purchase cost on account of Overlapping in banking transactions	290 of 2015	4	4	8
1.5	RPO Penalty upto FY 17-18	70 & 71 of 2018, 214 of 2018 & 105 of 2020	37	21	58
1.6	Disallowance of Power Purchase Cost on account of disposal of surplus power in UI for FY 14 and FY 15	290 of 2015, 70 & 71 of 2018, 214 of 2018	19	23	41
	Sub-total		764	771	1535
2	O&M Expenses				
2.1	Disallowance of R&M Expense-FY 05	214 of 2018	28	166	194
2.2	Disallowance of R&M Expenses during 1st and 2nd control period	All Appeals	37	74	111
2.3	Increase in employee expenses corresponding to increase in consumer base	All Appeals	55	179	234
2.4	Disallowance of GST contrary to regulations	105 of 2020	35	10	46
2.5	Minimum wages Disallowance	105 of 2020	31	12	42
2.6	Legal Fees Disallowance	105 of 2020	24	7	31
	Sub-total		210	448	658
3	Truing-up of Income-tax	All Appeals	263	432	694
4	Others				
4.1	Non-consideration of Bank Charges	All Appeals	138	230	368



S. No	Particulars	Pending in Appeal	Principal	Interest	Total
4.2	Loss due to Retirement of Asset	All Appeals	64	76	140
4.3	Erroneous method of calculation of carrying cost	All Appeals except 266 of 2013	125	108	233
4.4	Interest on funding of carrying cost	290 of 2015	0	22	22
4.5	Impact of Truing up of 11 Months	All Appeals	164	526	690
4.6	Approach for Truing-up of FY 17	70 & 71 of 2018	87	51	138
	Sub-total		577	1014	1591
5	Non Tariff Income				
5.1	Consideration of Commission on ED	All Appeals	35	25	60
5.2	Income from street light maintenance charges	All Appeals	103	205	308
5.3	Consideration of revenue from Sale of scrap as NTI	All Appeals	25	25	50
5.4	Financing cost of LPSC considered in NTI	All Appeals	43	37	79
	Sub-total		206	291	497
6	Revenue				
6.1	Bad debts written off not considered	All Appeals	23	42	65
6.2	Disallowance of Monthly billing rebate in ARR	290 of 2015, 70 & 71 of 2018	34	33	67
6.3	Erroneous treatment of the sales on zero billing	290 of 2015	58	153	211
	Sub-Total		115	228	343
7	Total		2135	3183	5318

3B.264 The Petitioner has elaborated all the above issues in details in corresponding appeals and thus is not reproducing the contentions/ arguments for the sake of brevity and prolixity.

3B.265 The Petitioner requests the Hon'ble Commission to allow the impact of directions/ findings/ observations of Hon'ble APTEL in case Judgment is pronounced in case of any of the appeals during the course of tariff determination exercise in subject. The Petitioner would like to clarify/ explain in case any assistance is desired by the Hon'ble Commission while implementing impact on account of any of the issues/



judgment.

Total impact on account of past claims:

3B.266 Based on aforesaid submissions, the total impact on account of past claims (including interest upto FY 2019-20) is tabulated below:

Table 3B- 60: Total impact on account of past claims

(Rs. Crore)

S. No	Particulars	Principal	Interest	Total
1	Impact of APTEL Judgments yet to be implemented	3743	5357	9100
2	Impact of issues pending in review/ before DERC	686	1449	2135
3	Impact of issues pending in Appeal before Hon'ble APTEL	2135	3183	5318
	Total	6564	9989	16553

The Petitioner has considered impact of category-1 and category-3 as part of Regulatory Assets in chapter-5 of this Petition. However, any Judgment if pronounced in category-3 may be considered as part of claimed Regulatory Assets and thus, impact may be allowed to that extent by the Hon'ble Commission in current tariff determination exercise.





CHAPTER 4

AGGREGATE REVENUE REQUIREMENT

FOR FY 2021-22



4. ARR for FY 2021-22

4.1 Background

- 4.1.1 This chapter presents the Aggregate Revenue Requirement (ARR) projected for the ensuing FY 2021-22 with respect to the Distribution Business of the Petitioner.
- 4.1.2 In terms of Regulation 11 of the Tariff Regulations, 2017, the Distribution Licensee is required to file the Tariff Petition comprising of Aggregate Revenue Requirement (ARR) for each year of the Control Period.
- 4.1.3 Accordingly, the Petitioner is filing the present Aggregate Revenue Requirement (ARR) Petition to seek the Hon'ble Commission's approval of the same and for determination of retail supply Tariff for the ensuing financial year FY 2021-22 based on the projected revenue from existing tariffs and expenses.
- 4.1.4 The present petition is founded on the following principles:

4.2 Principles of Tariff Fixation

- 4.2.1 The principles of Tariff Fixation are stated as follows:
1. Section 61(1) of the Electricity Act, 2003 Act lays down the principles for tariff fixation which inter-alia, are as follows:
 - (a) Tariff to reflect the cost of supply of electricity
 - (b) Recovery of cost of electricity in a reasonable manner
 - (c) Tariff to reduce cross subsidies
 - (d) Generation, Transmission, Distribution and supply to be conducted on commercial principles.
 - (e) Promotion of renewable sources of energy
 - (f) Encourage competition, efficiency, economical use of resources, good performance and optimum investments
 - (g) Safeguarding of consumer's interest
 - (h) Multi-year tariff principles



2. Section 61(4) mandates revision of tariffs under fuel surcharge formula
3. Section 64(3) mandates ERCs to issue tariff order within 120 days from receipt of application
4. Section 65 mandates the State Government to pay the subsidy in advance to the distribution licensees.
5. Tariff policy notified under Section 3 of the Electricity Act 2003, inter-alia, provides as follows:

(a) Regulatory assets can be created only as an exception subject to the following guidelines:

- i. Only natural causes or force majeure conditions can be circumstances for creation of regulatory asset;
- ii. Under business as usual conditions, the opening balances of unrecovered gaps must be covered through financing arrangement or capital restructuring;
- iii. Carrying cost of regulatory asset should be allowed to the utilities;
- iv. Recovery of regulatory asset should be time bound and not within a period not exceeding three years, at the most and preferably within the control period;
- v. Use of regulatory asset should not be repetitive;
- vi. While creating regulatory asset it should be ensure that Return on Equity (ROE) should not become unreasonably low in any year so that the capability of the licensee to borrow is not adversely affected.

4.2.2 In accordance with Section-62 of Electricity Act 2003 and Revised Tariff Policy 2016, the Hon'ble Commission has notified DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 which is required to be followed by the Licensees for filing the Petition for determination of ARR and Tariff determination for any particular year.

4.2.3 In Delhi, the DISCOMs are required to follow DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 issued on 31st January, 2017, while filing ARR and Tariff Petitions.



4.2.4 In terms of Regulation 11 of the DERC (Terms and Conditions for Determination of Tariff) Regulations 2017, the Petition for determination of ARR for any financial year is required to be filed atleast 150 days prior to the end of relevant financial year. The various legal provisions behind filing of ARR as are below:

- i. Section 62 of the Electricity Act, 2003 provides for determination of supply of electricity by a generating company to distribution licensee; retail supply and wheeling tariff etc.
- ii. The provisions laid down in Regulation 11 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 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 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."

4.2.5 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 Electricity Act, 2003 Act and Revised Tariff Policy, 2016:

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) multi year 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:"

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."

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:

Under business as usual conditions, no creation of Regulatory Assets shall be allowed;

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)

4.2.6 Section 11 read with Section 28 of the Delhi Electricity Reforms Act, 2000 provides



for the licensee to observe methodologies and procedures specified by the Commission from time to time in calculating the expected revenue.

4.2.7 Regulation 24 of the License Conditions of Petitioner issued by DERC also provides for the provision of revenue calculation and tariffs.

4.2.8 Regulation-3 and 4 of 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.”

4.2.9 The Petitioner has submitted the Petition for approval of the Business Plan for the Control Period from FY 2020-21 to FY 2024-25 before the Hon’ble Commission on October 21, 2019.

4.2.10 On December 27, 2019, the Hon’ble Commission uploaded DERC (Business Plan) Regulations, 2019 (hereinafter “Business Plan Regulations, 2019”) in the website of the Hon’ble Commission which are applicable for a period of 3 years, i.e., FY 2020-21, FY 2021-22 and FY 2022-23. Business Plan Regulations, 2019 specified the trajectory for various controllable parameters to be followed during FY 2020-21 to FY 2022-23.

4.2.11 Projections for ensuing year (FY 2021-22) are done on the basis of certain assumptions which are outlined below:

- (a) Energy Sales to various consumer categories is projected on the basis of Past Year Compounded Annual Growth Rate (CAGR).
- (b) Distribution Loss and Collection Efficiency are projected in accordance with the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 and the target specified in Regulation 25 and 26 of the Business Plan Regulations, 2019 respectively.
- (c) Power Purchase Quantum to be purchased is projected on the basis of energy Sales and T&D 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 bills raised by various Generating companies based on Orders issued by Hon’ble CERC or DERC based upon the applicability.
- (e) Operation and Maintenance Expenses are projected based on the methodology specified by the Hon’ble Commission in Regulation 23 of the



DERC Business Plan Regulations, 2019.

- (f) Capital expenditure related expenses are projected on the basis of capital expenditure approved by the Hon'ble Commission for ensuing year in Regulation 24 of the DERC Business Plan Regulations, 2019. The various expenses linked to Capital expenditure are accordingly projected based on the methodology specified by the Hon'ble Commission in the Tariff Regulations 2017 and Business Plan Regulations 2019.

4.2.12 The Petitioner vide letter dated 28.10.2020 requested the Hon'ble Commission to extend the timelines for the submission of True Up upto FY 2019-20 and ARR & Tariff for FY 2021-22 till 15.12.2020.

4.2.13 Accordingly, the Petitioner is filing the present Petition to ensure prompt determination of Tariff for FY 2021-22.

4.3 Energy Sales

4.3.1 For projection of Sales for FY 2021-22, following approach is adopted by the Petitioner:

- a) Step 1 - Firstly, Petitioner has considered the Adjusted Trend Analysis Method which could have been considered in case of normal scenario i.e. without the impact of COVID19 and lockdown.
- b) Step 2 - After projecting the sales in Step 1 the consumer categories were identified and factoring was done to the extent where activities were affected post unlock period till October 2020 and accordingly adjusted in sales of, 11 KV Worship/Hospital Non Domestic, Industrial and DMRC categories which was mainly affected due to COVID-19.
- c) Step 3 – for projecting the sales for FY 2021-22, the category wise sales projected in Step 1 is compared with Step 2, considering the base year as FY 2019-20 as FY 2020-21 is exceptionally an abnormal year due to COVID-lockdown in peak consumption period.

4.3.2 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 six years, along with the year on year growth rates from FY 2014-15 to FY 2019-20. The category-wise actual sales for the period FY 2014-15 to FY 2019-20 is tabulated below:

Table 4.1: Sales from FY 2013-14 to FY 2018-19 (MU)

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	3,004	3,180	3,517	3,756	3,838	4,057
A.1	Domestic (other than A2 to A4)	2,888	3,067	3,405	3,640	3,723	3,946
A.2	CGHS	17	16	17	19	21	21
A.3	11 KV Worship/Hospital	74	73	75	77	75	74
A.4	DVB Staff	26	23	20	20	19	16
B	Non Domestic	1,639	1,708	1,772	1,882	1,791	1,737
B.1	Non Domestic LT	1,276	1,345	1,405	1,501	1,467	1,412
B.2	Non Domestic HT	362	363	367	381	325	324
C	Industrial	282	284	277	310	374	373
C.1	Industrial LT	247	248	241	267	289	289
C.2	Industrial HT	35	36	35	44	85	84
D	Agriculture	0	0	0	0	0	0
E	Public Utilities	403	425	464	472	425	392
E.1	Public Lighting	101	114	145	119	104	93
E.2	DJB LT	10	11	11	12	12	13
E.3	DJB HT	130	137	131	135	137	137
E.4	DMRC	161	164	177	207	171	150
F	Temporary Supply	39	41	46	45	46	52
G	Advertisement & Hoardings	1	1	1	1	0	0
H	E Vehicle	-	-	-	0	7	16
I	Self consumption	16	13	16	16	15	13
J	Enforcement	21	24	23	20	14	13
K	Others	-	0	0	1	2	3
Total		5,405	5,676	6,115	6,504	6,514	6,658

4.3.3 The category-wise CAGR for various consumer categories are as follows:

Table 4.2: 5 Years CAGR (%)

S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
A	Domestic	6.20%	6.28%	4.88%	3.93%	5.70%	
A.1	Domestic (other than A2 to A4)	6.44%	6.50%	5.04%	4.12%	5.98%	4.12%
A.2	CGHS	4.90%	6.27%	6.97%	4.18%	-2.10%	4.18%



S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
A.3	11 KV Worship/Hospital	0.09%	0.18%	-0.48%	-2.14%	-1.32%	0.18%
A.4	DVB Staff	-8.66%	-8.35%	-6.00%	-9.30%	-13.40%	0.00%
B	Non Domestic	1.17%	0.42%	-0.66%	-3.93%	-3.06%	
B.1	Non Domestic LT	2.04%	1.24%	0.18%	-2.99%	-3.71%	-2.99%
B.2	Non Domestic HT	-2.19%	-2.78%	-4.03%	-7.70%	-0.10%	-7.70%
C	Industrial	5.71%	7.03%	10.48%	9.63%	-0.40%	
C.1	Industrial LT	3.17%	3.86%	6.22%	4.10%	-0.02%	0.00%
C.2	Industrial HT	18.96%	23.71%	33.42%	38.77%	-1.70%	0.00%
D	Agriculture	0.23%	-4.25%	-2.88%	-9.33%	-5.89%	0.00%
E	Public Utilities	-0.51%	-1.98%	-5.42%	-8.84%	-7.59%	
E.1	Public Lighting	-1.74%	-5.08%	-13.94%	-11.67%	-10.84%	-11.67%
E.2	DJB LT	4.61%	4.74%	5.81%	4.21%	2.05%	4.21%
E.3	DJB HT	0.96%	0.00%	1.39%	0.54%	-0.06%	0.54%
E.4	DMRC	-1.37%	-2.11%	-5.22%	-14.67%	-12.32%	-14.67%
F	Temporary Supply	6.03%	5.94%	4.38%	7.44%	14.40%	0.00%
G	Advertisement & Hoardings	-40.23%	-50.82%	-61.64%	-74.20%	-36.37%	0.00%
H	E Vehicle				568.80%	124.56%	10.00%
I	Self consumption	-4.06%	1.27%	-5.13%	-8.60%	-14.26%	0.25% of Sales
J	Enforcement	-8.68%	-13.47%	-16.57%	-18.89%	-4.66%	0.00%
K	Others		188.67%	102.71%	90.33%	61.91%	0.00%

4.3.4 The category wise number of consumers and total connected load for FY 2013-14 to FY 2018-19 are as follows:

Table 4.3: Number of consumers from FY 2013-14 to FY 2018-19

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	10,84,188	11,44,581	11,94,989	12,49,570	12,88,536	13,31,796
A.1	Domestic (other than A2 to A4)	10,77,264	11,39,603	11,89,946	12,44,638	12,83,735	13,28,152
A.2	CGHS	17	17	17	18	18	17
A.3	11 KV Worship/Hospital	29	31	33	33	31	30
A.4	DVB Staff	6,878	4,930	4,993	4,881	4,752	3,597
B	Non Domestic	3,50,820	3,62,433	3,73,450	3,86,590	3,83,911	3,85,348
B.1	Non Domestic LT	3,50,542	3,62,141	3,73,164	3,86,302	3,83,633	3,85,069
B.2	Non Domestic HT	278	292	286	288	278	279
C	Industrial	8,021	7,836	7,730	7,648	7,555	7,568

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
C.1	Industrial LT	8,001	7,817	7,713	7,628	7,520	7,532
C.2	Industrial HT	20	19	17	20	35	36
D	Agriculture	52	51	47	45	43	42
E	Public Utilities	4,302	4,405	4,477	4,579	4,790	5,052
E.1	Public Lighting	3,482	3,598	3,638	3,689	3,835	3,896
E.2	DJB LT	750	737	770	819	883	1,084
E.3	DJB HT	69	69	68	69	69	69
E.4	DMRC	1	1	1	2	3	3
F	Temporary Supply	-	-	-	-	-	-
G	Advertisement & Hoardings	286	357	339	285	344	348
H	E Vehicle				119	552	790
I	Self consumption	3	10	12	14	3	192
J	Enforcement	-					
K	Others						
Total		14,47,672	15,19,673	15,81,044	16,48,850	16,85,734	17,31,136

Table 4.4: Total connected load (MW/MVA) for FY 2014-15 to FY 2019-20

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	3,359	3,720	3,746	2,678	2,799	2,927
A.1	Domestic (other than A2 to A4)	3,279	3,645	3,669	2,601	2,728	2,863
A.2	CGHS	16	16	16	17	11	10
A.3	11 KV Worship/Hospital	40	41	44	44	44	43
A.4	DVB Staff	24	17	17	17	15	12
B	Non Domestic	1,621	1,708	1,683	1,700	1,647	1,626
B.1	Non Domestic LT	1,381	1,470	1,469	1,488	1,448	1,430
B.2	Non Domestic HT	240	237	214	212	199	197
C	Industrial	184	183	179	179	215	215
C.1	Industrial LT	164	163	160	159	180	180
C.2	Industrial HT	20	20	19	20	35	35
D	Agriculture	0	0	0	0	0	0
E	Public Utilities	133	137	140	146	164	193
E.1	Public Lighting	31	33	33	33	46	43
E.2	DJB LT	11	11	11	12	13	14
E.3	DJB HT	69	71	71	72	74	74
E.4	DMRC	21	21	25	28	31	62
F	Temporary Supply	-	-	-	-	-	-
G	Advertisement & Hoardings	1	1	1	1	1	1
H	E Vehicle				0	3	6

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
I	Self consumption	0	0	0	0	0	6
J	Enforcement	-					
K	Others						
Total		5,299	5,748	5,749	4,705	4,828	4,974

4.3.5 During the exercise for forecasting of Energy Sales for the FY 2020-21, the Petitioner has considered the actual Sales till FY 2018-19. However, in order to forecast energy sales for FY 2020-21, TheCAGR of various years is computed, considering FY 2018-19 as base year. The CAGR of various year obtained is then analysed for further projection. 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.
- Tendency of consumers to opt for multiple connections for deriving benefits of subsidy.

4.3.6 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.

4.3.7 It is pertinent to highlight the following constraints are faced by Petitioner recently in FY2018-19 and FY 2019-20 resulting into reduction in consumers sales growth:

- **Saturation of electrification in BYPL area:** The average consumer density in BYPL area is as high as 8656 connections/sq. km. In some areas, the consumer density is more than 28000 connections/ sq. km. and hence, the scope of sales growth on account of addition in number of consumers is very limited.
- **Sealing drive conducted by Civic Authorities:** Several sealing drives are being conducted by the civic authorities leading to disconnections under non-domestic/ industrial category.



- **Demand Side Management (DSM) activities:** Due to the DSM activities undertaken by BYPL such as distribution of Energy Efficient LED lights, energy efficient Air Conditioners etc., under the DSM scheme, the sales under Domestic category have not shown a significant growth.
- **Open access & Net metering:** Many Consumers from categories like DMRC, Non Domestic and Industrial are opting for open access. Further, Net Metering is also opted by few consumer which constitute to capacity of 22MWp as on 31.03.2019. This has also adversely impacting the sales growth of BYPL.
- **Clearance required from Delhi Pollution Control Committee (DPCC):** Hon'ble DERC had mandated the clearance from DPCC for availing new industrial and some Non-Domestic connections which has hampered the consumer growth under industrial and Non-Domestic category.
- **Restriction on building height:** In accordance with the DERC (Supply Code and Performance Standards) Regulations, 2017, fire clearance certificate has been mandated for availing connections in buildings more than 15 meters high.
- Most of the consumers/applicants residing in BYPL area belong to unauthorized areas/colonies where the building height is more than 15 meters and fire clearance certificates are not available with the applicants seeking new connections. Further, the relaxation in building height up to 17.5 meters in case of stilt parking has no significant impact as such cases are not prevalent in BYPL's license area.

4.3.8 GOI, from 17th May 2020 onwards has provided relaxations in lockdown through various phases of unlock. The consumption of May 2020 is reflected in the billing month of June 2020 onwards. Hence, keeping more conservative approach, the category wise sales comparison for the period July 2020 to October 2020 with the corresponding period of previous year is tabulated below:

Table 4.5: Category Wise Sale Comparison from Jul'20 to Oct'20

S.No	Category	Jul-20	Aug-20	Sep-20	Oct-20	Total
A	Domestic	-11.02%	5.68%	-7.08%	10.58%	-1.48%
A.1	Domestic (other than A2 to A4)	-10.46%	6.60%	-6.50%	11.27%	-0.80%
A.2	CGHS	0.01%	-43.03%	-21.46%	4.81%	-15.00%
A.3	11 KV Worship/Hospital	-41.97%	-30.84%	-37.62%	-24.35%	-34.25%
A.4	DVB Staff	-21.26%	0.36%	-1.22%	27.11%	-2.60%



S.No	Category	Jul-20	Aug-20	Sep-20	Oct-20	Total
B	Non Domestic	-20.71%	-25.49%	-27.39%	-16.44%	-22.62%
B.1	Non Domestic LT	-15.22%	-24.89%	-26.16%	-14.85%	-20.36%
B.2	Non Domestic HT	-42.99%	-28.22%	-32.84%	-23.43%	-32.45%
C	Industrial	-22.69%	-12.28%	-2.69%	7.75%	-8.18%
C.1	Industrial LT	-18.54%	-10.04%	4.31%	13.67%	-3.32%
C.2	Industrial HT	-34.67%	-19.34%	-23.95%	-11.88%	-23.19%
D	Agriculture	-12.06%	24.92%	39.33%	58.11%	24.31%
E	Public Utilities	-47.72%	-44.43%	-46.41%	-13.84%	-38.77%
E.1	Public Lighting	-43.74%	-33.24%	-44.71%	23.67%	-30.02%
E.2	DJB LT	-11.94%	-1.69%	-8.52%	15.57%	-2.26%
E.3	DJB HT	-5.37%	7.99%	0.25%	-2.77%	-0.13%
E.4	DMRC	-86.25%	-90.69%	-86.76%	-37.37%	-75.97%
F	Temporary Supply	-11.49%	1.65%	-12.98%	-4.16%	-7.06%
G	Advertisement & Hoardings	-	-55.02%	309.46%	40.72%	52.94%
H	E Vehicle	-48.61%	-17.10%	-10.65%	-4.84%	-19.17%
I	Self consumption	-14.19%	-25.57%	-29.89%	7.64%	-17.69%
J	Enforcement	-49.30%	-40.72%	-48.86%	-11.91%	-39.78%
K	Others					
Total		-15.71%	-5.76%	-13.91%	1.48%	-9.13%

- **Domestic other than CGHS, 11 KV Worship/Hospital and DVB Staff:** Domestic category is the most predominant category of the Petitioner, representing about 65% of total energy sales. It is observed that the percentage increase in sales is less in last 2 years when compared to 5-year CAGR. Due to various constraints in Petitioner's area as explained in Para 1.1.7 coupled with various DSM initiatives undertaken by the Petitioner the sales under this category are not likely to increase substantially. Enhanced sales for domestic category for next 5 years has been projected considering 2 years CAGR i.e., 4.12%. There is a drop in Domestic category of around (-)0.80% during the period July'20 to October'20 as compared to corresponding period of previous year. However, it is expected that during FY 2021-22 the domestic category would be 100% operational and have no impact of COVID-19.
- **CGHS:** This category is billed under Domestic category, however during the last 5 years there is no consumer growth in this category only specific consumption of existing consumer is increased. Considering the same Petitioner has considered 2 years CAGR of 4.18% due to the various DSM initiatives undertaken in the last 2 years. There is a drop in CGHS category of around (-)15.00% during the period



July'20 to October'20 as compared to the corresponding period of previous year. However, it is expected that during FY 2021-22, the CGHS category would be 100% operational as the consumption usage is same that of domestic category.

- **11 KV Worship/Hospital:** the consumption in this category shows negative trend during last 3 years ranging from (-)0.48% to (-)2.14%. Hence, 4 years CAGR of 0.18% is considered for projection of energy sales for 11 KV Worship/Hospital. There is a drop in this category of around (-)34.25% during the period July'20 to October'20 as compared to the corresponding period of previous year. Considering the negative impact of COVID-19 in this category, it is expected that the 11 KV Worship/Hospital Category would be adversely impacted by 30%, 25%, 20% and 15% during Q1, Q2, Q3 & Q4 respectively of FY 2021-22.
- **Non Domestic low tension:** The sales under this category are continuously declining since FY 2017-18 onwards. The yearly growth during FY 2019-20 was (-) 3.71% as compared to the 5 year's CAGR of 2.04%. The sales is not likely to increase substantially in FY 2021-22 the reasons of which is already explained in para 1.1.7. Hence, 2 years CAGR which is a negative growth of (-) 2.99% is considered for FY 2020-21. There is a drop in Non Domestic LT category of around (-)20.36% during the period July'20 to October'20 as compared to the corresponding period of previous year. Considering the negative impact of COVID-19 in this category, it is expected that the consumption in Non Domestic category would be adversely affected by 20%, 15%, 10% and 5% during Q1, Q2, Q3 & Q4 respectively of FY 2021-22.
- **Non Domestic High tension:** The sales under this category are continuously declining since FY 2017-18 onwards. The sales is not likely to increase substantially in FY 2021-22. The reasons of which are already explained in para 1.1.7. Hence, 2 years CAGR which is a negative growth of (-) 7.70% is considered for projection of sales for FY 2021-22. There is a drop in Non Domestic HT category of around (-)32.45% during the period July'20 to October'20 as compared to the corresponding period of previous year. Considering the negative impact of COVID-19 in this category, it is expected that the consumption in Non Domestic HT category would be adversely affected by 30%, 25%, 20% and 15% during Q1, Q2, Q3 & Q4 respectively of FY 2021-22.
- **Industrial Low Tension:** Nil Growth is considered under this category. There is a drop in Industrial LT category of around (-)3.32% during the period July'20 to October'20 as compared to the corresponding period of previous year. However, it is expected that during FY 2021-22, the consumption in Industrial LT category



would be adversely affected by 3%, 2.5%, 2% & 1.5% during Q1, Q2, Q3 & Q4 respectively for FY 2021-22.

- **Industrial High Tension:** The CAGR under this category is showing abnormal growth Hence, nil growth is considered in this category. Further, there is a drop in Industrial HT category of around (-)23.19% during the period July'20 to October'20 as compared to the corresponding period of previous year. Considering the negative impact of COVID-19 in this category, it is expected that the consumption in Industrial HT category would be adversely affected by 20%, 15%, 10% and 5% during Q1, Q2, Q3 & Q4 respectively of FY 2021-22.
- **Agriculture & Mushroom:** Nil growth is considered in this category.
- **Public utility Category:** For projecting the sales under Public Utilities category, the following assumptions have been considered:
 - 2 years CAGR of (-) 11.67% is considered in Public Lighting category considering the replacement of old lamps with energy efficient LED lamps.
 - The consumption of Delhi Jal Board (DJB) Low tension and high tension is projected to increase on the basis of 2 years CAGR of 4.21% and 0.54% respectively.
 - 2 years CAGR of (-) 14.67 is considered in Delhi Metro Rail Corporation (DMRC) due to Open Access procurement by DMRC. There is a drop of (-)75.97% in DMRC category during the period July'20 to October'20 as compared to the corresponding period of previous year. Considering the negative impact of COVID-19 in this category, it is expected that the consumption in DMRC category would be adversely affected by 75%, 60%, 50% and 40% during Q1, Q2, Q3 & Q4 respectively for FY 2021-22.
- Nil Growth is considered in the sales under Advertisement & Hoardings category as the same is showing negative growth throughout the 5 years period.
- Nil growth is considered under Temporary category.
- The sales under Charging Stations for E-Vehicles have been projected to increase at the rate of 10% annually upto FY 2021-22 mainly due to expected increase in number of E-Vehicles.
- Nil growth is considered for enforcement from the actual level in FY 2019-20 considering the proposed loss reduction as the distribution loss of Petitioner is



under 10% and there is not much scope in enforcement category for further loss reduction.

4.3.9 The self-consumption has been projected for each year considering 0.25% of the projected total sales for the respective year as per Regulation 23(2) of DERC (Business Plan) Regulations, 2019.

4.3.10 Further, the impact of COVID-19 will be going to last in FY 2021-22 as it will take some time for vaccination or achieving herd immunity of the masses. Various reports have been published in public domain in this regard. The petitioner relies on one of such report published by M/s McKinsey & Company enclosed herewith **Annexure 4.2**. The report stipulates that the impact of COVID-19 will last in year 2021. Therefore, the petitioner has taken gradual recovery in sales of impacted categories of consumer.

4.3.11 The Petitioner has applied the above growth rates on the actual category wise sales of FY 2019-20 to estimate energy sales during FY 2021-22 (including the factoring of drop in consumption of categories due to COVID-19) as tabulated below:

Table 4.6: Projected Sales (MU) for FY 2020-21

S.No	Category	Actual Sales during FY 2019-20	Growth rate Considered	CAGR/ Growth rate	Projected Sales FY 2021-22	Drop in consumption due to COVID-19	Estimated sales for FY 2021-22 considering the Drop in consumption due to COVID-19
A	Domestic	4,057			4,221		4,203
A.1	Domestic (other than A2 to A4)	3,946	4.12%	2 yrs	4,108		4,108
A.2	CGHS	21	4.18%	2 yrs	22		22
A.3	11 KV Worship/Hospital	74	0.18%	4 yrs	74	30%, 25%, 20% & 15% decline in Q1, Q2, Q3 & Q4 respectively	57
A.4	DVB Staff	16	0.00%	nil	16		16
B	Non Domestic	1,737			1,669		1,415



S.No	Category	Actual Sales during FY 2019-20	Growth rate Considered	CAGR/ Growth rate	Projected Sales FY 2021-22	Drop in consumption due to COVID-19	Estimated sales for FY 2021-22 considering the Drop in consumption due to COVID-19
B.1	Non Domestic LT	1,412	-2.99%	2 yrs	1,370	20%, 15%, 10% & 5% decline in Q1, Q2, Q3 & Q4 respectively	1,186
B.2	Non Domestic HT	324	-7.70%	2 yrs	299	30%, 25%, 20% & 15% decline in Q1, Q2, Q3 & Q4 respectively	229
C	Industrial	373			373		355
C.1	Industrial LT	289	0.00%	Nil	289	3%, 2.5%, 2% & 1.5% decline in Q1, Q2, Q3 & Q4 respectively	282
C.2	Industrial HT	84	0.00%	Nil	84	20%, 15%, 10% & 5% decline in Q1, Q2, Q3 & Q4 respectively	73
D	Agriculture	0	0.00%	Nil	0		0
E	Public Utilities	392			361		286



S.No	Category	Actual Sales during FY 2019-20	Growth rate Considered	CAGR/ Growth rate	Projected Sales FY 2021-22	Drop in consumption due to COVID-19	Estimated sales for FY 2021-22 considering the Drop in consumption due to COVID-19
E.1	Public Lighting	93	- 11.67 %	2yrs	82		82
E.2	DJB LT	13	4.21%	2yrs	13		13
E.3	DJB HT	137	0.54%	2yrs	137		137
E.4	DMRC	150	- 14.67 %	2yrs	128	75%, 60%, 50% & 40% decline in Q1, Q2, Q3 & Q4 respectively	53
F	Temporary Supply	52	0.00%	Nil	52		52
G	Advertisement & Hoardings	0	0.00%	Nil	0		0
H	E Vehicle	16	10.00 %	assumed	18		18
I	Self consumption	13	0.25% of sales		17		16
J	Enforcement	13	0.00%	Nil	13		13
K	Others	3	0.00%	Nil	3		3
Total		6,658			6,727		6,362

4.3.12 The Petitioner requests the Hon'ble Commission to kindly consider the projected Sales of FY 2021-22 as submitted in aforesaid table.

Projection of Number of consumers:

4.3.13 The category wise number of consumers are projected considering the month on month growth in number of consumer during the previous year i.e. FY 2019-20. The same growth is applied on the closing category wise number of consumer for October 2020 on monthly basis.

Projection of Sanctioned Load:



4.3.14 The category wise Sanctioned load are projected considering the month on month growth in Sanctioned load during the previous year i.e. FY 2019-20. The same growth is applied on the closing category wise Sanctioned load for the month of October 2020 on monthly basis.

4.3.15 The Projected number of consumers and connected load and energy sales (including the impact of COVID19 and lockdown) during FY 2020-21 is tabulated below:

Table 4.7: Projected number of consumers, sanctioned load and sales for FY 2020-21

S.No	Category	No of consumer	Sanctioned Load (MW)	Sales (MU)
A	Domestic	14,04,177	2,994	4,203
A.1	Domestic (other than A2 to A4)	13,99,807	2,932	4,108
A.2	CGHS	15	7	22
A.3	11 KV Worship/Hospital	30	43	57
A.4	DVB Staff	4,324	12	16
B	Non Domestic	3,86,370	1,531	1,415
B.1	Non Domestic LT	3,86,087	1,344	1,186
B.2	Non Domestic HT	283	186	229
C	Industrial	7,508	209	355
C.1	Industrial LT	7,474	176	282
C.2	Industrial HT	34	33	73
D	Agriculture	40	0	0
E	Public Utilities	5,896	179	286
E.1	Public Lighting	3,886	28	82
E.2	DJB LT	1,938	15	13
E.3	DJB HT	69	74	137
E.4	DMRC	3	62	53
F	Temporary Supply	8,868	31	52
G	Advertisement & Hoardings	334	1	0
H	E Vehicle	1,255	9	18
I	Self consumption	-	-	16
J	Enforcement	-	-	13
K	Others	-	-	3
Total		18,14,447	4,954	6,362

4.3.16 The Petitioner requests the Hon'ble Commission to consider the above submissions for estimation of sales, connected load and number of consumers during FY 2020-21.



4.4 Revenue in FY 2019-20 at Existing Tariff

4.4.1 Methodology adopted for projection of Revenue from existing Tariff is as follows

- Sales have been divided among sub-categories on monthly basis based on Form-2.1a (actual) of FY 2019-20.
- Number of Consumers and Connected Load (MW) for various sub-categories has been divided in the ratio of actual sanctioned load and actual number of consumers during FY 2019-20.
- The fixed charges and energy charges as approved by the Hon'ble Commission vide Tariff Schedule dated 28th August 2020 has been considered for calculation of revenue from existing tariff.
- For the sub-categories where the energy charges have been specified in Rs/kVAh, the Petitioner has considered actual monthly power factor as per Form 2.1a of FY 2019-20.
- The above methodology in general has been utilised for estimation of revenue from existing tariff for all consumer categories

4.5 Revenue estimated for FY 2020-21

4.5.1 The revenue estimated on account of sales to various consumer categories during FY 2020-21 is tabulated below:

Table 4.8: Revenue estimated during FY 2020-21 (Rs. Cr.)

S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue Billed
A	Domestic	189	1,704	-2	1,891
A.1	Domestic (other than A2 to A4)	174	1,646	-	1,820
A.2	CGHS	1	10	-0	11
A.3	11 KV Worship/Hospital	13	45	-1	57
A.4	DVB Staff	1	3	-	4
B	Non Domestic	467	1,213	-6	1,673
B.1	Non Domestic LT	410	1,008	-	1,419
B.2	Non Domestic HT	56	204	-6	254
C	Industrial	63	288	-2	349
C.1	Industrial LT	53	229	-	283



S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue Billed
C.2	Industrial HT	10	58	-2	66
D	Agriculture	0	0	-	0
E	Public Utilities	55	198	-4	249
E.1	Public Lighting	10	61	-	71
E.2	DJB LT	5	9	-	14
E.3	DJB HT	22	93	-3	112
E.4	DMRC	19	35	-1	52
F	Temporary Supply	8	44	-	53
G	Advertisement & Hoardings	0	0	-	0
H	E Vehicle	-	8	-	8
I	Self consumption	-	-	-	-
J	Enforcement	-	18	-	18
K	Others	-	1	-	1
Total		782	3,474	-14	4,243
Total Collection @ 99.50%					4,222

Note: Impact of TOD included in Energy charge.

4.6 Distribution Loss and Collection Efficiency Target

4.6.1 Regulation-25 (1) of DERC (Business Plan) Regulations, 2019 specifies the Distribution Loss Target from FY 2020-21 to FY 2022-23 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	2020-21	2021-22	2022-23
1	BSES Rajdhani Power Limited	8.10%	8.00%	7.90%
2	BSES Yamuna Power Limited	9.00%	8.75%	8.50%
3	Tata Power Delhi distribution Limited	7.90%	7.80%	7.70%
4	New Delhi Municipal Council	9.00%	8.75%	8.50%

“

4.6.2 The Hon'ble Commission in the Business Plan Regulations, 2019 has approved the stringent distribution loss trajectory as compared to Distribution Loss trajectory proposed by the petitioner in its Business Plan. As against the distribution loss of



9.79% for FY 2020-21 proposed by the Petitioner in its Business Plan, the Commission has approved the Distribution Loss of 9.00% for FY 2020-21.

4.6.3 The Petitioner was able to achieve actual Distribution Loss from 20.96% in FY 2013-14 to 10.77% in FY 2017-18, but as the base level of loss reduces, further reduction of distribution loss becomes more and more difficult. The Petitioner would like to submit that though it has considered the distribution loss at 9.00% for projecting the ARR for FY 2020-21 as per the Business Plan Regulations, 2019 issued by the Commission, however, if any major issue is faced by the Petitioner in achieving the distribution loss target approved by the Commission, the Petitioner would approach the Commission for suitable relaxation, if required, at the time of truing up considering the fact that the base level of losses are very low and hence further reduction will be very difficult. It is submitted that timely and adequate approval of CAPEX is a *sine qua non* for reduction of further losses.

4.6.4 Regulation-26 (1) of DERC (Business Plan) Regulations, 2019 specifies targets for Collection Efficiency from FY 2020-21 to FY 2022-23 @ 99.50%.

4.6.5 The Hon'ble Commission in the Business Plan Regulations, 2019 has approved the stringent distribution loss trajectory as compared to Distribution Loss trajectory proposed by the petitioner in its Business Plan. As against the distribution loss of 9.79% for FY 2021-22 proposed by the petitioner in its Business Plan, the Commission has approved the Distribution Loss of 8.75% for FY 2021-22.

4.6.6 Regulation-26 (1) of DERC (Business Plan) Regulations, 2019 specifies targets for Collection Efficiency from FY 2020-21 to FY 2022-23 @ 99.50%.

4.6.7 As regards to the Distribution loss, we would like to submit that due to the restriction of operation to commercial and industrial activities the consumption mix of LT and HT in Demand will be changed by Approx 2%. The comparison of consumption mix from FY 2019-20 (actual) with FY 2021-22 (Estimated) of LT and HT Consumer is tabulated below in Table 12.

Consumption Mix Comparison of LT and HT

Particulars	Sales in MU		Sales % of total	
	FY 2019-20	FY 2020-21	FY 2019-20	FY 2020-21
LT Consumption	5,867	5,791	88%	91%



HT/EHT Consumption	790	572	12%	9%
Total Sales	6,658	6,362	100%	100%

- 4.6.8 As explained above the consumption mix of HT/EHT Connections is dropped by 3%. It is pertinent to mention that these consumers are billed at a distribution loss of around 1.5% or lower and hence contributes in Distribution loss maintenance of the Petitioner. This would have an adverse impact of 0.13% on the Distribution loss of the Petitioner. Hence, Petitioner would like to request the Hon'ble Commission to kindly revise the distribution loss target for FY 2021-22 from 8.75% to 8.88% seeking the adverse impact of change in consumption mix which is mainly due to COVID19. However, for the purpose of calculation of ARR, Petitioner has considered distribution loss target of 8.75% as approved by the Hon'ble Commission in Business Plan Regulation 2019.
- 4.6.9 The Petitioner has considered collection efficiency target of 99.50% for FY 2021-22 as approved by the Hon'ble Commission in Business Plan Regulation 2019.
- 4.6.10 Based on the sales projected for FY 2021-22 and Distribution loss as specified for FY 2021-22 in DERC Business Plan Regulations, 2019, the energy requirement has been estimated as tabulated below:

Table 4.9: Energy Requirement for FY 2021-22

S. No	Particulars	Unit	Quantity	Remarks
A	Energy sales	MU	6,362	Table-1.5
B	Distribution Loss	%	8.75%	Table-15 of DERC Business Plan Regulations, 2019
C	Energy Requirement	MU	6,972	A/(1-B)
D	Distribution Loss	MU	610	C-A

4.7 Power Purchase

- 4.7.1 The Petitioner sources the power through mix of long term and short term sources to meet the demand in its licensed area. The power procured under long term PPAs from thermal and hydro power plants forms the bulk of the power purchase by the



Petitioner.

- 4.7.2 The power procurement through Long term sources include Central Generating Stations which are owned by Central Government, State Generating Stations which are owned by State Government, IPP and JVs. The deficit in power against the demand is arranged by means of short term power procurement through various sources like Banking, Power Exchange and other sources. 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.
- 4.7.3 The forecast of Power Availability has been projected from existing long-term sources and from new sources for which the Petitioner has executed the PPAs and are expected to be operational during FY 2021-22. The Petitioner also considered solar energy available from the existing Rooftop sources as well as forecasted to be installed in BYPL Area.
- 4.7.4 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

- The power availability has been estimated based upon the allocation as per Hon'ble Commission's last Tariff Order dated Aug 28, 2020 for FY 2020-21 and after considering the impact of Auxiliary consumption and LGBR report for FY 20-21
- Further, the Petitioner vide its letter dated 30.11.2020 has communicated its stand on NTPC-Dadri-I to the Hon'ble Commission. It is relevant to point out that Dadri-I is an obsolete, commercially & economically unviable Plant having high tariff of more than Rs. 6.33 per unit and creates economic burden on account of higher tariff for the residents of NCT of Delhi. In fact, the National Electricity Plan (January 2018) issued by Central Electricity Authority ("CEA") under Section 3(4) of the Electricity Act, 2003 has considered retirement of various generating stations of NTPC during 2022-27 which shall complete the age of 25 years



including Dadri-I. Accordingly, the Petitioner has not considered any procurement of power from Dadri –I in projections of FY 2021-22.

- Therefore, as on date, the Petitioner is not including National Capital Thermal Power Station (840 MW) (“Dadri-I”) in its projections for power purchase costs for FY 2021-22. The Petitioner by its Communication dated 30.11.2020 has already informed the Hon’ble Commission that by virtue of and operation of Regulation 17(1) of the CERC (Terms and Conditions for Tariff) Regulations, 2019 (“Tariff Regulations, 2019”), the PPA and Supplementary PPA has lapsed on 01.12.2020 at 00:00 hrs., unless a mutually agreed arrangement to extend the supply from Dadri-I is in place. Accordingly, w.e.f. 01.12.2020, in terms Regulation 17(1) of Hon’ble CERC Tariff Regulations, 2019 BYPL is under no obligation to schedule power from this plant and would not be liable to bear any costs towards the Dadri -I plant.
- The Petitioner however reserves its rights to make further submissions and file appropriate intimation/information/ pleadings in this regard and other stations if there are any developments on this issue in the near future, which may have bearing on the power purchase costs of the Petitioner for FY 2020-21 and FY 2021-22.

ii. BTPS:

- No procurement has been considered due to phasing out of plant.

iii. NHPC Stations:

- The power availability has been estimated based on the allocation as per Hon’ble Commission’s last Tariff Order dated Aug 28, 2020 for FY 2020-21 and design energy for the must run hydro power stations.

iv. Sasan, NPCIL, SJVNL, Tala, DVC and SGS stations:

- The power availability from Sasan & NPCIL has been estimated based on the allocation as per Hon’ble Commission’s last Tariff Order dated Aug



28, 2020 for FY 2020-21 and last year trends.

- Further Design energy is considered for must run SJVNL & Tala stations.
- The DVC stations are considered after adjusting auxiliary consumption and by applying Merit Order Dispatch Scheduling principle.
- The SGS stations have been considered by applying Merit Order Dispatch Scheduling principle and required shutdown, Further PPCL-III quantum has been estimated after taking into account The Hon'ble Supreme Court direction wrt Natural Gas availability for unit-1 of Bawana station

v. RE Sources:

- For existing RE sources, availability is projected based on the average of actual availability of the plants during past years.

vi. New Generating Stations:

- The expected COD has been taken from various sources including upcoming Generating stations;
- Power availability after COD has been projected taking into account norms of auxiliary consumption, terms agreed in the PPA, expected PLF and Petitioners share in power generated as per the normative operational parameters specified by CERC.

4.7.5 The energy estimated to be available during FY 2021-22 is tabulated below:

Table 4.10: Energy Purchase during FY 2021-22

S. No.	Stations	Installed Capacity	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share
		(MW)	(%)	(MW)	(%)	(MW)	(MU)
A	NTPC						
1	Anta Gas Power Project	419	10.50%	44	2.67%	11	9
2	Auraiya Gas Power Station	663	10.86%	72	2.76%	18	12
3	Badarpur Thermal Power Station						



S. No.	Stations	Installed Capacity	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share
		(MW)	(%)	(MW)	(%)	(MW)	(MU)
4	Dadri Gas Power Station	830	10.96%	91	2.78%	23	17
5	Feroze Gandhi Unchahar TPS 1	420	5.71%	643	1.45%	6	30
6	Feroze Gandhi Unchahar TPS 2	420	11.19%	47	2.84%	12	56
7	Feroze Gandhi Unchahar TPS 3	210	13.81%	29	3.51%	7	38
8	FarakkaStps	1600	1.39%	22	0.35%	6	46
9	Kahalgaoon Thermal Power Station 1	840	6.07%	51	1.54%	13	95
10	Kahalgaoon Thermal Power Station 2	1500	10.49%	157	2.66%	40	288
11	National Capital Thermal Power						0
12	Dadri TPS-II	980	74.52%	730	17.91%	175	520
13	Rihand Thermal Power Station 1	1000			0		0
14	Rihand Thermal Power Station 2	1000	12.60%	126	3.20%	32	242
15	Rihand Thermal Power Station 3	1000	13.19%	108	5.37%	54	360
16	Singrauli STPS	2000	7.50%	150	3.72%	74	551
	Sub Total	12882		2270		472	2264
B.	NHPC Ltd.						
1	Bairasiul	180	11.00%	20	2.79%	5	22
2	Salal	690	11.62%	80	2.95%	20	91
3	Tanakpur	120	12.81%	15	3.25%	3	15
4	Chamera I	540	7.90%	43	2.01%	11	33
5	Uri	480	11.04%	53	2.80%	13	73
6	Chamera - II	300	13.33%	40	3.39%	10	51
7	Chamera - III	231	12.73%	29	3.23%	7	35
8	Dhauliganga	280	13.21%	37	3.36%	9	38
9	Dulhasti	390	12.83%	50	3.26%	13	62
10	Sewa-II	120	13.33%	16	3.39%	4	18
11	Uri II	240	13.45%	32	3.41%	8	38
12	Parbati-III	520	12.73%	66	3.23%	17	63
	Sub Total	4091		481		122	539
C.	NPCI Ltd.						



S. No.	Stations	Installed Capacity	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share
		(MW)	(%)	(MW)	(%)	(MW)	(MU)
1	Nuclear Power Corp. of India Ltd. Narora	440	10.68%	47	0.00%	-	0
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	440	12.69%	56	3.22%	14	119
	Sub Total	880		103		14	119
D.	SJVN Ltd.						
1	Satluj Jal Vidyut Nigam Ltd.- NathpaJhakri	1500	9.47%	142	2.41%	36	159
2	SJVNL Regulation credit						
	Sub Total	1500		142		36	159
E	Damodar Valley Corporation						
1	Mejia Units 6	250	40.00%	100	10.16%	25	144
2	CTPS 7 & 8	500	60.00%	300	15.24%	76	398
3	MTPS 7	500	22.23%	111	22.23%	111	638
	Sub Total	1250		511		212	1180
F	Power stations in Delhi						
1	Indraprastha Power Generation Co.Ltd. RPH	135	100.00%	135	0.00%	0	
2	Indraprastha Power Generation Co.Ltd. GT	282	100.00%	281	8.6%	23	69
3	Pragati Power Corp.Ltd. Pragati I	330	100.00%	330	16.2%	53	231
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	1371	80.00%	1097	6.00%	82	306
	Sub Total	2118.2		746		159	606
G	Aravali Power Corporation Ltd - Jhajjar	1500	46.20%	693	4.61%	69	74
H	Sasan	3960	11.25%	446	8.89%	352	2485
I	Renewable						



S. No.	Stations	Installed Capacity	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share
		(MW)	(%)	(MW)	(%)	(MW)	(MU)
i	SECI- existing	20			100.00%	20	42
ii	SECI-Solar (Kilraj)	50			100%	50	105
iii	SECI- Wind- Alfamar Energy Private Ltd	300			16.67%	50	149
iv	Self Generation						0.2
iv	MSW	24	100.00%	24	23.92%	6	30
J	Tala	1020	2.94%	30	0.75%	8	29
K. New Sources							
1	EDEN Renewables Cite Pvt Ltd	300			16.67%	50	88
2	SBSR Power Cleantech Eleven	300			33.33%	100	158
3	SECI- Wind (Sitakabini Renewables Pvt Ltd)	300			33.33%	100	248
4	ACME Solar Holdings Ltd	600			16.67%	100	18
5	Mytrah Energy (India) Private Ltd	300			33.33%	100	0
6	SDMC	25				5.83	21
	TOTAL QUANTUM FROM FIRM SOURCES (MU)						8313

4.8 Power Purchase Cost

4.8.1 The Petitioner has estimated the power purchase cost corresponding to the quantum from power plants as listed above in the following manner:

i. ISGS Thermal Stations:

- Annual fixed Charges (AFC) have been considered as per the petition filed by respective Central Generating station in Hon'ble CERC.
- Variable Cost (VC) has been considered equivalent to actual variable cost upto YTM Oct'20.



ii. State Generating Stations:

- Annual fixed Charges (AFC) have been considered as per actual Fixed Cost of FY 2020-21.
- Variable Cost (VC) has been considered equivalent to variable cost as per actual YTM Oct'20.

iii. RE Sources:

- The cost of procurement from, SECI Solar, SECI Wind and Non Solar stations and have been considered as per the PPAs/ PSA's signed and/or billed, as the case may be.

iv. New Generating Stations:

- The Cost of power from new stations have been considered as indicated by various generating stations in respective PSA and as per cost of similar stations..

v. Arrears

- Majority of Central Generating station have filed their respective True up petitions for FY 14-19 and ARR of FY 19-24 before the Hon'ble CERC. The orders of the same are expected to be pronounced shortly in Q-4 of FY 20-21 and 1st half of FY 21-22. Accordingly a conservative amount of Rs. 363 Cr. (NTPC- Rs 106 Cr, DVC – Rs 234 Cr, APCPL- Rs 8 Cr, NHPC & SJVNL- Rs 8Cr respectively) has been estimated towards past Arrears during FY 2021-22. The same will have huge bearing on the overall power purchase cost of the Petitioner. The plant wise details of expected arrears is show below in the chart:



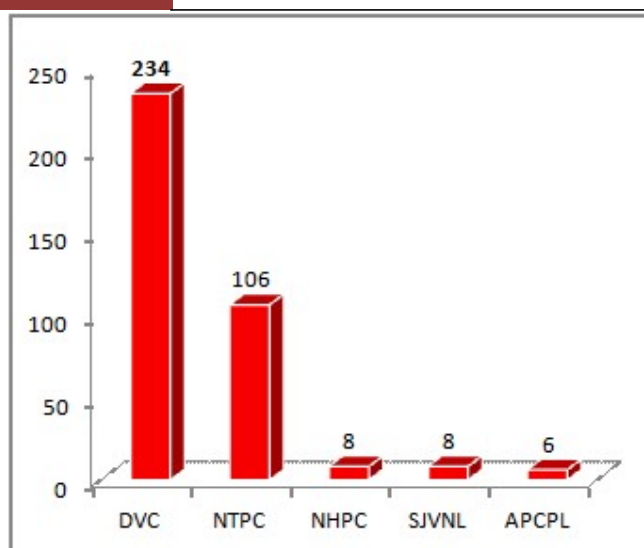


Figure 3: Expected Impact of Arrears of Central Generating Stations on account of latest Tariff petitions filed in Hon'ble CERC

- Since the amount of estimated arrear is huge, hence same cannot be timely recovered through Quarterly PPAC. Hence, In view of the above and the cash flow crisis being faced by the petitioner, The petitioner requests Hon'ble Commission to allow the recovery of Suo moto PPAC on monthly basis as against quarterly basis for speedier recovery and payment of power cost to respective Genco's and Trasco's. The Petitioner also requests Hon'ble commission to kindly consider the estimated arrears of the Petitioner in Tariff of FY 21-22 while finalizing the Tariff.

4.8.2 Accordingly, the power purchase cost as proposed for various stations during FY 2021-22 is tabulated below:

Table 4.11: Power Purchase Cost proposed for FY 2021-22

S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	Rs Cr	Rs Cr	Rs Cr	Rs/unit
A	NTPC					
1	Anta Gas Power Project	9	5	3	8	8.72
2	Auraiya Gas Power Station	12	11	4	15	12.41



S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	Rs Cr	Rs Cr	Rs Cr	Rs/unit
3	Badarpur Thermal Power Station	0	0	0	0	
4	Dadri Gas Power Station	17	9	8	17	10.00
5	Feroze Gandhi Unchahar TPS 1	30	4	10	14	4.62
6	Feroze Gandhi Unchahar TPS 2	56	9	18	27	4.86
7	Feroze Gandhi Unchahar TPS 3	38	6	12	18	4.83
8	FarakkaStps	46	4	13	17	3.58
9	Kahalgaon Thermal Power Station 1	95	11	22	33	3.46
10	Kahalgaon Thermal Power Station 2	288	30	63	93	3.22
11	National Capital Thermal Power	0	0	0	0	
12	Dadri TPS-II	520	188	195	383	7.36
13	Rihand Thermal Power Station 1	0	0	0	0	
14	Rihand Thermal Power Station 2	242	17	33	50	2.08
15	Rihand Thermal Power Station 3	360	57	53	110	3.05
16	Singrauli STPS	551	38	78	116	2.10
	Sub Total	2264	390	510	900	3.97
B.	NHPC Ltd.					
1	Bairasiul	22	2	2	5	2.07
2	Salal	91	9	17	26	2.82
3	Tanakpur	15	4	3	7	4.68
4	Chamera I	33	4	4	8	2.30
5	Uri	73	8	9	17	2.37
6	Chamera - II	51	6	6	12	2.36
7	Chamera - III	35	8	8	16	4.52
8	Dhauliganga	38	4	5	9	2.26
9	Dulhasti	62	14	18	32	5.11
10	Sewa-II	18	5	5	11	5.89



S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	Rs Cr	Rs Cr	Rs Cr	Rs/unit
11	Uri II	38	11	13	24	6.41
12	Parbati-III	63	6	9	15	2.38
	Sub Total	539	82	98	180	3.35
C.	NPCL Ltd.					
1	Nuclear Power Corp. of India Ltd. Narora	0	0.00	0.00	0.00	0.00
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	119	0	46	46	3.86
	Sub Total	119	0.00	45.73	45.73	3.86
D.	SJVN Ltd.					
1	Satluj Jal Vidyut Nigam Ltd.- NathpaJhakri	159	23	20	43	2.73
2	SJVNL Regulation credit	0	0.00	0.00	0.00	0.00
	Sub Total	159	23.25	20.13	43.38	2.73
E	Damodar Valley Corporation					
1	Mejia Units 6	144	24	43	66	4.62
2	CTPS 7 & 8	398	102	102	204	5.11
3	MTPS 7	638	134	175	309	4.84
	Sub Total	1180	259	320	579	4.91
F	Power stations in Delhi					
1	Indraprastha Power Generation Co.Ltd. RPH	0	0.00	0.00	0.00	
2	Indraprastha Power Generation Co.Ltd. GT	69	13	21	34	4.93
3	Pragati Power Corp.Ltd. Pragati I	231	25	82	106	4.61



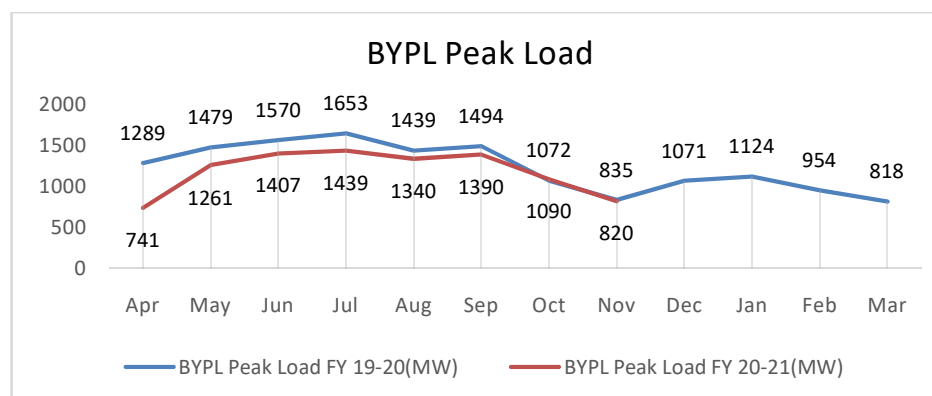
S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	Rs Cr	Rs Cr	Rs Cr	Rs/unit
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	306	139	78	216	7.07
	Sub Total	606	176	181	357	5.89
G	Aravali Power Corporation Ltd - Jhajjar	74	88	30	118	16.00
H	Sasan	2485	42	318	359.84	1.45
I	Renewable					
i	SECI- existing	42	0	25	25	5.92
ii	SECI-Solar (Kilraj)	105	0.00	27	27	2.61
iii	SECI- Wind- Alfanar Energy Private Ltd	149		38	38	2.52
iv	Self Generation	0		0.00	0	5.36
v	MSW	30	0	21	21	7.03
J.	Tala	29	0	6	6	2.16
K. New Sources						
I	EDEN Renewables Cite Pvt Ltd	88	0	23	23.38	2.67
ii	SBSR Power Cleantech Eleven	158		42	42	2.68
iii	SECI- Wind (Sitakabini Renewables Pvt Ltd)	248	0	70	70	2.84
iv	ACME Solar Holdings Ltd	18	0	4	4	2.51
V	Mytrah Energy (India) Private Ltd	0				
vi	SDMC	21	0	9	9	4.30
L	Arrears		363		363	
TOTAL QUANTUM FROM FIRM SOURCES		8313	1424	1788	3212	3.86



4.9 Cost of power from other sources (Short Term Sources)

- 4.9.1 The Hon'ble Commission in its previous Tariff Orders has 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. Further, as per the Hon'ble Commission's directive the Licensee has to ensure that electricity which could not be served due to any reason what-so-ever (including maintenance schedule, break-downs, load shedding etc.) shall not exceed 1% of the total energy supplied by them in any particular month, except in cases of force majeure events which are beyond the control of the Licensee. Accordingly, during peak hours, the Licensee is required to procure power from short term sources to meet the demand.
- 4.9.2 The peculiar load curve of Delhi for a days evident from below pictorial representations:

Figure 1: Load Curve for FY 19-20 and FY 20-21 (till Nov'20)



- 4.9.3 The Hon'ble Commission in its Tariff Order dated July 23, 2014 itself observed that the Petitioner is meeting more than 50% of its short-term power purchase through banking. Despite the same, the Hon'ble Commission while estimating the power purchase cost for FY 2020-21 had not considered any cost on account of short-term power purchase which resulted in under-recovery of power purchase cost. At the same time, the Petitioner is expected to comply with the Hon'ble Commission's direction of load shedding upto 1% of total demand and also to avail maximum normative rebate by clearing all the dues in time.



4.9.4 In view of the above, 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 uninterruptable supply to Delhi Consumers. In order to cater to the rising demand, BYPL has to arrange for power from long and short term sources.

Projection of Short-term power purchase quantum:

4.9.5 The Petitioner has projected the energy requirement and energy availability as mentioned in Para 2.7.4. The deficit thus observed has been considered to be met through short term purchases as under:

Table 4.12:Month wise energy requirement and availabilityduring FY 2021-22

Station	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	March	Total
	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)
Energy (A)	623	728	832	824	849	766	634	622	630	632	545	626	8,313
Energy requirement (B)	583	736	834	817	763	745	522	383	421	449	371	348	6,972
SHORT TERM*													
Short Term Purchase	0	74	87	72	36	41							310
Short Term Sale	19	39	54	50	93	36	92	219	190	163	157	259	1,372

* Load curve of Delhi is peculiar in nature, with high morning and evening peaks and very low load demand during night hours. Therefore, Short term Purchase are assumed to meet the monthly demand & supply scenarios, Further, it is also assumed that power will also require to be purchased in few slots of winter seasons for meeting the demand and accordingly the same is considered in monthly energy balance.

4.9.6 The Petitioner has considered the aforesaid energy to be met through short -term



procurement in FY 2021-22. The Petitioner also propose to procure short term renewable power through GTAM. For the purpose of short term purchase cost, the average rate of Rs. 3.50/kWh has been considered in accordance with the weighted average rate actualized from exchange till YTM Oct'20.

4.9.7 Accordingly, the power purchase cost through Short term sources for FY 2021-22 is tabulated below:

Table 4.13: Short term power purchase for FY 2021-22

S.No	Source	Energy Purchased	Cost per Unit	Total Cost
		(MU)	(Rs./unit)	(Rs.Cr.)
1	2	3	4	5=3*4
1	Short Term Purchase	310	3.50	108.6

4.9.8 The Petitioner requests the Hon'ble Commission to allow the aforesaid cost in the ARR of the Petitioner.

4.10 Renewable Purchase Obligation (RPO)

4.10.1 Regulation-27 of DERC Business Plan Regulations, 2019 specifies the target for Renewable Purchase Obligation from FY 2020-21 to FY 2022-23 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 2020-21 to FY 2022-23 shall be computed as a percentage of total sale of power to its retail consumers in its area of supply excluding procurement of hydro power. The target for RPO shall be met through purchase of power from various Renewable Energy sources or purchase of Renewable Energy Certificates ('REC') or combination of both, and shall be as follows:

Sr. No.	Distribution Licensee	2020-21	2021-22	2022-23
1	Non Solar Target	10.25%	10.25%	10.50%
2	Solar Target	7.25%	8.75%	10.50%
3	Total	17.50%	19.00%	21.00%

...."



4.10.2 With respect to the RPO Targets mentioned in the Business Plan Regulations, 2019 the following is proposed:

Solar and Non Solar:

- 4.10.3 The Petitioner had proposed that the RPO targets be set in such a way that the Petitioner may meet its targets with the help of tied up sources. Further, any excess energy procured from Renewable Energy Sources during these years can be utilised to meet the previous year's shortfall of achieving RPO target. In addition, the low RE Potential of Delhi and unavailability of real estate within and around New Delhi has led to very little development of RE Generation near the State.
- 4.10.4 Also, there has been various external factors which might affect the Petitioner to comply with RPO Targets like COVID, delay in SCOD by RE developers, halt in REC trading and other factors, which are beyond the control of Petitioner. Hence, we request the Hon'ble Commission to relax the RPO Targets.
- 4.10.5 However, considering the RPO Targets mentioned in the Business Plan Regulations, 2019, it is submitted that for computing the cost to purchase REC, the Petitioner has considered forbearance price keeping in view shortfall of RECs in the market where buy bids have been significantly higher than the sell bids. Further, due to higher RPO targets specified by various Commissions it can be fairly assumed that the prices of REC will move towards forbearance price. The Petitioner therefore requests the Hon'ble Commission that if the Petitioner is expected to meet RPO it ought to be allowed the cost of purchasing RECs at forbearance price.
- 4.10.6 Accordingly, the cost of REC Purchase for meeting solar RPO during FY 2021-22 is tabulated below:

Table 4.14: Cost of REC Purchase for meeting Solar RPO during FY 2021-22

S.No.	Particulars	UoM	FY 2021-22
1	2	3	4
A	Energy Sales (excl. Hydro)	MU	5635
B	RPO target – Solar	%	8.75%
C	RPO target – Solar	MU	493
D	Availability from SECI, Net Metering Rooftop	MU	456
E	Required to be met through RECs	MU	37
F	REC rates	Rs./kWh	1.12



S.No.	Particulars	UoM	FY 2021-22
1	2	3	4
G	Cost for REC purchase	Rs. Crore	4

4.10.7 The Petitioner has arrangements for purchasing Non-solar power from Delhi based plants such as DMSW, SDMC. In addition to the existing sources the Petitioner has executed PPAs with Renewable Energy Developer through SECI, for Wind Power.

4.10.8 Accordingly, the cost of REC Purchase for meeting Non-Solar RPO during FY 2021-22 is tabulated below:

Table 4.15: Cost of REC Purchase for meeting Non-Solar RPO during FY 2021-22

Sl.No.	Particulars	UoM	FY 2021-22
1	2	3	4
A	Energy Sales (excl. Hydro)	MU	5635
B	RPO target - Non-Solar	%	10.25%
C	RPO target - Non-Solar	MU	578
D	Availability from EDWPCL & MSW	MU	448
E	Required to be met through RECs	MU	129
F	REC rates	Rs./kWh	1.12
G	Cost for REC purchase	Rs. Crore	14

4.10.9 The Petitioner requests the Hon'ble Commission to allow the cost of RPO as projected in the aforesaid table in the ARR of FY 2021-22.

4.11 Transmission Loss and Charges

Intra-State Transmission:

4.11.1 The intra-state Transmission Loss during FY 2021-22 has been considered @0.92% based on previous Tariff Order of the Hon'ble Commission.

4.11.2 The Petitioner has considered the Intra-State Transmission Charges during FY 2021-22 as per actual of FY 2020-21 and by applying the escalation of 11%. The escalation is based upon the analysis of DTL ARR which has an escalation in (FY20 v/s FY19 Cost ~15% and FY21 v/s FY 20 Bill ~25%).

Inter-State Transmission:

4.11.3 The Petitioner has considered inter-state transmission losses as 3.4% based on past and present trend (enclosed as Annexure 4.1) and recent available orders. The



summarised chart for latest months is also given below:

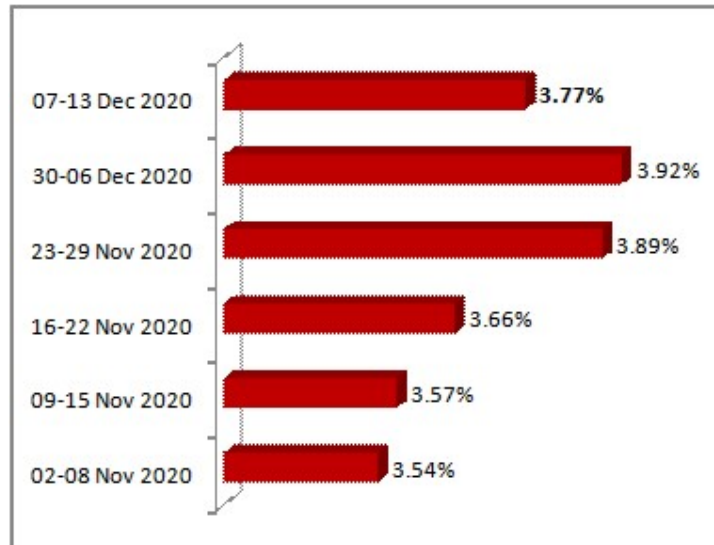


Figure 2: All India Transmission Losses wef 01.11.2020 as per Hon'ble CERC Sharing Regulation 04.05.2020

4.11.4 The Inter-State Transmission charges during FY 2021-22 is projected as per the YTM Nov'20 and applying an escalation of 11%, similar escalation is seen during FY 20-21 over FY 19-20.

4.11.5 Accordingly, the Intra-State and Inter-State Transmission losses and Charges projected for FY 2021-22 is tabulated below:

Table 4.16: Transmission loss, charges for FY 2021-22

S.No.	Particulars	FY 2021-22
1	2	3
A	Transmission losses (MU)	
i	Inter-State Transmission	206
ii	Intra-State Transmission	74
iii	Total Transmission losses (MU)	280
B	Transmission Charges (Rs. Crore)	
i	Inter-State Transmission	510
ii	Intra-State Transmission (including SLDC)	231
iii	Others	26
iv	Total Transmission Charges (Rs. Crore)	766

4.11.6 The Petitioner requests the Hon'ble Commission to allow the transmission charges as projected in the aforesaid table in the ARR of FY 2021-22.

4.12 Energy Balance



4.12.1 Based on the above submissions, the energy balance during FY 2021-22 is tabulated below:

Table 4.17: Energy Balance during FY 2021-22

S.No.	Particulars	Quantity (MU)
1	Power Purchase @Exbus-FIRM	8313
2	Inter-State Losses	206
3	Power Available at Delhi Periphery	8108
4	Intra-state Loss & Charges (Including SLDC charges)	74
5	Power Available to DISCOM	8034
6	Short term requirement at DISCOM Periphery	310
7	Total Available	8344
8	Sales	6362
9	Distribution Loss	610
10	Energy Requirement at Distribution Periphery	6972
11	Total Sale of Surplus	1372

4.13 Sale of surplus power

4.13.1 The Petitioner has considered the aforesaid excess energy to be sold through short term sale during FY 2021-22. For the purpose of short term purchase cost, the average rate of Rs. 2.3/kWh has been considered in accordance with the weighted average Short term rate actualized from till YTM Oct'20. Accordingly, the estimated short term sale for FY 2021-22 is tabulated below:

Table 4.18: Revenue from sale of surplus power during FY 2021-22

S.No.	Source	Energy Sale	Cost per Unit	Total Cost
		(MU)	(Rs./unit)	(Rs.Cr.)
1	2	3	4	5=3*4
1	Short Term Sale	1,372	2.3	322

4.14 Rebate on Power Purchase and Transmission Charges:

4.14.1 The Petitioner submits that the actual rebate to be availed in FY 2021-22 depends on the Tariff determined by the Hon'ble Commission, RA recovery allowed and



consequent available cash with the Petitioner.

4.14.2 The concept of normative rebate is based on assumptions that the system is perfect and business as usual as under:

- i. There is no creation of Regulatory Asset;
- ii. Various APTEL's judgments are yet to be given effect to by this Hon'ble Commission entitling cash flow to the Petitioner;
- 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.

4.14.3 As set out herein above, the Petitioner could not make payment of bills to any generating company and transmission licensee through letter of credit on presentation.

4.14.4 Additionally, the Petitioner also has to pay LPSC to the generators which is not allowed by the Hon'ble Commission.

4.14.5 Without prejudice to the above, the Petitioner has estimated rebate on power purchase and Transmission Charges during FY 2021-22 as per The Tariff Regulations, 2017.

4.14.6 In accordance with above, the Petitioner has considered receiving rebate on power purchase cost from generating stations and Transmission Charges during FY 2021-22 based on the following assumptions:

- 1.5% normative rebate on power purchased from Central Generating Stations
- 2% normative rebate on power purchased from State Generating Stations
- 2.5% normative rebate on power purchased from NPCIL
- 1.5% normative rebate on Inter-State Transmission Charges
- 2% normative rebate on Intra-State Transmission Charges

4.15 Total Power Purchase Cost

4.15.1 The total long term power purchase cost during FY 2021-22 is tabulated below:

Table 4.19: Total Power Purchase Cost for FY 2021-22



S. No	Stations	Gross Power Purchase	Average Rate	Total Cost
		(MU)	(Rs./ kWh)	(Rs.Cr.)
A	NTPC			
1	Anta Gas Power Project	9	8.72	7.9
2	Auraiya Gas Power Station	12	12.41	14.7
3	Badarpur Thermal Power Station	0	0.00	0.0
4	Dadri Gas Power Station	17	10.00	16.6
5	Feroze Gandhi Unchahar TPS 1	30	4.62	13.9
6	Feroze Gandhi Unchahar TPS 2	56	4.86	27.5
7	Feroze Gandhi Unchahar TPS 3	38	4.83	18.3
8	FarakkaStps	46	3.58	16.6
9	Kahalgaoon Thermal Power Station 1	95	3.46	32.8
10	Kahalgaoon Thermal Power Station 2	288	3.22	92.9
11	National Capital Thermal Power	0		0.0
12	Dadri TPS-II	520	7.36	382.77
13	Rihand Thermal Power Station 1	0	0.00	0.00
14	Rihand Thermal Power Station 2	242	2.08	50.27
15	Rihand Thermal Power Station 3	360	3.05	109.97
16	Singrauli STPS	551	2.10	115.66
	Sub Total	2,264	3.97	900
B.	NHPC Ltd.			
1	Bairasiul	22	2.07	4.51
2	Salal	91	2.82	25.65
4	Tanakpur	15	4.68	6.91
3	Chamera I	33	2.30	7.69
5	Uri	73	2.37	17.21
7	Chamera - II	51	2.36	11.99
9	Chamera - III	35	4.52	15.90
6	Dhauliganga	38	2.26	8.61
8	Dulhasti	62	5.11	31.78
12	Sewa-II	18	5.89	10.64
10	Uri II	38	6.41	24.46



S. No	Stations	Gross Power Purchase	Average Rate	Total Cost
		(MU)	(Rs./ kWh)	(Rs.Cr.)
11	Parbati-III	63	2.38	15.09
	Sub Total	539	3.35	180
C.	NPCI Ltd.			
1	Nuclear Power Corp. of India Ltd. Narora	0	0.00	0.00
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	119	3.86	45.73
	Sub Total	119	3.86	45.73
D.	SJVN Ltd.			
1	Satluj Jal Vidyut Nigam Ltd.- NathpaJhakri	159	2.73	43.38
	Sub Total	159	2.73	43.38
E.	Solar Roof Top			
F.	Damodar Valley Corporation			
1	Mejia Units 6	144	4.62	66
2	CTPS 7 & 8	398	5.11	204
3	MTPS 7	638	4.91	309
	Sub Total	1,180	15	579
G.	Power stations in Delhi			-
1	Indraprastha Power Generation Co.Ltd. RPH	0	0.00	0.00
2	Indraprastha Power Generation Co.Ltd. GT	69	4.93	34.11
3	Pragati Power Corp.Ltd. Pragati I	231	4.61	106.47
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	306	7.07	216.45
	Sub Total	606	5.89	357.04
H.	Aravali Power Corporation Ltd - Jhajjar	74	16.00	117.58
I.	Sasan	2485	1.45	359.8
J.	Renewables	-		-
i	SECI- existing	42	5.92	25
ii	SECI-Solar (Kilraj)	105	2.61	27
iii	SECI- Wind- Alfancar Energy Private Ltd	149	2.52	38
iv	Self Generation	0	5.36	0
v	MSW	30	7.03	21
K	Tala	29	2.16	6



S. No	Stations	Gross Power Purchase	Average Rate	Total Cost
		(MU)	(Rs./ kWh)	(Rs.Cr.)
L- New Sources				
i	EDEN Renewables Cite Pvt Ltd	88	2.67	23.38
ii	SBSR Power Cleantech Eleven	158	2.68	42.30
iii	SECI- Wind (Sitackabini Renewables Pvt Ltd)	248	2.84	70.45
iv	ACME Solar Holdings Ltd	18	2.51	4.48
v	Mytrah Energy (India) Private Ltd	0	0.00	0.00
vi	SDMC	21	4.30	8.92
M	Arrears			363
TOTAL QUANTUM FROM FIRM SOURCES		8,313	3.86	3,212

4.15.2 Accordingly, based on the above assumptions, the power purchase cost net of rebate for FY 2021-22 works out to Rs. 3721 Cr. and the same is tabulated below –

Table 4.20: Quantum of Power and Net Power Purchase Cost for FY 2021-22

S. No	Source	Quantity	Amount	Average Cost
		(MU)	(Rs. Crore)	(Rs./ kWh)
A	Power Purchase from CSGS	7,656	2,825	3.69
B	Inter-State Loss & Charges	206	510	
C	Cost towards REC		19	
D	Power Available at Delhi Periphery	7,450	3,354	4.50
E	Power Purchase from SGS*	658	387	5.89
F	Intra-State Losses & Charges including SLDC Charges	74	257	
G	Shortfall to be met at DISCOM Periphery	310	109	3.50
H	Total Power available to DISCOM	8,344	4,106	4.92
I	Sales	6,362		
J	Distribution Loss	610		
K	Less: Normative rebate		63	
L	Required power for the DISCOM	6,972	3,721	5.34
M	Total Sale of Surplus Power	1,372	322	2.35



* includes SGS and State Renewable etc.

4.16 Re-allocation of Power Stations

4.16.1 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."

4.16.2 In order to balance the gap and to make level playing field across the Discoms, the Petitioner requests the Hon'ble Commission to Continue and increase the existing allocation from cheap stations to the Petitioner and decrease allocation from costly stations.

4.17 Operation and Maintenance (O&M) Expenses

4.17.1 The Petitioner has considered the actual capacity till 31.03.2020 as submitted in the True Up for FY 2019-20 and added the projected capacity addition for FY 2020-21 and FY 2021-22 as submitted in its Business Plan on November 11, 2019.

4.17.2 The Petitioner has applied the approved per unit rates specified for FY 2021-22 in DERC Business Plan Regulations, 2019 on the average capacity of line length and power transformation capacity as submitted for FY 2021-22 in the Business Plan Petition.

4.17.3 Regulation-23 of DERC Business Plan Regulations, 2019 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, 2019 for the Distribution Licensees shall be follows:

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

Particulars	Unit	2020-21	2021-22	2022-23
66 kV Line	Rs. Lakh/ Ckt. Km	4.857	5.043	5.236
33 kV Line	Rs. Lakh/ Ckt. Km	4.857	5.043	5.236
11 kV Line	Rs. Lakh/ Ckt. Km	2.036	2.114	2.195



Particulars	Unit	2020-21	2021-22	2022-23
LT lines system	Rs. Lakh/ Ckt. Km	9.173	9.524	9.89
66/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	1.157	1.201	1.247
33/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	1.157	1.201	1.247
11/0.415 kV DT	Rs. Lakh/ Ckt. Km	2.534	2.631	2.732

The Distribution Licensee shall be allowed O&M expenses for a particular financial year of the control period by multiplying the norms for O&M expenses of that particular year with the respective average network capacity during the financial year i.e. (average of network capacity at start of Financial year and network capacity at the end of Financial year)

..."

4.17.4 Accordingly, the Petitioner has computed the normative O&M expenses for FY 2021-22 as below:

Table 4.21: O&M Expenses during FY 2021-22

Particulars	Average Capacity for FY 2021-22	O&M expenses per unit		O&M expenses
66 kV Line (ckt km)	254	Rs. Lakh/ckt. km	5.043	13
33 kV Line (ckt km)	448	Rs. Lakh/ckt. km	5.043	23
11kV Line (ckt km)	3036	Rs. Lakh/ckt. km	2.114	64
LT Line system (ckt km)	5729	Rs. Lakh/Ckt. km	9.524	546
66/11 kV Grid S/s (MVA)	1878	Rs. Lakh/MVA	1.201	23
33/11 kV Grid S/s (MVA)	2230	Rs. Lakh/MVA	1.201	27
11/0.415 kV DT (MVA)	3620	Rs. Lakh/MVA	2.631	95
Total O&M Expenses				790

4.17.5 The Petitioner requests the Hon'ble Commission to allow the normative O&M Expenses as above while approving the ARR for FY 2021-22.

4.18 Additional Expenses on account of O&M

4.18.1 In terms of Regulation 11(9) of the Tariff Regulations, 2017 the Distribution Licensee shall submit the ARR which shall contain additional expenses on account of O&M beyond the control of Licensee for the ensuing year and previous year respectively.

4.18.2 The Petitioner humbly submits that the additional O&M expenses submitted in the True Up for FY 2019-20 is Rs. 157 Cr. as per Business Plan Regulations, 2017.

4.18.3 However, in terms of Business Plan Regulations, 2019, the Hon'ble Commission has



specified the expenses which shall be allowed over and above the normative O&M expenses. The relevant extracts are stated as under:

"23...(5) The impact of difference of amount on account of actual implementation of Seventh Pay Revision and Interim Relief already considered for determination of norms for O&M Expenses, if any, shall be allowed separately in line with the methodology adopted for computation of norms for O&M Expenses, at the time of True up of ARR for relevant Financial year subject to prudence check.

(6) The Distribution Licensee may claim the expenses for raising loan for working capital and regulatory assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:

Provided that if this amount has been included in the interest on working capital and/or

Regulatory assets, the same shall not be allowed.

(7) The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:

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

4.18.4 Based on the above Regulations, following expenses are claimed as a part of additional O&M Expenses:

- **Legal Expenses:** Based on the actual Legal Expenses incurred in FY 2019-20 i.e. Rs. 19.1 Cr., the Legal Expenses projected for FY 21-22 is 20 Cr. considering the escalation factor of 3.80% for projecting FY 20-21 and FY 21-22 as per the Hon'ble Commission's methodology specified in DERC Business Plan Regulations, 2019.
- **Expenses for raising loan:** The Loan processing charges/ Loan administration charges/ Upfront fees are the application fees charged to the borrower for processing of application which needs to be paid before signing of the loan documents. As the Hon'ble Commission in its Business Plan Regulations, 2019 has allowed the Distribution Licensee to claim the expenses for raising the loan



for working capital and Regulatory Asset as a part of additional O&M expenses, the Petitioner has projected Rs. 10 Cr as the Loan administration charges for FY 2021 for funding of Regulatory asset and working capital and requests the Hon'ble Commission to consider the expenses as an additional O&M expenses.

- **Loss on retirement of Assets:** The Hon'ble Commission in Regulation 45 and 46 of DERC (Terms and Conditions of Tariff) Regulations, 2017 stated 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.

46. Loss or Gain due to de-capitalisation of asset proposed by the Utility itself for the reasons not covered under Regulation 45 of these Regulations shall be to the account of the Utility."

In view of the above, the Petitioner has submitted the details of O&M expenses on 15.11.2019 wherein the loss on sale of retired assets were also specified. Based on the submission, the Hon'ble Commission has determined the Normative O&M expenses excluding the loss on sale of retired assets as also mentioned in the explanatory memorandum of DERC Business Plan Regulation, 2019. The relevant extract is as under:

"...vii. Accordingly, the following expenses have been excluded for determining the norms for O&M expenses from the expenses of FY 2016-17 to 2018-19 as under:

.....

d. Loss on retirement of assets (these charges are required to be allowed as per the provisions of Regulations 45 to 47 of DERC (Terms & Conditions for Determination of Tariff) Regulations, 2017 ..."

- The loss on sale of retired assets for FY 2019-20 is Rs. 17.67 Cr. as explained in the preceding chapter. Hence, the projection of loss on sale of retired assets for FY 2021-22 is computed by escalating the amount incurred in FY 2019-20 by 3.80% for FY 2020-21 and FY 2021-22 as per the methodology of the Hon'ble Commission specified in DERC Business Plan Regulations, 2019. Accordingly,



the projected loss on sale of retired assets is Rs. 19 Cr. which is considered as an additional O&M expenses for FY 2021-22.

- 4.18.5 Further, the Petitioner vide its letter no. RA/BYPL/2020-21/199 dated 10.12.2020 has requested DERC to consider an additional incidence of Rs. 351.3 Crore with respect to 7th Pay Commission in line with DTL's Office Order dated 18.08.2020.
- 4.18.6 Since, the Petitioner has already considered an amount of Rs. 62.66 Crore on account of payment of interim relief of 7th Pay Commission during FY 2019-20, the Hon'ble Commission is requested to consider an additional amount of Rs. 216 Cr. during FY 2021-22.
- 4.18.7 Thus, the Petitioner has projected the additional O&M expenses comprising of additional impact of 7th Pay Commission, Legal Expenses, Expenses for raising Loan and Loss on Sale of Retired Assets for FY 2021-22 stated as under:

Table 4.22: Additional O&M Expenses (Rs. Cr.)

Particulars	FY 21-22
Additional Impact of 7 th Pay Commission	216
Legal Expenses	21
Expenses for raising loan	10
Loss on Sale of Retired Assets	19
O&M Expenses beyond the control of Petitioner	265

- 4.18.8 Accordingly, the Petitioner requests the Hon'ble Commission to allow the additional expenses of Rs. 265 Cr. on account of O&M beyond the control of the Petitioner.

4.21 Capitalization

- 4.21.1 Regulation-24 (1) of DERC Business Plan Regulations, 2019 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 13: Capitalisation for BYPL for the Control Period (in Rs. Cr.)

Particulars	2020-21	2021-22	2022-23	Total
Capitalization	375	397	428	1200
Smart Meter	33	33	35	101
Less: Deposit Work	36	48	69	153



Particulars	2020-21	2021-22	2022-23	Total
Total	372	382	394	1148

..”

4.21.2 In view of above, the Petitioner has projected the gross capitalisation of Rs. 430 Crore during FY 2021-22 as approved by the Hon’ble Commission in the Business Plan Regulations, 2019.

Table 4.23:Capitalisation for FY 2021-22 (in Rs. Cr.)

S.No.	Particulars	Approved in Business Plan Regulations	Submission
A	Capitalization	430*	430*

* Gross amount including consumer contribution for deposit works

4.22 Consumer Contribution& Grants

4.22.1 The Petitioner has considered actual Consumer contribution capitalized upto FY 2019-20 and for FY 2020-21& FY 2021-22 as approved by the Hon’ble Commission in the Business Plan Regulations, 2019 as tabulated below –

Table 4.24:Consumer Contribution & Grants Capitalized for FY 2021-22 (Rs. Cr.)

S. No	Particulars	FY 21-22	Remarks/Ref.
A	Consumer Contribution & Grants capitalized upto FY 2019-20	323	Table 3A 38 of True up Petition for FY 2018-19
B	Consumer Contribution Capitalized for FY 2020-21	36	B.P Regulations, 2019
C	Opening Balance of Consumer Contribution capitalized for FY 2021-22	359	A+B
D	Consumer Contribution Capitalized for FY 2021-22	48	B.P Regulations, 2019
E	Closing Consumer Contribution and Grants for FY 2021-22	407	C+D
F	Average Consumer Contribution and Grants	383	(C+E)/2

4.23 Depreciation

4.23.1 The Hon’ble Commission in its Tariff Regulations 2017 has specified the rates and methodology for computation of depreciation from FY 2018-19 onwards. Accordingly, the Petitioner has considered the rate of depreciation during FY 2020-21 and FY 2021-22 as per the books of accounts and derived the average rate of



depreciation as below:

Table 4.25: Computation of rate of Depreciation for FY 2021-22 (Rs. Cr.)

S. No.	Particulars	Amount
1	Opening GFA for FY 2019-20 as per Audited Accounts (Rs. Cr.)	3,714.2
2	Closing GFA for FY 2019-20 as per Audited Accounts (Rs. Cr.)	3,920.6
3	Average GFA as per Books of Accounts (Rs. Cr.)	3,817.4
4	Depreciation as per Audited Accounts	193.6
5	Average rate of depreciation	5.07%

4.23.2 Accordingly, the depreciation for FY 2021-22 is calculated as below:

Table 4.26: Depreciation for FY 2021-22 (Rs. Cr.)

S.No.	Particulars	Amount	Remarks/Ref.
A	Opening GFA for FY 2020-21	3950	Table 3 A.36 Of true up petition for FY 2018-19
B	Addition during FY 2020-21	408	Business Plan Regulation, 2017
C	Opening GFA for FY 2021-22	4358	A+B
D	Additions during the year	430	Business Plan Regulation, 2019
E	Closing GFA for FY 2021-22	4788	C+D
F	Average GFA	4573	Average(C,E)
G	Less: Average Consumer Contribution	383	Table 1.25
H	Average GFA net of CC	4190	F-G
I	Average rate of depreciation	5.07%	Table 1.26
J	Depreciation for FY 2021-22	212	H*I
K	Opening Accumulated Depreciation for FY 21-22	1702	
L	Closing Accumulated Depreciation for FY 21-22	1914	K+J

4.23.3 The Petitioner requests the Hon'ble Commission to allow the depreciation as computed above in the ARR.

4.24 Working Capital

4.24.1 The Petitioner has computed the working capital requirement for FY 2021-22 as per Regulation 84 (4) of Tariff Regulations, 2017 as below:



Table 4.27: Working Capital for FY 2021-22 (Rs. Cr.)

S.No	Particulars	Amount	Remarks/Ref.
A	Annual Revenue Requirement	5370	
B	Receivables equivalent to 2 months average billing	895	A/6
C	Net Power Purchase expenses	3721	
D	Power purchase expenses for 1 Month	310	C/12
E	Total Working Capital	585	B-D
F	Opening Working Capital	426	As per T.O. dated 28.08.2020
G	Change in WC	159	E-F

4.24.2 The Petitioner requests the Hon'ble Commission to consider the working capital as stated above while computation of ARR.

4.25 Regulated Rate Base (RRB)

4.25.1 Based on the above discussions the RRB for FY 2021-22 has been computed as below:

Table 4.28: Regulated Rate Base for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	Amount	Remarks
A	Opening GFA	4358	
B	Opening Accumulated Depreciation incl. AAD	1899	
C	Opening Consumer Contribution	359	
D	Opening Working Capital	426	
E	Accumulated Depreciation on De-capitalised Assets	162	
F	Opening RRB	2688	(A-B-C+D+E)
G	Change in Capital Investment during the year		(H-I-J)/2
H	Net Capitalisation	430	
I	Depreciation	212	
J	Consumer Contribution	48	
K	Change in Working Capital	159	
L	Regulated Rate Base - Closing	3017	(F+H-I-J+K)
M	RRB (i)	2932	(F+G+K)

4.26 Equity and Debt

4.26.1 Equity and Debt upto FY 2021-22 has been considered based on the closing equity and debt upto FY 2019-20 and addition during FY 2020-21 and FY 2021-22 based on



capitalization net of consumer contribution in the ratio of 30:70 respectively.

- 4.26.2 Working capital has been considered entirely debt financed in accordance with Regulation 70 of Tariff Regulations, 2017.
- 4.26.3 Debt repayment during the year has been considered as $1/10^{\text{th}}$ of the opening balance.
- 4.26.4 Accordingly, the average equity and average debt for FY 2021-22 is tabulated below:

Table 4.29: Equity and Debt for FY 2021-22 (Rs. Crore)

S.No.	Particulars	Amount	Remarks/Ref
Equity			
A	Closing Balance upto FY 2019-20	1236	
B	Addition during FY 2020-21	112	30% of net capitalisation
C	Opening Balance for FY 2021-22	1347	A+B
D	Addition during FY 2021-22	115	30% of net capitalisation
E	Closing Balance for FY 2021-22	1462	C+D
Debt			
F	Closing Balance upto FY 2019-20	1400	
G	Addition during FY 2020-21		i+ii
i	Capex	260	70% of net capitalisation
ii	Working Capital	-115	
H	Repayment	140	$1/10 * F$
I	Opening Balance for FY 2021-22	1405	F+G-H
J	Addition during FY 2021-22		i+ii
i	Capex	267	70% of net capitalisation
ii	Working Capital	159	
K	Repayment	141	$1/10 * I$
L	Closing Balance for FY 2021-22	1691	I+J-K

4.27 Weighted Average Cost of Capital

- 4.27.1 In terms of Regulation 77 of DERC Tariff Regulations, 2017, interest on loan shall be based on weighted average rate of interest for actual loan portfolio subject to maximum of bank rate as on 1st April of the year plus margin as approved by the Hon'ble Commission in Business Plan Regulations for the Control Period.
- 4.27.2 Further, as per the Business Plan Regulations, 2019, for FY 2021-22, the margin for the control period is limited to 4.25%. Further, the SBI MCLR rate as on 01.04.2020 is 7.75% (enclosed as **Annexure – 4.2**). Therefore, the interest on loan which has



been considered for FY 2021-22 is shown in the table below –

Table 4.30: Weighted Average Interest Rate on Loan (%)

Particulars	Rate
MARGIN for the control period	4.25%
SBI MCLR AS ON 01.04.2020	7.75%
Total	12.00%
Rate of Interest for FY 2021-22	12.00%

- 4.27.3 Accordingly, the Petitioner requests the Hon'ble Commission to approve the rate of interest on loan (r_d) as 12.00% for FY 2021-22.
- 4.27.4 Rate of return on equity has been considered as 16%. Accordingly, the grossed up Rate of Return on Equity has been considered based on MAT rate basis (MAT Tax – 17.47% including Surcharge and Education Cess Tax) which comes out to be 19.39%.
- 4.27.5 Hence, Weighted Average Cost of Capital (WACC) during FY 2021-22 has been computed as below:

Table 4.31: Weighted Average Cost of Capital (WACC) for FY 2021-22

Sr. No.	Particulars	Amt (Cr.)
A	Equity	1404
B	Debt	1548
C	Return on Equity	16.00%
D	Income Tax Rate	17.47%
E	Grossed up Return on Equity	19.39%
F	Rate of Interest	12.00%
G	Weighted average cost of Capital	15.51%

- 4.27.6 The Petitioner requests the Hon'ble Commission to consider the WACC for FY2021-22 as stated above while computation of ARR.

4.28 Return on Capital Employed (RoCE)

- 4.28.1 The Petitioner has computed RoCE for FY 2021-22 as under:

Table 4.32: RoCE for FY 2021-22 (Rs. Cr.)

S. No.	Particulars	Submission	Remarks
A	WACC	15.54%	
B	RRB (i)	2932	
C	RoCE	455	A*B



4.29 Non-Tariff Income

4.29.1 The Non-Tariff Income during FY 2021-22 has been considered same as submitted for FY 2019-20 i.e. Rs. 73Cr.

4.30 Aggregate Revenue Requirement

4.30.1 Based upon the above discussion, the Petitioner has sought the ARR of Rs. 5001Crore for FY 2021-22 as below:

Table 4.33: Aggregate Revenue Requirement for FY 2021-22 (Rs. Cr.)

S.No.	Particulars	Submission
A	Power Purchase Cost including Transmission Charges	3721
B	O&M Expenses	790
C	Additional O&M Expenses	265
D	Depreciation	212
E	Return on Capital Employed (RoCE)	455
F	Less: Non-Tariff income	73
G	Aggregate Revenue Requirement excl. Carrying Cost on RA	5370

4.31 Revenue (Gap)/ Surplus for FY 2021-22

4.31.1 Based on the above submissions, the Petitioner has computed the Revenue Gap of Rs. 1145Crore for FY 2020-21 as below:

Table 4.34: Revenue (Gap) for FY 2021-22 (Rs. Cr.)

S. No	Particulars	Submission	Reference
A	Aggregate Revenue requirement for the year	5370	Table 2.33
B	Revenue available for the year	4222	Table 2.7 *99.5%
C	Revenue (Gap)/ Surplus for the year	(1148)	B-A

4.31.2 Further, the revised Tariff Policy notified by the Central Government under Section 3 of the 2003 Act provides that:

“8.1....

5) 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. This



gap should be fully met through tariff charges and through alternative means that could inter-alia include financial restructuring and transition financing.”

4.32 Allocation for Wheeling and Retail Business

4.32.1 The Aggregate Revenue Requirement estimated during FY 2021-22 has been allocated into wheeling and retail business in the ratios approved by the Hon'ble Commission in Business Plan Regulations, 2019 is as under:

Table 4.35: Allocation for wheeling and retail business- FY 2021-22 (Rs. Cr.)

Particulars	Wheeling	Retail
Cost of Power Procurement	0	3721
Operation and Maintenance expenses	654	401
Depreciation	172	40
Return on Capital Employed	327	127
Less: Non-Tariff Income	11	62
Aggregate Revenue Requirement	1143	4227

4.33 Carrying cost on Revenue Gap

4.33.1 The Hon'ble ATE in Judgment dated July 30, 2010 (Appeal 153 of 2009) ruled as under:

“47. The State Commission, instead of applying the principle of allowing the prevalent market rate for debt for the carrying cost, has allowed the rate of 9% on the strength of the Tribunal judgment even though the present interest rate has increased significantly. As pointed out by the Counsel for the Petitioner, the State Commission in the earlier case had decided tariff on 09.06.2004 and that on commercial borrowings an interest rate of 9% had been applied considering the then prevalent prime lending rates. Therefore, the State Commission before fixing the rate of carrying cost, has to find out the actual interest rate as per the prevailing lending rates. Admittedly, this has not been done.

51.

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.

.....

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. ...

- (i) *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)

4.33.2 As per the above ruling, the carrying cost ought to be allowed in debt equity ratio of 70:30 with SBI PLR as rate of interest and 16% as return on equity. Accordingly, the Petitioner has recomputed the rate of carrying cost from FY 2007-08 to FY 2018-19 as under:

Table 4.36: 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	FY 18	FY 19	FY 20
1	Rate of Interest	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%	14.58%	14.75%	14.29%	14.05%	14.00%	14.00%	14.00%
2	Return on Equity	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%	14%	14%	14%
3	Carrying cost	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%	14.00%	14.00%	14.00%

4.33.3 Accordingly, the Petitioner has calculated the carrying cost during FY 2021-22 by applying rate of 13.34%.

4.33.4 The Petitioner requests the Hon'ble Commission to allow the recovery of



carrying cost through separate surcharge instead of allowing the same in ARR. Further the Petitioner is facing problems in accounting of revenue realized on account of carrying cost as the entire revenue is first utilized to offset the ARR during the year and in case anything is left then only the same will be routed to carrying cost. In such situation there is no carrying cost which is being realized through tariff. Therefore, the carrying cost ought to be recovered through separate surcharge and ought not be clubbed with the tariffs which is actually meant to address the gap estimated for the ensuing year.

