



DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017.

F.11(2054)/DERC/2022-23/7594

Petition No. 70/2022

In the matter of: **Petition for True up of expenses for FY 2021-22.**

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

...Petitioner/Licensee

Coram:

Sh. Ram Naresh Singh, Member
Sh. Surender Babbar, Member

ORDER

(Date of Order: **25**.10.2025)

M/s BSES Yamuna Power Limited (BYPL) has filed the instant Petition for approval of True-up of expenses upto FY 2021-22. The Petition was admitted by the Commission vide Order dated 24.01.2023. The Petition along with Executive summary was uploaded on the website of the Commission and publicised through advertisement in newspapers for seeking response of the stakeholders.

The comments/suggestions of the stakeholders including the submissions made during the virtual public hearing held on 08.10.2024 & 09.10.2024 and the arguments advanced by the Petitioner have been duly considered by the Commission.

In exercise of the powers conferred under the Electricity Act, 2003 and Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017, this True-up Order is hereby passed and issued on this **25th** day of October 2025.


(Surender Babbar)
Member


(Ram Naresh Singh)
Member

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A1 INTRODUCTION

- 1.1 This Order relates to the Petition filed by BSES Yamuna Power Limited (BYPL) (hereinafter referred to as 'BYPL' or the 'Petitioner') for True-Up of FY 2021-22 for Distribution Business in terms of *Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017* (hereinafter referred to as 'Tariff Regulations, 2017') and *Delhi Electricity Regulatory Commission (Business Plan) Regulations, 2019* (hereinafter referred to as 'Business Plan Regulations, 2019').

BSES YAMUNA POWER LIMITED (BYPL)

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

DELHI ELECTRICITY REGULATORY COMMISSION

- 1.3 Delhi Electricity Regulatory Commission (hereinafter referred to as the 'DERC' or the Commission') was constituted by the GoNCTD on 3/03/1999 and it became operational from 10/12/1999.
- 1.4 The Commission's approach to regulation is driven by the Electricity Act, 2003, the National Electricity Plan, the National Tariff Policy and the Delhi Electricity Reform Act 2000 (hereinafter referred to as 'DERA'). The Electricity Act, 2003 mandates the Commission to take measures conducive to the development and management of the electricity industry in an efficient, economic and competitive manner, which inter alia includes the formulation of Tariff Regulations and Tariff determination.

MULTI YEAR TARIFF REGULATIONS

- 1.5 The Commission issued Tariff Regulations, 2017 vide Gazette notification dated 31/01/2017 specifying Terms and Conditions for Determination of Tariff for

Transmission of Electricity under the Multi Year Tariff (MYT) framework. Further the operational norms for Distribution utilities have also been approved by the Commission in Business Plan Regulations, 2017 under Tariff Regulations, 2017 for the period FY 2017-18 to FY 2019-20 and in Business Plan Regulations, 2019 under Tariff Regulations, 2017 for the period FY 2020-21 to FY 2022-23.

FILING OF PETITION FOR TRUE-UP OF FY 2021-22

FILING AND ACCEPTANCE OF PETITION

- 1.6 BRPL filed its Petition for the approval of Truing up of the Expenses upto FY 2021-22 before the Commission on 29/11/2022.
- 1.7 The Commission admitted the Petitions for True up of ARR for FY 2021-22 vide its Order dated 24/01/2023, subject to clarifications / gap / additional information, if any, which would be sought from the Petitioner from time to time. Copy of the Admission Orders dated 24/01/2023 is enclosed as *Annexure I* to this Order.
- 1.8 The complete copy of the True-up Petition filed by the Petitioner along with additional information was uploaded on the website of the Commission (www.derc.gov.in) and the Petitioner.
- 1.9 The Executive Summary and one-page snapshot Summary of True-up of FY 2021-22 was also prepared and uploaded on Commission's website (www.derc.gov.in) for quick glance of Tariff Petitions and for ease to consumers.

INTERACTION WITH THE PETITIONER AND PUBLIC HEARING

- 1.10 The Order has referred to various actions taken by the "Commission" at numerous places that the term "Commission" in most of the cases refers to the officers of the Commission for carrying out due diligence on the Petition filed by the Petitioner for obtaining and analyzing information/clarifications received from the Petitioner and submitting all issues for consideration by the Commission.

- 1.11 The Commission relied on the analysis conducted by various concerned Divisions of the Commission for the preparation of the Order.
- 1.12 A preliminary scrutiny/analysis of the Petition submitted by the Petitioner was carried out. Additional information/clarifications were sought from the Petitioner as and when required. The Commission and the Petitioner discussed key issues raised in the Petition, which included details of Long Term & Short Term Power Purchase, Sales, Billing, Collection, Capital expenditure and capitalisation plan etc.
- 1.13 The Commission also conducted multiple validation sessions with the Petitioner during which discrepancies in the Petition and additional information as required by the Commission were sought. Subsequently, the Petitioner submitted replies to the issues raised and provided details and documentary evidence to substantiate its claims regarding various submissions.
- 1.14 The Commission decided to conduct a Public Hearing for issuance of the Tariff Order related to True up of FY 2021-22 and communicated the same through a Public Notice published in leading newspapers on 10/09/2024 and uploaded the same on the Commission's website. Stakeholders were given a time-period until 9/10/2024 for submitting comments/suggestions on the Tariff Petition filed by the utilities.
- 1.15 A soft copy of the Petition was made available in CD form on payment of Rs. 25/- per CD or a copy of the Petition was also made available for purchase from the respective Petitioner head-office on working day till 9/10/2024 between 11 A.M. to 4.00 P.M. on payment of Rs.100/- either by Cash or by Demand Draft/Pay Order.
- 1.16 To help to the stakeholders in understanding the Petition and file their comments, officers of the Commission viz. Executive Director (Engineering/Tariff), Joint Director (Tariff-Engineering), Joint Director (Tariff-Finance), Joint Director (Engineering), Deputy Director (Tariff-Economics) and Deputy Director (Tariff-Engineering) were

nominated for discussion on the Petition. This was mentioned in the Public Notices published by the Commission.

- 1.17 The Commission decided to conduct Virtual Public Hearing virtually on 8/10/2024 & 9/10/2024 on Tariff Petitions for True Up of FY 2021-22.
- 1.18 Accordingly, the Commission scheduled a Virtual Public Hearing on Tariff Petitions for True Up of FY 2021-22 on 8/10/2024 & 9/10/2024 to take a final view with respect to various issues concerning the principles and guidelines for Tariff determination.
- 1.19 The Commission received written comments from the stakeholders. The comments of the stakeholders were also forwarded to the Petitioner who responded to the comments of the stakeholders with a copy of its replies to the Commission.
- 1.20 The Commission examined the issues and concerns raised by various stakeholders. The major issues raised by the stakeholders, the responses of the Petitioner thereon and the views of the Commission, are summarized in Chapter 2.
- 1.21 The Commission has therefore considered the inputs/comments received from various stakeholders, along with the due diligence conducted by the officers of the Commission, in arriving at its final decision.

PUBLIC NOTICE

- 1.22 The Commission published Public Notice in the following newspaper inviting comments/suggestions from stakeholders on the Tariff Petitions filed by the Petitioner latest by 10/07/2023 or the date of Public Hearing, whichever is later:

(a)	Hindustan Times (English)	:	13/06/2023
(b)	The Times of India (English)	:	13/06/2023
(c)	The Hindu (English)	:	13/06/2023
(d)	Dainik Jagran (Hindi)	:	13/06/2023
(e)	Navbharat Times (Hindi)	:	13/06/2023
(f)	Punjab Kesari (Hindi)	:	13/06/2023

- (g) Jadid-In-Dinon (Urdu) : 13/06/2023
 (h) Jan Ekta (Punjabi) : 13/06/2023

1.23 Public Notice was also uploaded on Commission's website www.derc.gov.in.

1.24 The Commission issued Public Notice in the following newspapers (on dates mentioned alongside), indicating the date and time of Virtual Public Hearing scheduled on 8/10/2024 & 9/10/2024 for comments by stakeholders on the Tariff Petition filed by the Petitioner latest by 9/10/2024 and also indicated the conducting of Virtual Public Hearing.

- (a) Hindustan Times (English) : 16/09/2024
 (b) The Times of India (English) : 16/09/2024
 (c) The Hindu (English) : 16/09/2024
 (d) Navbharat Times (Hindi) : 16/09/2024
 (e) Punjab Kesari (Hindi) : 16/09/2024
 (f) Dainik Jagran (Hindi) : 16/09/2024
 (g) Jadid-In-Dinon (Urdu) : 14/09/2024
 (h) Jan Ekta (Punjabi) : 16/09/2024

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

Dates	8/10/2024 & 9/10/2024
Timings	11:00 AM to 02:00 PM
Last date for registration	4/10/2024 at 05:00 PM
Platform	Google Meet
Email ID for Registration	dercpublichearing@gmail.com

LAYOUT OF THE ORDER

1.26 This Order is organized into following Chapters:

- a) **Chapter 1** provides details of the Tariff setting process and the approach of the Order.
- b) **Chapter 2** provides brief overview of the comments of various stakeholders, the Petitioner's response and Commission's view thereon.

- c) **Chapter 3** provides details/analysis of the True up of FY 2021-22 and impact of past period true up based on judgement of Hon'ble Supreme Court & Hon'ble APTEL, if any, Review Order of the Commission, if any, and its directives on the matter.

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

- a) **Annexure I** - Admission Order.
- b) **Annexure II** - List of stakeholders who submitted their comments on True-up of expenses for FY 2021-22.
- c) **Annexure III** – List of Stakeholders/consumers who attended the virtual public hearing.

APPROACH OF THE ORDER

APPROACH FOR TRUE UP OF FY 2021-22

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

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

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

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

1.30 Accordingly, the ARR for FY 2021-22 has been Trued up as per Tariff Regulations, 2017 and Business Plan Regulations, 2019.

A2 RESPONSE FROM STAKEHOLDERS

- 2.1 In pursuance of the invitation of comments by the Commission from the stakeholders, the comments were received from the stakeholders in respect of True-up Petition for FY 2021-22 as well as ARR Petition for FY 2023-24. However, as the Commission in this Order is only Truing-up for FY 2021-22, the comments related to the True-up Petition for the FY 2021-22 only have been dealt with in this Chapter.
- 2.2 Summary of objections/suggestions from stakeholders, response of BSES Yamuna Power Limited (BYPL) and the Commission's view.

INTRODUCTION

- 2.3 Section 64(3) of the Electricity Act, 2003, stipulates that the determination of the Tariff shall be as per Section 62 of the Electricity Act, 2003, for the Distribution Licensees on consideration of all objections/suggestions received from the public and the response of the DISCOMs response thereon to the objections/suggestions of stakeholders, issue a Tariff Order accepting the applications with such modifications or such conditions as applicable may be specified in the order.
- 2.4 The Commission examined the issues, taking into consideration the comments/suggestions offered by various stakeholders in their written statements and also the response of the Petitioners thereon.
- 2.5 The Commission endeavours to issue Tariff Orders as per the provisions of the Electricity Act, 2003.
- 2.6 The Commission decided to conduct Public Hearing Virtually (through Google-Meet), for the issuance of the True-up Order of FY 2021-22 and communicated the same through Public Notice published in leading newspapers and uploaded the same on the Commission's website.
- 2.7 The Commission, vide its Public Notice dated 10/09/2024, scheduled Public Hearing on True up Petitions of FY 2021-22 on 8/10/2024 & 9/10/2024 to take a final view on various issues concerning the principles and guidelines for Tariff Determination.
- 2.8 Accordingly, all stakeholders were given additional time-period until 9/10/2024 to submit comments/suggestions on additional information filed by the utilities.

- 2.9 The comments/suggestions of various stakeholders, the replies/responses by the Petitioner and the views of the Commission are summarized under various subheads below.

ISSUE 1: PUBLIC HEARING AND OBJECTION FILING PROCESS

STAKEHOLDER'S VIEW

- 2.10 The Commission is requested to forward/dispatch copy of Petitions free of cost for deliberation.
- 2.11 Petitions of DISCOMs have to be admitted by the Commission only after prudence check of the Petitions. It is observed that the DISCOMs have submitted the Petitions without Audited Balance Sheet.

PETITIONERS' RESPONSE

TPDDL

- 2.12 Executive Summary of the Tariff Petitions of DISCOMs for True up of FY 2021-22 and ARR for FY 2023-24 are uploaded on the website of the Commission (www.derc.gov.in) under the head "ARR/True-up/MYT Petitions".
- 2.13 Copy of Tariff Petitions of the DISCOMs are available on the website of the Hon'ble Commission (www.derc.gov.in) under the head "ARR/True-up/MYT Petitions". Tata Power-DDL's petition for True up of FY 2021-22 and ARR for FY 2023-24 is also available on its website (www.tatapower-ddl.com).

BYPL

- 2.14 Purchase cost of Publication of Rs.100 for a copy of Petition and Rs.25 for soft copy of Petition is fixed by the Commission in its Public Notice. Any change in the cost of the Petition is the sole prerogative of the Commission.
- 2.15 Highlights of the Petition are uploaded on the Commission's website as a single page snap-shot for summary of True - up of FY 2021 - 22 & ARR for FY 2023 - 24 which includes the summary for all the DISCOMs. In addition to the above, BYPL has also submitted the executive summary of the Petition in Chapter 1B. The stakeholders may also refer to this section for highlights of the Petition.

BRPL

- 2.16 Purchase cost of Publication of Rs.100 for a copy of Petition and Rs.25 for soft copy of Petition is fixed by the Commission in its Public Notice. Any change in the cost of the Petition is the sole prerogative of the Commission.
- 2.17 Highlights of the Petition are uploaded on the Commission's website as a single page snap-shot for summary of True - up of FY 2021 - 22 & ARR for FY 2023 - 24 which includes the summary for all the DISCOMs. In addition to the above, BRPL has also submitted the Executive Summary of the Petition in Chapter 1B. The stakeholders may also refer to this section for highlights of the Petition.

NDMC

- 2.18 NDMC does not commented on the issue.

COMMISSION'S VIEW

- 2.19 A soft copy of the Petition was made available in CD form on payment of Rs. 25/- per CD or a copy of the Petition was also made available for purchase from the respective Petitioner head-office on working day till 10/07/2023 between 11 A.M. to 4 P.M. on payment of Rs. 100/- either by cash or by demand draft/pay order.
- 2.20 For ease of the consumers, Executive Summary of Tariff Petitions which is being a brief summary of the highlights and salient features of the Tariff Petition was uploaded on Commission's website. Further, a one-page snapshot summary of True-up of FY 2021-22 was also prepared and uploaded at the DERC website for quick glance of the Tariff Petitions.

ISSUE 2: O&M EXPENSES**STAKEHOLDER'S VIEW**

- 2.21 The Ckt KM stated by DISCOM in the Petition is manipulatively high and needs to be scrutinized with the help of GIS.
- 2.22 As per the Financial Statement of FY 2021-22, Income from other Business earned by

the Company is Rs. 65.86 Crore and after claiming expenses of Rs. 30.30 Crore and post other adjustment (Table 3.39 & Table 3.40) it offered only Rs. 10.33 Crore for NTI. Since, the expenses of Rs. 39.30 Crore is already included in O&M Expenses by not separately disclosed in Other Expenses (Note 33 of the Financial Statements 2021-22), hence, it was already taken into consideration while calculating Normative O&M. Thus, the same should not be allowed again to the Company.

PETITIONERS' RESPONSE

TPDDL

- 2.23 While setting the Normative O&M expenses in DERC (Business Plan) Regulations, 2019, which is applicable for FY 2020-21 to FY 2022-23, the Commission has not included the direct other business expenses for deriving the base year expenses. Therefore, Normative O&M Expenses of Tata Power-DDL doesn't include the Direct Expenses related to Other Business Income and is to be allowed over and above the normative expenses. For expenses of other business, please refer Note 37 of the Financial Statement for FY 2021-22.

BRPL

- 2.24 O&M expenses for a financial year is determined and approved by the Commission on normative basis as per Regulation 23 (1) of the Business Plan Regulations, 2019 based on Actual Assets installed at the site and its maintenance to provide services to the consumers.

BYPL

- 2.25 O&M expenses for a financial year is determined and approved by the Commission on normative basis as per Regulation 23 (1) of the Business Plan Regulations, 2019 based on Actual Assets installed at the site and its maintenance to provide services to the consumers.

NDMC

- 2.26 O&M expenses for a financial year is determined and approved by the Commission on normative basis as per Regulation 23 (1) of the Business Plan Regulations, 2019 based

on Actual Assets installed at the site and its maintenance to provide services to the consumers.

COMMISSION'S VIEW

- 2.27 The Commission conducts prudence check on the issues related to O&M expenses that are submitted by the utilities for approval of O&M expenses during a control period. The period of allowance/ disallowances for additional O&M expense are available in Chapter-3 of this True up Order .

ISSUE 3: POWER PURCHASE COST & ENERGY SALES

STAKEHOLDER'S VIEW

- 2.28 In the Year FY 2021-22, NDPL Solar has supplied 2 MU at Rs. 8.50/Unit, which was very high as compared to solar power from SECI plants. The power purchase cost from Tata Solar Power Plant must be reduced from Rs. 8.25/Unit to Rs 3.50/Unit or TPDDL may be advised not to inject power from Solar plant.
- 2.29 Sasan UMPP supplied Power at the rate of Rs. 1.46/Unit in FY 2021-22 against the discovered tariff of Rs. 1.15/Unit. The same rate should be considered for True-up & ARR.
- 2.30 The units under Enforcement Sales should be calculated as per the DERC Supply Code which is two times of the normal rate of supply.
- 2.31 DISCOM fails to claim the rebate on Power Purchase Cost even after the Commission allows the Working Capital equivalent to 2 months revenue minus one month Power Purchase and Transmission cost. As per estimate, DISCOM have surplus revenue of 125% all the time. As per Petition, DISCOM availed only Rs. 20.66 Cr. rebate against the normative rebate of Rs. 73.6 Cr. The failure of the Discoms to collect Rs. 53 Cr was due to their mismanagement of funds and hence shall be added to revenue collection. The power purchase cost of DISCOM shall be considered as Rs. 3379 Cr.
- 2.32 DISCOMs projected huge revenue gap and proposed hike in PPAC. Delhi need to arrange own generation, or option to sign PPA with other developers like Adani, Azure, Badla, SECI need to be explored.

PETITIONER'S RESPONSE**TPDDL**

- 2.33 The rates for respective solar plants of Tata Power-DDL are as per the Tariff Order of the Commission for respective Solar Plants.

BYPL

- 2.34 The DISCOM has submitted the Petition as per the Provisions of Business Plan Regulation 2019, Business Plan Regulation, 2023 & Tariff Regulation, 2017. The revenue gap has been created after considering all the provisions of the aforesaid Regulations. With regard to Power Purchase cost, the DISCOM has sourced its power requirement through mix of long term and short-term sources to meet the demand in its licensed area. The power procured under long term PPAs through Long term which are owned by Central Government (like NTPC, NHPC), State Generating Stations (Pragati Power, Indraprastha) which are owned by State Government, IPP and JVs and any shortfall during the year is sourced through power exchange, bilateral & banking.

BRPL

- 2.35 Power Purchase Cost (which includes cost billed by to Generating Companies for availing supply of power and transmission charges billed to Transmission Companies for use of transmission lines) is a major component of BRPL's ARR and constitutes ~ 80% of the of the total ARR. This has been admitted by the Commission in its own Public Awareness Bulletin available on this Commission's website as also published in national dailies from time to time.
- 2.36 As such, any payments to be made by BRPL to the Transmission Companies such as DTL are directly dependent on such cost being allowed by the Commission by way of a cost-reflective tariff in a timely manner.
- 2.37 The DISCOM has submitted the Petition as per the Provisions of Business Plan Regulation 2019, Business Plan Regulation, 2023 & Tariff Regulation, 2017. The revenue gap has been created after considering all the provisions of the aforesaid

Regulations.

- 2.38 With regard to Power Purchase cost, the DISCOM has sourced its power requirement through mix of long term and short-term sources to meet the demand in its licensed area. The power procured under long term PPAs through Long term which are owned by Central Government (like NTPC, NHPC), State Generating Stations (Pragati Power, Indraprastha) which are owned by State Government, IPP and JVs and any shortfall during the year is sourced through power exchange, bilateral & banking.

COMMISSION'S VIEW

- 2.39 The Long-Term Power Purchase Agreements (PPA) are entered into by the Petitioner considering the overall average projected demand of the consumers and likely growth in the demand vis-à-vis the likely availability of Power from various sources. The surplus/shortfall in Power availability arising due to difference in demand during peak hours and non-peak hours including seasonal variations are required to be sold /purchased by the Petitioner on need basis. The Commission has directed the Petitioner to optimize such short-term transactions and maintain transparency in its short-term power purchases and sales.
- 2.40 The Commission has already approved various Power Purchase Agreements (PPA) entered into by the utilities for procurement of power from long term sources. The Commission has also directed the DISCOMs vide its letter dated 21/10/2009 that they should endeavor to provide uninterrupted power supply to the consumers in their respective areas. The licensees shall ensure that electricity which could not be served due to any reason what-so-ever (including maintenance schedule, break-downs, load shedding etc.) shall not exceed 1% of the total energy supplied by them in any particular month except in cases of force-majeure events which are beyond the control of the Licensees.
- 2.41 The Commission had projected Power Purchase Cost net of the rebate as per the

provisions of DERC (Terms and Condition for Tariff Determination) Regulations, 2017. The power purchase cost is allowed to the distribution licensee after considering maximum normative rebate available for each generating stations.

- 2.42 The provision for reallocation of power among Delhi DISCOMs has been made in DERC (Terms and Condition for Tariff Determination) Regulations, 2017 as follows:

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

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

ISSUE 4: AT&C LOSSES

STAKEHOLDER'S VIEW

- 2.43 Distribution Loss of NDMC is very high in comparison to the lower area of operation. NDMC should focus on reducing the same.

PETITIONER'S RESPONSE

TPDDL

- 2.44 The issue does not pertain to TPDDL.

BRPL

- 2.45 The issue does not pertain to BRPL.

BYPL

- 2.46 The issue does not pertain to BYPL.

NDMC

- 2.47 NDMC did not reply.

COMMISSION'S VIEW

- 2.48 The target for Distribution Losses has been benchmarked with following parameters:
- Distribution Losses trajectory of previous years for DISCOMs;

- b) Performance of various Indian Distribution companies
 - c) Electric Power Transmission and Distribution Losses for Top 50 countries from the World Bank website
- 2.49 The detailed methodology for computing Distribution losses is mentioned at Sr. No. D (4) of Explanatory Memorandum - Draft DERC (Business Plan) Regulations, 2019 uploaded at Commission's website.
- 2.50 The target for Distribution losses for the control period from FY 2020-21 till FY 2022-23 is specified as Regulation 25 of DERC (Business Plan) Regulations, 2019. The amount of over achievement/under achievement on the distribution loss target shall be computed as per formula specified in the Regulation 159 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.
- 2.51 The DISCOMs are given incentives if the Distribution Losses are reduced below the target fixed. Any financial impact on account of under achievement with respect to the distribution loss target shall be to the account of Distribution Licensees. The targets every year are progressively decreasing and it is expected that DISCOMs will achieve them. If the DISCOMs do not achieve the target, the financial impact will be to the account of the DISCOMs alone and will get reflected in the true-up of ARR of the respective DISCOMS.

ISSUE 5: DISTRIBUTION INFRASTRUCTURE

STAKEHOLDER'S VIEW

- 2.52 As per the proposal, 50 K smart meters were to be installed by utilities before end of their term.
- 2.53 DERC is requested to monitor the status of Cement Poles in Power Distribution. Cement Poles are overloaded with different cables and are in service beyond their lifespan. Audit to be undertaken for corrective actions to ensure safety. The Cross Subsidy concept is not correct. There should be no Cross Subsidies as they will harm the system.
- 2.54 Capital Asset Verification of all the DISCOMs shall be done, which is long pending issue.

PETITIONER'S RESPONSE**TPDDL**

2.55 No replies received from TPDDL for respective comments.

BYPL

2.56 The Discom submits that the Ministry of Power vide notification dated 23/05/2022 has directed that all consumers (other than agricultural consumer) to be metered with smart meters by 31/03/2025. Hence, Discoms are bound by statutory obligation of Government of India (GoI). Further, the proposal for installation of smart meters is already submitted by BYPL to the Commission and the same shall be installed only after approval.

BRPL

2.57 The Discom submits that the Ministry of Power vide notification dated 23/05/2022 has directed that all consumers (other than agricultural consumer) to be metered with smart meters by 31/03/2025. Hence, Discoms are bound by statutory obligation of Government of India (GoI). Further, the proposal for installation of smart meters is already submitted by BRL to the Hon'ble Commission and the same shall be installed only after approval.

NDMC

2.58 The party is not in NDMC area.

COMMISSION'S VIEW

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

2.60 The Central Electricity Authority (CEA) notified Measures relating to Safety and Electric Supply Regulations, 2010 as amended from time to time. The Commission in its DERC (Supply Code and Performance Standards) Regulations, 2017 has directed the Distribution Licensee and the consumers to follow the provision of the Safety and

Electric Supply Regulations. Accordingly, the bare conductors are being replaced with the cables in a phased manner by the Distribution Licensees on case to case basis.

ISSUE 6: REGULATORY ASSETS

STAKEHOLDER'S VIEW

- 2.61 The Commission needs to do a physical verification of Regulatory Assets booked by DISCOMs which include verification of related party transaction and tendering process. Further, Forensic audit of DISCOMs may be done to check the correct Regulatory Asset.
- 2.62 DMRC may be exempted from payment of regulatory surcharge, since they are not contributing to the revenue gap of DISCOM.
- 2.63 DISCOMs stress on time bound recovery of regulatory assets but resist application of RTI Act.
- 2.64 DTL requested the Commission to disallow BRPL & BYPL to collect 8% surcharge from consumers till they pay their dues to DTL. Further, DTL requested to open escrow account in which all the receivable of DISCOM should be deposited.

PETITIONER'S RESPONSE

TPDDL

- 2.65 Regulatory Assets got created due to the non-cost reflective Tariff for previous years. Thus, in order to fund the Regulatory Assets, TPDDL is availing loans from the market and paying interests on the same to the Banks/FIs. To overcome the problem of further creation of Regulatory Assets, the Commission had introduced Regulatory Surcharge of 8% so that the interest burden can be met out to save the consumers from further accumulation of interest. However, current 8% surcharge is not sufficient to recover even the interest cost of Regulatory Assets and it should be enhanced to at least 15%.
- 2.66 TPDDL agrees with the suggestion that the Tariff should be cost reflective i.e. Tariff should be determined to recover the entire ARR requirement to avoid any creation/

accumulation of further Regulatory Asset in a year as the funding of the Regulatory Asset results in carrying cost burden on the consumers.

- 2.67 Need for timely liquidation of the Regulatory Assets has been emphasized in the amendments to the National Tariff Policy. Even in past, DISCOMs have been advocating at various Forums for time bound recovery of Regulatory Assets.
- 2.68 Absence of clear cut roadmap for the liquidation of Regulatory Asset severely impacts the future lending rates. Hence, the Commission is requested to provide a road map for early liquidation of Regulatory Assets.
- 2.69 It is the discretion of the Govt. to take over the liability of liquidation of Regulatory Assets.
- 2.70 Regulatory surcharge is levied to recover the carrying cost of Regulatory Assets built up during the last 15 years due to non-cost reflective tariff. DMRC was also part of the consumers where the tariff was non-cost reflective and hence cannot be exempted from the Regulatory surcharge.

BYPL

- 2.71 The Discom has been facing an imminent cash-flow crunch due to unrecovered expenses primarily on account of regulatory assets and requested the Hon'ble Commission to provide a cost reflective tariff. Further, as per Tariff Policy, 2016, the Regulatory Assets along with carrying cost if created as a very rare exception in case of natural calamity or force majeure conditions, is to be recovered within a period of maximum 7 years. Ministry of Power in its recent Letter No. F.No.07/01/2021-RCM-Part (1) dated 11th November, 2022 has directed all SERCs/JERC/s of all the States/UTs for provision of Electricity Act, 2003 and Tariff Policy and directions of the Hon'ble Tribunal and the Hon'ble Supreme Court. The Ministry of Power has specifically stated that :-

"It is observed that large Regulatory Assets have been created by some Commissions, without specifying the mandatory trajectory for recovery of such Regulatory Assets. This is in contravention of the law. The State Commissions are required to comply with the provisions of the Electricity Act, 2003 and the

Tariff Policy and lay down a trajectory for recovery of Regulatory Assets along with carrying costs. The State Commissions should also ensure that no fresh Regulatory Assets are created. The State Commissions should ensure that the provisions of the Electricity Act and the Tariff Policy, and directions of Hon'ble APTEL and Hon'ble Supreme Court are implemented.

For the financial viability of the Distribution licensees and the whole power sector, it is essential that the Regulatory Assets are liquidated at the earliest. It is requested that the latest status of Regulatory Assets and the plan for liquidation of the same may be submitted to this Ministry within 30 days. This issues with the approval of Hon'ble Minister of Power & NRE”.

BRPL

- 2.72 The DISCOM states that there was no willful default in making payments to the power suppliers as it had achieved all operational performance targets set by the Commission over the years. In fact, the inability to make timely payments is on account of the vicious cycle of over-estimation of revenues and non-cost reflective tariff leading to substantial accumulation of Regulatory Asset (*recognized or pending recognition even after favorable orders or pending under litigation before various fora*). Therefore, there ought to be no penalty on BRPL who has been made to bear the burden of providing relief from tariff shock to the consumers.
- 2.73 As regards the contention that the Commission has also been allowing carrying cost and surcharge on the Revenue Gap / Regulatory Asset to BRPL, it is submitted that the carrying cost and surcharge for recovery of Regulatory Asset is to be allowed by the Commission to BRPL in terms of: -
- a) Clause 8.2.2 of the statutory Tariff Policy, 2016 notified under Section 3 of the Electricity Act;
 - b) Judgments dated 11.11.2011 in OP No. 1 of 2011 [*2011 SCC OnLine APTEL 188*](Paras. 65 & 66) and 14.11.2013 in OP No. 1 and 2 of 2012 [*2013 SCC OnLine APTEL 137*](Paras. 38 & 40) of the Hon'ble Appellate Tribunal for Electricity (“Hon'ble APTEL”); and

- c) Order dated 15.12.2022 in MA Nos. 633-634 of 2022 passed by the Hon'ble Supreme Court.
- 2.74 Without prejudice to the above, it is submitted that the issue of recovery of Regulatory Asset and insufficiency of 8% surcharge has been raised by BRPL before this Commission, in matters before Hon'ble APTEL as well as before the Hon'ble Supreme Court.
- 2.75 On the issue of opening of LC in favor of DTL, considering the precarious financial condition of BRPL, for reasons not attributable to it as explained hereinabove, it is submitted that the issue of opening of LC was raised by DTL before the Commission in Petition No. 46 and 47 of 2013 wherein the Commission by its Order dated 22.11.2013 directed for constitution of an Empowered Committee. The said Order was challenged by DTL and is pending adjudication in Appeal No. 32 of 2014 before the Hon'ble APTEL. As such, at this stage, DTL ought not to insist upon BRPL to open LC.
- 2.76 As regards the Liquidation Plan proposed by BRPL, it is submitted that: -
- a) BRPL has made additional payments to DTL of Rs. 157.50 Crores, from June 2018 onwards which was in addition to the current dues payable, in order to demonstrate and establish BRPL's *bona fide* intent to pay the admitted dues of DTL on an 'ability to pay' basis. However, BRPL could not sustain the additional payments mainly due to reduction in Retail Tariff (on account of reduction in fixed charges) by the Hon'ble Commission in the Tariff Order dated 31.07.2019.
 - b) BRPL by its communications dated 02.07.2022 and 17.08.2022, without prejudice to its rights and contentions in proceedings pending in various fora, had proposed a consolidated and comprehensive One Time Settlement ("*OTS*") plan for liquidation of overdue of Delhi Utilities.
- 2.77 In view of the above, it is submitted that BRPL has been taking proactive steps to liquidate the outstanding dues of DTL, while suffering on account of the non-cost reflective tariff determined by the Commission year-on-year. Aforesaid contentions

of DTL are erroneous and misconceived, and as such, liable to be rejected by the Commission. The Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

2.78 As regards the contentions of DTL qua alleged non-payment of dues / non-compliance with Orders of the Hon'ble Commission and the Hon'ble Supreme Court. It is submitted that: -

a) Carrying cost and surcharge for recovery of Regulatory Asset is being allowed by the Commission to BRPL in terms of Clause 8.2.2 of the statutory Tariff Policy, 2016 notified under Section 3 of the Electricity Act and directions of Hon'ble APTEL and Hon'ble Supreme Court, and the same cannot be linked to payment of alleged outstanding dues of DTL.

b) Without prejudice to the above, the surcharge of 8% for recovery of Regulatory Asset being allowed to BRPL by the Hon'ble Commission is inadequate as itself acknowledged by the Hon'ble Commission in its Statutory Advise dated 01.02.2013 given to the GoNCTD under Section 86(2)(iv) of the Electricity Act wherein it was *inter alia* noted that M/s. SBI Capital Markets Ltd. in their presentation have assessed that liquidation of pending Revenue Gap will require a surcharge of 20% for BRPL and 25% for BYPL on the applicable tariff from 2012-13 up to 2018-19. Issue of insufficiency of 8% surcharge has been raised by BRPL before this Hon'ble Commission, in matters before Hon'ble APTEL as well as before the Hon'ble Supreme Court.

c) Similarly, any incentive accruing to BRPL is on account of its efficiency in performance and has no bearing on alleged non-payment of dues of DTL.

2.79 It is submitted that BRPL is entitled to retain any gains on account of its efficiency in terms of Regulation 152(d) of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 ("*Tariff Regulations, 2017*"), especially when BRPL is already being prejudiced on account of the non-cost reflective tariff determination and accumulation of Regulatory Asset year-on-year. The aforesaid

contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Commission. Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

NDMC

2.80 NDMC did not reply

COMMISSION'S VIEW

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

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

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

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

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

2.82 The Appellate Tribunal for Electricity (APTEL) has also reiterated the above policy in its judgment dated 11/11/2011 .

2.83 The Commission in terms of the National Tariff Policy and in accordance with the APTEL judgment and has allowed carrying cost to DISCOMs. For liquidation of the past accumulated revenue gap, the Commission introduced a surcharge of 8% over the Tariff, in Tariff Order dated 13/07/2012, and has been fixing Tariff every year to a reasonable level to provide additional revenue to DISCOMs and also to reduce the burden of carrying cost on the consumers of Delhi.

2.84 The build-up of the revenue gap commenced in 2009-10 when power purchase costs went up substantially and the rate of sale of surplus power steeply declined due to stringent frequency controls imposed by CERC.

2.85 The Tariff Order for FY 2010-11 was not issued due to court proceedings. Therefore, while the tariff increase from FY 2011-12 onwards has, to some extent, offset the

incremental increase in revenue gap, however, cumulative revenue gap along with applicable carrying costs still remained uncovered. Thus, the formula evolved by the Commission i.e., including carrying costs in the ARR every year, for tariff determination and using 8% surcharge for liquidating the principal over time is expected to liquidate the Regulatory Assets in a reasonable period of 6 to 8 years.

- 2.86 The Commission has submitted before the Hon'ble Supreme Court of India in Civil Appeal No. 884 of 2010 that additional surcharge of 8% shall liquidate the principal amount of the accumulated revenue gap within 6 to 8 years.
- 2.87 The Commission determines the ARR for the DISCOMs as per the provisions of Regulation 154 & 155 of *Tariff Regulations, 2017* along with *Business Plan Regulation, 2019*, as follows.

"REGULATORY ASSETS

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

Regulatory Assets:

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

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

Provided that average balance of accumulated revenue gap shall be determined based on opening balance of accumulated revenue gap and half of the Revenue Gap / Surplus during the relevant year."

- 2.88 The Commission in its Tariff Order has provided the break-up of the major components considered for projecting costs of supply during FY 2022-23, like power purchase cost, O&M costs, CAPEX, financing cost, the gap in true-up of FY 2019-21 and carrying cost for the Regulatory Assets etc. This forms the basis for the projection of the gap/surplus between present requirement in terms of ARR and revenue available at existing tariff.

It is in the consumer's overall interest, that the gap between these two figures is filled by determining the tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer. The Tariff Order is issued after prudence check of the Petitions submitted by the DISCOMs as per relevant Regulations.

ISSUE 7: PENSION TRUST

STAKEHOLDER'S VIEW

- 2.89 The DERC is requested to issue directions to the DVB Pension Trust to stop misusing the corpus of Pension Fund by disbursing excessive pension to the employees on a post achieved by them as extra promotion by opting for the Migration Scheme announced by BSES on 20-02-2009 or opting similar scheme announced by the employees of TPDDL.
- 2.90 Stakeholder requested to the Commission to initiate framing regulations for terms and conditions allowing lifetime Pension and terminal liability of personnel of DVB.
- 2.91 Pension Trust Surcharge should be withdrawn and all amount so charges may be refunded to the Consumers. It is entirely the liability of DISCOM to pay the Pension Trust Surcharge as per the Tripartite Agreement.
- 2.92 The DERC is requested to release an appropriate order to stop recovery of Pension Trust Fund.
- 2.93 It is entirely the liability of DISCOM to pay the Pension Trust Surcharge. The amount of the Pension Trust Surcharge may be adjusted against Regulatory Asset year wise.
- 2.94 The DERC is requested to augment the existing surcharge @7% regularized with the consultation of the Delhi Govt. to obviate any scope of dispute which has time and again raised by DISCOMs and RWA. (DVB Pensioner's association)
- 2.95 The Commission is requested to allow recovery in the ARR of TPDDL for FY 2023 – 24 on account of Pension Trust Payment for the pensioners till Regulations for Terms and Conditions allowing lifetime pension and terminal benefits liability of personnel of DVB are framed by the Commission to ensure regular flow of funds.

- 2.96 The Commission is requested to allow proportionate funding by TPDDL against Rs. 1,596 Cr. in the ARR of the three DISCOMs for FY 2023 -24 to the Pension Trust.
- 2.97 Pension Fund may be paid by the Government instead of burdening the consumers.

PETITIONER'S RESPONSE

TPDDL

- 2.98 The DERC is requested to transfer the responsibility of funding pension trust to the GoNCTD. The recovery from 7% Pension Trust surcharge should be diverted for liquidation of Regulatory Assets. The Commission had directed the GoNCTD to have a forensic audit of the Pension Trust conducted which has not been done till date. The responsibility solely lies with GoNCTD and it should meet the shortfall in the Trust at any stage and ensure benefits of the pensioners. This will ensure that electricity consumers are not directly impacted with this burden.
- 2.99 Further, the Pension Trust was mandated to get an annual actuarial valuation of its corpus to ascertain its solvency on a year on year basis. Till date, Pension Trust has failed to conduct the actuarial valuation in terms of the statutory framework ordained for the functioning and funding of the Pension Trust.
- 2.100 While there is no Tariff hike in Delhi DISCOMs for past 7 years, Pension Trust surcharge has been increased from 3.8% to 7% resulting in Tariff increase for the end consumer.
- 2.101 DERC is requested to transfer the responsibility of funding pension trust to GoNCTD. The recovery from 7% Pension Trust surcharge should be diverted for liquidation of Regulatory Assets.
- 2.102 The Commission in the past is of the view that it does not have the power, jurisdiction to frame Regulations dealing with such kind of issues raised by stakeholder. The pension trust surcharge has been already allowed by the Commission for year on year basis and is recovered as per directions of the Commission for servicing the liabilities, pension of the Pension Trust.
- 2.103 Pension Trust Liability is a fixed amount. There was a reduction in energy sales in locked in lockdowns due to COVID-19 during the last three financial years. However,

FY 2023-24 may not have such lockdowns and hence, increased energy sales are expected in this Financial Year.

2.104 Hence, lesser percentage billing may suffice to recover the same amount due to higher sales.

2.105 Therefore, we request the Commission to allow 30% of the collected Pension Trust Surcharge to be retained by DISCOM in order to liquidate the Regulatory Assets.

BYPL

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

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

2.107 As a result, the Commission vide its Tariff Order dated 31/08/2017 had notified a surcharge of 3.70% towards the recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD, and the same was revised to 3.80% in Tariff Order dated 28/03/2018. Thereafter, the Commission vide its Tariff Order dated 28/08/2020 has revised this surcharge to 5% and the same has increased to 7% vide its Tariff Order dated 30/09/2021. Hence the DISCOM is levying Pension trust surcharge as per the rate determined by the Commission. Further, the determination of electricity tariff to be charged from a consumer is the sole prerogative of the Commission u/s 45 of the Electricity Act, 2003.

BRPL

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

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

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

NDMC

2.110 No reply from NDMC.

COMMISSION'S VIEW

2.111 The Pension Trust was established as a part of Transfer Scheme Rules, 2001 framed under Delhi Electricity Reform Act, 2000 (DERA) and the Tripartite Agreement executed by GoNCTD with Unions of employees and Associations of officers of the erstwhile DVB. In terms of the aforesaid Rules and Tripartite Agreement, the Pension

Trust was funded at the time of unbundling of the DVB by way of one lump sum payment by GoNCTD. Subsequent contributions from the date of unbundling have to be made to the Pension Trust by the successor entities of DVB. The Commission has been releasing ad-hoc payments in DTL Tariff orders from FY 2011-12 onwards up to FY 2015-16. Further, in the Tariff Order dated August'2017, the Commission has directed the DISCOM's for submitting the reconciliation statement and deposit the amount directly to the pension trust, instead of the past practice of routing it through DTL.

- 2.112 Section 86 of the Electricity Act, 2003, which defines functions of State Commission, does not provide for issuing Regulations of Pension Trust. The fact has also been appreciated by the Hon'ble APTEL in Appeal No. 238 of 2013 (Mahendra Gupta & Others Vs DERC), wherein it has held that "the learned State Commission has no jurisdiction to go into disputes between the Appellants and the Pension Trust with regard to release of terminal benefits in their favour. The grievances of individual employees/appellants relating to service matters relating to the terminal benefits including pension are not under the jurisdiction of the State Commission". The Commission reiterates its view that it is beyond its jurisdiction to regulate the Pension Trust or to frame Regulations in this regard.
- 2.113 The Hon'ble Supreme Court in the matter of NDPL Vs. GoNCTD & Ors. in Civil Appeal no. 4269 of 2006 (Judgment dated 3/05/2010) had inter alia held that any liability towards DVB employees and existing pensioners are the responsibility and liability of the successor utility or employer.
- 2.114 The Commission vide letter no. F.17(44)/Engg./DERC/201213/C.F. No.3481/3320 dated 11/09/2012 has issued Statutory Advice under Section 86(2) of the Electricity Act, 2003 to Govt. of NCT of Delhi to constitute an Oversight Committee to look into the issues related to pensioners of erstwhile DVB. The subject matter is presently sub-judice before Hon'ble High Court of Delhi and the parties to the dispute should expedite the matter before the Court and explore other avenues for settlement of the dispute.

2.115 The Commission vide letter dated 8/12/2016 and 13/7/2020 has requested GoNCTD for conducting a forensic audit of Pension Trust for authentication of the data of pension disbursement from FY 2002-03 to till date to ascertain the actual liability of Pension Trust.

ISSUE 8: OPEN ACCESS

STAKEHOLDER'S VIEW

2.116 The Commission should consider to allow DTL to adjust the STOA Charges against the huge total outstanding dues of DTL since October 2010 towards wheeling charges, while Truing-up of FY 2021-22 and in ARR of FY 2023-24, which is payable to BYPL by DTL. Capitalization Pending Electrical Inspector Certificate: -

- a. The Claim of Rs. 331 Cr and the interest thereon must be rejected and is not a matter of law as emphasized by the Hon'ble Supreme Court.
- b. There is no necessity of any reviewing AT&C loss which the Hon'ble Supreme Court refused to entertain. No claim of Rs. 70 Cr and interest of Rs. 363.01 Cr of the first control period can entertained.
- c. Revision of True up expenses for R&M. This shall be based on actual availability of machineries.

2.117 The Commission should consider to allow DTL to adjust the STOA charges against huge total outstanding dues of DTL since October' 2010 towards wheeling charges, while truing-up of FY 2021-22 and in ARR of FY 2023-24, which is payable to BRPL by DTL.

2.118 DERC is requested that Integrated Contract Demand and corresponding admissible drawl should be applicable for DMRC, similar to the facility being extended by Delhi Transco to the DISCOMs, as DMRC is also connected at multiple power connection points.

PETITIONER'S RESPONSE

TPDDL

2.119 Tata Power-DDL follows the DERC (Supply Code and Performance Standards)

Regulations, 2017 and Tariff Orders issued by the Commissions for the billing of the consumers. There is no concept of integrated contract demand and each connection of consumer is treated and serviced separately by distribution utilities.

BYPL

2.120 No replies received.

BRPL

2.121 As regards to the adjustment of STOA charges, it is submitted that credit of STOA charges to be refunded by DTL to BRPL on monthly basis is to be adjusted with current bills of DTL. DTL cannot be allowed to adjust the same with past alleged overdues, as directed by the Commission in Tariff Order dated 30.09.2021, as under: -

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

NDMC

2.123 No reply from NDMC.

COMMISSION'S VIEW

2.124 Section 42 of the Electricity Act, 2003 provides for non-discriminatory open access to consumers as per the provisions specified by the Commission. Accordingly, the Commission has already notified Regulations for allowing open access to consumers whose contract demand is 1 MW and above. The Commission has decided to allow Transmission and Wheeling Charges, Cross Subsidy Surcharge, Additional Surcharge and other applicable charges under Open Access keeping in view the provisions of the Electricity Act, 2003, National Electricity Policy, National Tariff Policy and the Open Access Regulations of the Commission.

2.125 The Open Access Charges will be governed by Order dated 1/6/2017, 3/9/2021, 1/10/2021 & 10/04/2024 as amended from time to time.

2.126 The Distribution Licensee shall be compensated by consumer for permitting open

access. In accordance with the methodology followed in the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 and DERC (Business Plan) Regulations, 2019, the approved ARR for Wheeling and Retail Supply business is trued up during calculations of ARR.

ISSUE 9: TARIFF HIKE

STAKEHOLDER'S VIEW

2.127 There are different charges levied under different heads due to which the final tariff is so high. DERC is requested to review these charges. The charges are mentioned below:

1. Fixed charges having different slabs of sanctioned load.
2. Time of Day Charges
3. 8% Surcharge
4. Electricity Charge @5%
5. Pension Charge @7%

2.128 In absence of transparency, verification of claims at stake, action taken report on PAC report 2006 on privatization of power in Delhi, the consumers should not be punished by a hike in tariff.

2.129 Tariff revision is not linked to the consumer price index but the power purchase cost. In the absence of the data, the proposal is misleading and intends to hike the tariff.

2.130 The Commission may dismiss the petition filed by NDMC for enhancing the tariff as it is without any merits.

2.131 The Commission should review power tariff of Power DISCOMs since they are earning huge profits.

2.132 To make cost reflective tariff to ensure liquidation of revenue gap, timely recovery of costs in line with National Tariff Policy 2016 by increasing DRS from 8% to 20% and allow levy of 8% DRS on PPAC.

PETITIONER'S RESPONSE

TPDDL

- 2.133 Timely release of Tariff Order is an important element for recovery of ARR which ensures that the required revenue is recovered in timely manner without any carrying cost burden on consumers.
- 2.134 It was observed that there was delay in issue of last few tariff orders and Tariff Order was not issued for FY 2022-23 at all. Such delays not only impact the DISCOMs by non-recovery of actual cost but also lead to the unwarranted carrying cost burden on the Consumers. Further, 85% - 90% cost of any Distribution Company is Power Purchase and O & M Expenses which are directly affected by the rise in Inflation. Increase in cost of Coal, Gas and Transportation direction impact the long term and short-term Power Purchase Cost. Though the PPAC formula covers the increase in long term power purchase cost to some extent however there is delay of at least 4 months from incurring the cost to its recovery. Besides, recovery is also limited up to maximum of 8.75% on Suo Motto Basis. There is considerable delay in recovery of rest of differential cost through adjudication of differential PPAC Petition. Further, Current PPAC mechanism doesn't include short term power purchase cost.
- 2.135 Further, the Commission also provides increase in yearly O & M expenses by linking it to Inflation. Hence, though the O & M expenses of DISCOM increases from 1st April of every year, the corresponding increase in Tariff is not reflected till Tariff Order is released.
- 2.136 Hence, the Commission is requested to issue Tariff Schedule for first year of control period and the Tariff of next financial years be based on the formula proposed for timely implementation and for better clarity to consumers as well as DISCOMs for long term planning. The adjustment in Tariff will occur once the True Up is completed and Tariff Order is issued.
- 2.137 There is no Tariff hike in Delhi DISCOMs for past 7 years, Pension Trust surcharge has been increased from 3.8% to 7% resulting in Tariff increase for the end consumer.
- 2.138 Currently the Tariff for all Consumer Categories is not cost reflective. This in turn have led to creation of Regulatory assets which have burdened the consumers with its

carrying cost and the DISCOMs with cash flow issues. Hence, cost reflective tariff along with early liquidation of Regulatory Assets is in the interest of the consumers and the power sector of Delhi.

BYPL

2.139 Determination of electricity tariff to be charged from the consumer is the sole prerogative of the Commission u/s 45 of the Electricity Act, 2003.

BRPL

2.140 As a Distribution Company ("DISCOM"), the ARR of BRPL, and consequently the tariff to be recovered from the consumers, is regulated by the Commission, and determined under Section 62 read with Section 61 of the Electricity Act, 2003 ("*Electricity Act*"). Since the tariff and the ARR are regulated, BRPL cannot recover any amount in tariff from its consumers other than what is allowed by the Commission in the Tariff Order.

2.141 The DISCOM submits that the determination of electricity tariff to be charged from the consumer is the sole prerogative of the Commission u/s 45 of the Electricity Act, 2003.

NDMC

2.142 No Response from NDMC

COMMISSION'S VIEW

2.143 The Commission determines the ARR for DISCOMs as per the provisions of the relevant Regulations. The Commission in its Tariff Order has provided the break-up of the major components considered for projecting costs of supply like power purchase cost, O&M costs, CAPEX, financing cost, the gap in True up to FY 2021-22 and carrying cost for the Regulatory Assets etc. This forms the basis for the projection of the gap/surplus between present requirement in terms of ARR and revenue available at existing Tariff. It is in the consumer's overall interest, that the gap between these two figures is filled by adjusting the Tariffs so as to reduce the accumulated Revenue Gap/Regulatory Assets and the Carrying Cost thereof, which otherwise would impose an additional burden on the average consumer. The Tariff Order is issued after prudence check of

the Petitions submitted by the DISCOMs and after considering each element of cost projected in the Petitions with due analysis and ensuring proper justification.

ISSUE 10: TARIFF CATEGORY

STAKEHOLDER'S VIEW

- 2.144 The DERC is requested to declare Green Energy Tariff in order to achieve 100% renewable energy target.
- 2.145 CNG Stations to be considered under Public Utility Tariff Schedule as the Ministry of Labour and Employment has granted the Public Utility status to City Gas Distribution Companies, also requesting to help them in the green initiative.
- 2.146 The DERC is requested to consider electricity tariffs on Telecom Industry under Industrial Rates rather than the non-domestic/commercial rates.
- 2.147 The DERC is requested that Tariff under the Public Utility Category should be based upon actual cost of supply.
- 2.148 Benefit of zero billing to consumer as per APTEL judgement 9/09/2015 should be provided.
- 2.149 The DMRC requested to charge electricity tariff as per agreed principle of cost of serve for DISCOM at 220/66 kV. DMRC further requested to treat them as a separate category of consumers whose tariff would be based upon the actual cost of supply excluding both the subsidy and cross subsidy elements.
- 2.150 The DMRC is requested to reduce the tariff for Public Utility category.
- 2.151 The DERC is requested to put the pumping load and water treatment plant of MCD at par with DJB and the same may be kept under the head of Public Utilities.
- 2.152 The Commission may re-look in the tariff provision for Advocates and consider:
- a) the Chamber of Advocates in the court Complex or outside the complex under domestic category; or
 - b) separate category for Advocates/Professional with tariff lower than non-domestic tariff; or
 - c) entire court complex including the chambers of advocates under Public Utility category; or

- d) advocate chambers with upto 3 or 5 KW sanctioned load and consumption upto 1000 units per month under domestic tariff.

PETITIONER'S RESPONSE

TPDDL

- 2.153 Tariff Determination and Tariff Design for all consumer categories is the sole prerogative of the Commission.
- 2.154 The legislative framework relating to the electricity sector in India is provided by the Electricity Act, 2003. Section 174 of this Act specifies that the provisions of this Act shall have over-riding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Act. Hence, the Telecommunication (fixed network) and Telecom Towers have been given infrastructure status by the Government of India in the year 2012, may be beneficial for the growth of Telecom Sector but this cannot be the basis for seeking industrial Tariff of electricity.
- 2.155 Further, the State Electricity Regulatory Commissions have been given power to frame regulations under Section 181 of the Electricity Act 2003 with regard to methods and principles by which charges for electricity shall be fixed. Under Section 62(3) of the Act, it is for the State Electricity Regulatory Commission to decide as to under which category a consumer should be placed.
- 2.156 According to Section 61(g) of the said Act, tariff should reflect the cost of supply of electricity, and it should reduce cross-subsidies. The tariff is determined by adopting rationalization measures allowing almost equal tariff to all consumers barring a few, such as Agriculture and Domestic consumers. If consumers under the commercial Tariff category are brought under subsidized category, it would lead to increase in cross subsidy and would be in contravention to the provisions of the Act. Besides, the list of Infrastructure sub sectors notified by the Government of India in 2012 contains a number of subsectors and picking one out of the said list to give Industrial Tariff, would amount to discrimination to the other Infrastructure Sub-Sectors.
- 2.157 Telecom companies are profit making commercial enterprises. Any reduction in power tariff would add to the profits of these companies. Besides, if the Telecom Companies

need to be subsidized, the Electricity Act, 2003 provides the provision of subsidy by State Government under Section 65.

2.158 Further, most of the State Electricity Regulatory Commissions have categorized Telecom infrastructure/ companies under commercial tariff category.

2.159 Moreover, valid Factory License shall be mandatory for applicability of Tariff under Industrial category as per the last Tariff Order issued on 30.09.2021 for Tata Power-DDL. It is further explained in the said Tariff Order that

“the Factory License for the purpose of applicability of industrial tariff shall mean the license or permission or authorisation or any other document issued or granted by Directorate of Industries or Ministry of Micro, Small and Medium Enterprises or MCD or any other Central or State Government Agency, as applicable, for running an Industry or Factory in respective field of operation.”

2.160 TPDDL is billing all of its consumers as per Tariff Order FY 2021 – 22. The Commission may decide the tariff differentiating it on the basis which have been provided for in the Electricity Act 2003, specifically under Section 62 (3) of the Act. However, tariff determination and design is the sole prerogative of the Commission.

2.161 Tariff determination and tariff design for all consumer categories is the sole prerogative of the Commission. Further, DMRC is covered under Tariff of Public Utility and is given benefit of lower tariff along with other public utilities in comparison to other Industrial & Commercial consumers.

2.162 Tariff determination and tariff design for all consumer categories is the sole prerogative of the Commission.

2.163 The Commission had in Tariff Order for FY 2013-14 included the “Lawyer Chambers in Court Complexes” under Non-Domestic tariff. However, prior to that in the Tariff Order for FY 2011-12, the Commission had noted that it has already allowed domestic tariff for the professionals (including lawyers) who are using their residence for professional purposes in accordance with MPD 2021 and that in respect of the Chamber of the Lawyers in Court Complexes, the provision of professional services in

the Chamber does not warrant domestic tariff.

BYPL

2.164 No replies received.

BRPL

2.165 No replies received.

NDMC

2.166 No replies received.

COMMISSION'S VIEW

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

"Zero Billing – 195 of 2012

3.132 As per the direction of Hon'ble APTEL in appeal no. 195 of 2012, the Commission has revised the AT&C Loss Computation for FY 2010-11. It is observed that the Petitioner had submitted total quantum of zero billing at 40.85 MU for the period between Jan'11 to Mar'11. The Petitioner was directed to submit the details of zero billing entire FY 2010-11 in view of the APTEL's direction. The Petitioner has submitted that total quantum of zero billing during FY 2010-11 which was lesser than earlier submission during the technical validation in true up of FY 2010-11 in tariff order dated 13.07.2012. Therefore, the Commission has decided that total quantum of zero billing basis be prorated for the entire year based on the three months information as provided while true up of FY 2010-11. Accordingly, the total impact of an amount of Rs. 57.98 crore on account of under achievement in AT&C loss target has been added into the revenue available towards ARR in FY 2010-11."

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

"(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may

differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required."

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

ISSUE 11: FIXED CHARGE

STAKEHOLDER'S VIEW

- 2.170 The DERC is requested to reduce fixed charges and instead of sanctioned load it may be charged on MDI Load.
- 2.171 DISCOM has not explained the basis of levying high Fixed Charges.
- 2.172 No fixed charges should be applicable on DMRC as no DISCOM network is used.
- 2.173 In regards FC and ECR to be recovered by DISCOMs from Consumers, the fixed charges of a consumer having load of 6 kW may be Rs. 290 but DISCOMs are collecting Rs. 600.
- 2.174 ECR and FC charges levied on consumers varies from DISCOM to DISCOM. As the choice of desired DISCOM is not provided to the consumer, uniform tariff across all DISCOMs may be devised.

PETITIONER'S RESPONSE

TPDDL

- 2.175 One of the objectives of the Tariff Policy is to ensure creation of adequate capacity including reserves in generation, transmission and distribution in advance for reliability of supply of electricity to consumers as per Section 4 (i) of the Tariff Policy. Lower recovery of fixed costs of a distribution utility from the Fixed Charges increases the variability of recovery of its costs as recovery of Energy Charges depends on the consumption thereby pushing the distribution utility to cut down on building efficient

network.

- 2.176 The Recovery from fixed charges as per Tariff Order for FY 21-22 is only around 17% against around 60% fixed cost of the ARR.
- 2.177 In the interest of consumers and financial viability of the Delhi DISCOMs, the Hon'ble Commission is requested to kindly specify a trajectory in increase in Fixed Charge so as to ensure full recovery of fixed costs from fixed charges and ensure that the ensuing tariff should be cost reflective for each category of consumer as well as recover fixed cost of DISCOMs from fixed part of Tariff.
- 2.178 We also agree that fixed cost of DISCOM should be recovered from fixed charges of the consumer and hence the fixed cost of the consumer should be increased to match the recovery of fixed cost.
- 2.179 Fixed charges are part of Total tariff and is used for part recovery of fixed cost of DISCOMs. Further, the levy of Fixed charges is in line with Section 45(3) of the Electricity Act, 2003 and should not be exempted for any category of consumer.
- 2.180 The fixed charges are non-telescopic. i.e. charges are calculated as per the slab they fall in and not slab wise.
- 2.181 The 6 kW load will fall in the category of $> 5\text{ kW}$ and $\leq 15\text{ kW}$ for which the Fixed charges are Rs. 100/kW/month. Hence, for a 6 kW connection, charges of Rs. 100/kW/month are to be paid i.e. Rs. 600 and not Rs. 290/-.
- 2.182 Base Tariff i.e Fixed and Energy charges, notified by the Hon'ble Commission are till date uniform for all DISCOMs of Delhi and hence Tariff is same for all consumers of Delhi. Only Power Purchase Adjustment Charges (PPAC) vary from DISCOM to DISCOM in accordance to actual Power Purchase Cost.
- 2.183 Fixed charges as part of tariff is levied so as to be able to cover the fixed expenses / costs of DISCOMs. DISCOMs need to establish and maintain infrastructure and network corresponding to the Higher of Sanctioned load or Connected load of the Consumers to ensure uninterrupted power supply irrespective of the fact whether such load demand is actually used or not.
- 2.184 DISCOM also need to establish its network in N-1 configuration to maintain the

redundancy in electrical network in case of fault.

- 2.185 Further, the Peak of the different category of consumer varies in time and period and all consumer demand doesn't peak at same time and period. So Peaks for different types of consumptions do not occur simultaneously and hence network is to be maintained in accordance to local peak of network.
- 2.186 It is because of above reasons, the installed capacity of network is higher than that the peak load.
- 2.187 For all categories other than domestic, fixed charges are levied based on billing demand. For Domestic consumers, there is no timely updation by the consumer of enhanced load being used by them since there is no surcharge levied on excess load. This leads to excessive use of electricity which has a definitive impact on the electricity network. DISCOMs have to arrange for network augmentation since network has to be in conformity with load being supplied. Such excessive load at times leads to burning of meter and enhances consumer indiscipline.
- 2.188 Fixed charges for Domestic consumers if levied on billing demand will help recover costs according to the actual usage of the consumer. Also, the surcharge on excess load will help ensure discipline amongst Domestic consumers. We welcome this suggestion to bill fixed charges on billing demand.

BYPL

- 2.189 The determination of electricity tariff to be charged from a consumer is the sole prerogative of the Commission u/s 45 of the Electricity Act, 2003.

BRPL

- 2.190 No replies received

NDMC

- 2.191 No replies received.

COMMISSION'S VIEW

- 2.192 Aggregate Revenue Requirement (ARR) of DISCOMs recoverable through Electricity Tariff has two parts i.e., Fixed Cost and Variable Cost. The Fixed Cost raised to DISCOMs from Generating Companies/ Transmission Companies includes Capacity Charges to

Generating Companies/ Transmission Companies, Depreciation, O&M Expenses, Interest on Loan Expenses related to Infrastructure Cost of DISCOMs based on Sanctioned Load of consumers etc. and Variable Cost raised to DISCOMs from Generating Companies mainly includes Fuel cost of Generating Companies.

- 2.193 The Fixed Charges, as determined by the Commission mandated under Section 45 of the Electricity Act, 2003, are levied by DISCOMs so as to recover their above mentioned Fixed Costs. These Fixed Costs have to be paid uniformly to Generating Companies and Transmission Companies irrespective of electricity consumption. Any under-recovery on account of these Fixed Charges shall have severe impact on cash inflows of DISCOMs and may disturb timely payments to Generation Companies and Transmission Companies.
- 2.194 Further, the non-payments of Fixed Charges by consumers leads to non-payment of Fixed Cost to Generation Companies and Transmission Companies by DISCOMs. It results into creation of vicious circle and disturbs the equilibrium of the Power Sector which may lead to non-availability of 24X7 uninterrupted power supply.
- 2.195 As the distribution company needs to pay the fixed cost to Generating Stations and Transmission Companies uniformly during the year, this erratic cash inflow makes it difficult to make timely payments to Generation Companies and Transmission Companies which derails the entire system. The Commission, in its DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 has specified the components which are part of fixed charges and the variable charges separately.

ISSUE 12: TRANSMISSION LOSS AND CHARGES

STAKEHOLDER'S VIEW

- 2.196 BRPL has not remitted any amount to DTL against the Wheeling/Transmission Charges and therefore, no amount should be considered/ allowed by the Commission to BRPL towards transmission charges of DTL for FY 2021-22. Transmission Charges for FY 2023-24 was projected as Rs. 1466.40 Cr, however Bifurcation for intrastate Transmission was not provided by BRPL. Further, BRPL has not specified any roadmap for the payment of huge outstanding dues. DTL further requested to the Commission

to direct BRPL to honour the Orders of Hon'ble Supreme Court at the earliest including LPSC @ 15%/18%.

- 2.197 BRPL in its True-up Petition for FY 2021-22 has considered 547.7 MU as Transmission Losses for FY 2021-22. However, BRPL has neither specified any percentage nor any bifurcation is given for Intra-State Transmission Losses, whereas as per SLDC data, the actual Intra-State Transmission Losses are 0.88%. Further in the ARR Petition for FY 2023-24, BRPL has projected Intra-State Transmission Losses @0.88% i.e. 105.4 MU
- 2.198 BRPL is regularly defaulting the payments of the transmission charges of DTL. DERC is requested to take suitable decisions on carrying cost or any incentives being allowed to BRPL.
- 2.199 BYPL has not remitted any amount to DTL against the Wheeling/Transmission Charges and therefore, no amount should be considered/ allowed by Hon'ble Commission to BYPL towards transmission charges of DTL for FY 2021-22. Transmission Charges for FY 2023-24 was projected as Rs. 922.40 Cr, however Bifurcation for intrastate Transmission was not provided by BYPL. Further, BYPL has not specified any roadmap for the payment of huge outstanding dues. DTL further requested to the Commission to direct BYPL to honour the Orders of Hon'ble Supreme Court at the earliest including LPSC @ 15%/18%.
- 2.200 BYPL in its True-up Petition for FY 2021-22 has considered 368.9 MU as Transmission Losses for FY 2021-22. However, BYPL has neither specified any percentage nor any bifurcation is given for Intra-State Transmission Losses, whereas as per SLDC data, the actual Intra-State Transmission Losses are 0.88%. Further in the ARR Petition for FY 2023-24, BRPL has projected Intra-State Transmission Losses @0.88% i.e. 75 MU
- 2.201 For FY 2021-22, TPDDL has not specified any percentage for Intra-State Transmission Losses and has considered the Intra-State Transmission Loss as 87.08 MU. Further in the ARR Petition for FY 2023-24, TPDDL has projected Transmission Loss @ 3.50 % for PGCIL and DTL as a whole, and has considered 100.61 MU towards the Intra-State Transmission Losses.
- 2.202 DERC should take necessary steps to ensure the timely recovery of huge outstanding

transmission charges of DTL within the next 1-2 years. before the end of the license period of BRPL.

- 2.203 NDMC in its True-up Petition for FY 2021-22 has claimed Rs. 32.39 Crore towards Intra-State Transmission Loss / Charges, against the bills raised by DTL amounting to Rs. 44.98 Crore towards wheeling charges. However, NDMC has remitted only Rs. 26.94 Crore during for FY 2021-22 to DTL. Further, in the ARR Petition for FY 2023-24, NDMC has projected an amount of Rs. 45.00 Crore.
- 2.204 For FY 2021-22, the actual Intra-State Transmission Losses are 0.88% and NDMC has considered the Intra-State Transmission Loss as 12.25 MU. Further in the ARR Petition for FY 2023-24, NDMC has projected Transmission Losses as 0.88% i.e. 12.48 MU

PETITIONER'S RESPONSE

TPDDL

- 2.205 Tata Power-DDL computes the losses as difference of the actual power scheduled and energy received at Tata Power-DDL periphery, and the losses are prorated under Intra state and Interstate losses as follows:
1. For Intra State Losses:- DTL losses have been factored in as per the data shown on the Delhi SLDC Website i.e 0.88% approx.
 2. For Inter State Losses:- Remaining difference is booked under Interstate head.
- 2.206 TPDDL has considered the total transmission loss at 3.5%. The same included both STU losses of 0.88% and CTU losses which generally varies in the range of 2.5% to 3.75%. Hence, it has been assumed that expected STU+CTU losses for the year may be around 3.5%. The same may change as per actual losses notified by CTU/STU.

BYPL

- 2.207 No replies received.

BRPL

- 2.208 BRPL has claimed total Transmission Charges of Rs. 1131.2 Crores including Rs. 262.30 Crores paid to DTL [Table No. 3A-23 & 3A-26 @ Pg. 131 to 134 of True Up Petition]. Notably, BRPL has been making payment of current dues of DTL for FY 2021-22 in terms

of Orders of the Hon'ble Supreme Court in W.P. (C) No. 104 of 2014, viz.: -

- a) Order dated 26.03.2014 wherein the Hon'ble Supreme Court directed BRPL to make 100% payment of the current dues w.e.f. 01.03.2014 which will relate to the billing period from 01.01.2014, as under: -

"In our opinion, the suggestion made by Mr. Rohatgi is reasonable. This would avoid unnecessary delay on the ground that necessary information has not been given. Let the necessary questionnaire/proforma be given to the distribution companies within 10 days from today. The information would be furnished/ supplied by the distribution companies within 10 days thereafter to the DERC and within two weeks thereafter, the road map will be prepared by the DERC. In the meantime, the distribution companies will continue to pay the current payments to the generating and transmission companies with effect from 1st March, 2014 which will relate to the billing period from 1st January, 2014.

The interim order dated 7th February, 2014 with regard to no disconnection in the supply of electricity shall continue."

Order dated 26.03.2014 was continued by Orders dated 06.05.2014 and 03.07.2014.

- b) Order dated 12.05.2016 wherein the Hon'ble Supreme Court directed BRPL to pay 70% of the current dues to Indraprastha Power Generation Co. Ltd. ("IPGCL"), Pragati Power Corporation Ltd. ("PPCL") and DTL (collectively "Delhi Utilities") as under: -

"We make it clear that till further orders, the alleged contemnors-respondents shall pay 70 per cent of the current dues".

2.209 Notably, BRPL has been making 100% payment of all current bills of DTL since November 2017, whereas Hon'ble Supreme Court has directed BRPL to pay 70% of the current dues. As on 30.06.2023, BRPL has already paid 101% of the current bills of DTL

since January 2014 in terms of directions of Hon'ble Supreme Court.

2.210 It is ex-facie arbitrary on the part of DTL to contend that BRPL has not remitted any amount to DTL against Transmission / Wheeling Charges. Tabulated statement of the payments made by BRPL against the bills raised by DTL during FY 2021-22 in terms of Orders dated 26.03.2014 and 12.05.2016 of the Hon'ble Supreme Court and after considering adjustment of Subsidy released by the Government of NCT of Delhi ("GoNCTD") directly to DTL is as under:-

Table 2. 1 Status as on 30.06.2023 (Rs Crore)

TL	Total Dues – Post Jan 2014	Payments (January 2014 to June 2023)				Payment %
		Amount Paid including TDS	Subsidy	STOA Credit	Total Payments	
	A	B	C	D	(E = B+C+D)	F = E/A
Wheeling Charges	3,578	1,204	1,724	686	3,614	101%

Table 2. 2 : Payment of transmission bills for FY 2021-22 (Rs Crore)

DTL	Bill for FY 21-22	Payment			
		Through Subsidy	Cash & TDS	STOA Credit	Total Payment
Wheeling Charges	426.68	138.48	120.23	167.97	426.68
DTL SLDC	3.55	-	3.55		3.55
Total	430.23	138.48	123.79	167.97	430.23

2.211 The aforesaid is without prejudice to the rights and contentions of BRPL as regards the unlawful adjustment of Subsidy by the GoNCTD towards dues of DTL against the prescription of Section 65 of the Electricity Act.

2.212 In the ARR Petition, BRPL has projected total Transmission Charges of Rs. 1466.4 Crores [Table No. 2-49 @ Pg. 119 of ARR Petition] based on the escalation observed in the past trend. As regards bifurcation of Intra-State Transmission Charges during FY 2021-22, it is requested that Hon'ble Commission may be pleased to consider the actual data as submitted by the Delhi State Load Despatch Centre ("SLDC") while truing up for FY 2021-22.

2.213 As regards the alleged non-payment / delay in payment of Transmission / Wheeling Charges by BRPL, it is noteworthy that: -

- a) BRPL has been making payments to DTL in terms of Orders dated 26.03.2014 and 12.05.2016 passed by the Hon'ble Supreme Court. Notably, by Order dated 26.03.2014, Hon'ble Supreme Court was pleased to direct BRPL to make payment of current dues with effect from 01.03.2014 which will relate to the billing period from 01.01.2014.

As such, any alleged dues of DTL prior to 01.01.2014 have been stayed by the Hon'ble Supreme Court and are subject to final adjudication of W.P. (C) No. 104 of 2014 and connected matters. Contention of DTL that BRPL is liable to pay alleged dues which have accumulated since October 2010 is contumacious and in the teeth of the Orders and directions of the Hon'ble Supreme Court.

2.214 As regards the contention that Commission has also been allowing carrying cost and surcharge on the Revenue Gap / Regulatory Asset to BRPL, it is submitted that carrying cost and surcharge for recovery of Regulatory Asset is to be allowed by the Hon'ble Commission to BRPL in terms of: -

- a) Clause 8.2.2 of the statutory Tariff Policy, 2016 notified under Section 3 of the Electricity Act;
- b) Judgments dated 11.11.2011 in OP No. 1 of 2011 [2011 SCC On-line APTEL 188](Paras. 65 & 66) and 14.11.2013 in OP No. 1 and 2 of 2012 [2013 SCC OnLine APTEL 137](Paras. 38 & 40) of the Hon'ble Appellate Tribunal for Electricity ("Hon'ble APTEL"); and
- c) Order dated 15.12.2022 in MA Nos. 633-634 of 2022 passed by the Hon'ble Supreme Court.

2.215 Without prejudice to the above, it is submitted that the issue of recovery of Regulatory Asset and insufficiency of 8% surcharge has been raised by BRPL before this Hon'ble Commission, in matters before Hon'ble APTEL as well as before the Hon'ble Supreme Court.

2.216 Precarious financial condition of BRPL as also the inadequacy of 8% surcharge allowed

by the Hon'ble Commission was admitted by the Hon'ble Commission itself in its Statutory Advice dated 15.12.2010 and 01.02.2013 issued under Section 86(2)(iv) of the Electricity Act to the GoNCTD.

- 2.217 In view of the above, it is submitted that the suggestions / contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Hon'ble Commission. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.
- 2.218 Detailed submissions as regards opening of LC by BRPL in favour of DTL have been made hereinabove at Para. 3.2 which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.
- 2.219 It is requested that Hon'ble Commission may be pleased to consider the actual data of Transmission Losses as submitted by the Delhi SLDC while truing up for FY 2021-22. Further, BRPL has projected 0.88% of Intra-State Transmission Losses as submitted by Delhi SLDC. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.
- 2.220 As regards the contentions of DTL qua alleged non-payment of dues / non-compliance with Orders of the Hon'ble Commission and the Hon'ble Supreme Court, detailed submissions have been made hereinabove at Paras. 2 to 2.7 which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity.
- 2.221 On the issue of opening of LC in favour of DTL, considering the precarious financial condition of BRPL, for reasons not attributable to it as explained hereinabove, it is submitted that the issue of opening of LC was raised by DTL before the Hon'ble Commission in Petition No. 46 and 47 of 2013 wherein the Hon'ble Commission by its Order dated 22.11.2013 directed for constitution of an Empowered Committee. The said Order was challenged by DTL and is pending adjudication in Appeal No. 32 of 2014 before the Hon'ble APTEL. As such, at this stage, DTL ought not to insist upon BRPL to

open LC.

- 2.222 As regards the Liquidation Plan proposed by BRPL, it is submitted that: -
- 2.223 BRPL has made additional payments to DTL of Rs. 157.50 Crores, from June 2018 onwards which was in addition to the current dues payable, in order to demonstrate and establish BRPL's bona fide intent to pay the admitted dues of DTL on an 'ability to pay' basis. However, BRPL could not sustain the additional payments mainly due to reduction in Retail Tariff (on account of reduction in fixed charges) by the Hon'ble Commission in the Tariff Order dated 31.07.2019.
- 2.224 BRPL by its communications dated 02.07.2022 and 17.08.2022, without prejudice to its rights and contentions in proceedings pending in various fora, had proposed a consolidated and comprehensive One Time Settlement ("OTS") plan for liquidation of overdues of Delhi Utilities.
- 2.225 Proposed OTS plan has also been placed before the Hon'ble Commission for its guidance and imprimatur by way of Interim Applications in Review Petition Nos. 59 and 60 of 2019 which were disposed of on 15.09.2022 as under: -
- 2.226 "Heard Mr. Rahul Kinra, holding brief of Sr. Advocate, Mr. Bhatt. We have been informed that IPGCL and PPCL have filed an affidavit before this Commission categorically denying the willingness to participate in the reconciliation proceedings as proposed by the Commission on request of the Petitioner. Earlier also they had appeared and shown reluctance, today the affidavit is on record. Mr. Kinra has pleaded that he may be granted a week's time to consult his clients and the case may be fixed on the next date. However, after going through the contents of the IPGCL and PPCL, the Commission feels that this was an attempt for a reconciliation and the Commission had passed orders in a persuasive manner in the hope that the matter can be settled amicably in the interest of all the parties. However, if the other party has filed a categorical denial to the reconciliation proceedings, no rejoinder can be filed by the Petitioner. Ms. Kavya Shandilya, Counsel for DTL, has also submitted orally that as per the instructions they are not willing to come to the table for discussion. Mr. Kinra has pleaded vehemently that the matter should be kept pending but we feel

it will be totally unnecessary as the prayer of the Petitioner is categorically denied. The interim relief applications bearing Nos. 3 and 4 of 2022, on which these reconciliation proceeding were sought to be started, stands disposed of. Disposal of these applications will not mean that the contentions of the Petitioner have been rejected or the stand of the opposite parties has been legally accepted.”

- 2.227 The said Review Petitions are still pending before the Commission and were last listed on 15.11.2022 wherein the Commission had adjourned the hearing in the matters to 16.02.2023. However, the hearing on 16.02.2023 in the Review Petitions was adjourned due to the non-availability of the Commission, and the next date is to be informed in due course.
- 2.228 By its communication dated 14.11.2022, DTL has informed that the OTS is not tenable and cannot be entertained.
- 2.229 In view of the above, it is submitted that BRPL has been taking proactive steps to liquidate the outstanding dues of DTL, while suffering on account of the non-cost reflective tariff determined by the Commission year-on-year. Aforesaid contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Commission. The Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.
- 2.230 It is requested that the Commission may be pleased to consider the actual data of Transmission Losses as submitted by the Delhi SLDC while truing up for FY 2021-22. Further, BRPL has projected 0.88% of Intra-State Transmission Losses as submitted by Delhi SLDC. Hon’ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

NDMC

- 2.231 Did not provide any comment.

COMMISSION’S VIEW

- 2.232 The Commission determines the transmission charges of DTL as per Tariff Regulations, 2017 & Business Plan Regulations, 2019. Further, the transmission losses and availability are being considered as provided by Delhi SLDC. With regards to the dues

to DTL by DISCOMs, it is pertinent to state that in case DISCOM do not pay State GENCO and DTL as per timelines mandated in the Tariff Regulations, 2017 then they are liable for LPSC as stipulated in the said Regulations. LPSC paid by DISCOMs to State GENCO and DTL is not passed through in their ARR.

- 2.233 Further, directives has been issued in previous Tariff Order to DISCOMs to make timely payment of bills to all the Generating Companies and Transmission Utilities. No Late Payment Surcharge shall be allowed as a pass through in the ARR on account of delayed payments.

ISSUE 13: E-BILL & ONLINE PAYMENT

STAKEHOLDER'S VIEW

- 2.234 The DERC is requested to make provision for DISCOMs to share paper bill rather than sharing e-bill.
- 2.235 Hard Copy of Electricity Bill must be provided to the consumers and option of payment by cheque though RWA drop box must be maintained.

PETITIONER'S RESPONSE

TPDDL

- 2.236 Hard copy of the bills are being provided to the consumers. At present, the bills are also being provided on email and whatsapp if the consumer so opts.
- 2.237 Soft copy of the bill provided on email or whatsapp has all the details as in the actual hard copy of the bill and can be viewed on smart phone or laptop/tablet. SMS are sent in addition and not in place of the soft copy of the bill.
- 2.238 Proposal to make e-bill mandatory for consumers with sanctioned load above 5 KW and for Zero Amount Payable bills was with the intention of saving trees (saving the environment), ease of access by consumer, time saving in delivery of bill and less documentation and that for zero payable bills the consumer needs to keep the bill only for records which can be kept in soft format.
- 2.239 Secondly, drop boxes placed in societies are prone to mischief and there is no responsibility taken for its security. All drop boxes cannot be cleared daily which will lead to delayed posting and imposition of late payment surcharge. To avoid these

issues and for timely updation of payments, online payments are advisable.

BYPL

2.240 The consumer is given option to consumers to get e-Bill from application or through website.

2.241 At present, any consumer of the Petitioner can request to opt for e-bill and discontinue their physical bills or may decide to continue with both formats. A numbers of consumers have already opted for e-bills and have decided to stop their physical bills. Lakhs of consumers have already opted for e-bills and have decided to stop their physical bills. Further, the Commission has also provided the provision in DERC (Supply Code and Performance Standards) Regulations, 2017 stated as under:

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

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

BRPL

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

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

Provided that the distribution licensee shall deliver the bill both in hard copy

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

NDMC

2.243 Replies not received

COMMISSION’S VIEW

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

2.245 Provided that if the cheque of a Consumer is dishonoured for Two (2) occasions in any Financial Year, then such Consumer shall not have facility of paying electricity bill through cheque for balance period of Financial Year. Provided further that cash payment limit for each monthly bill shall not exceed Rs 4,000/- or as may be decided by the Commission from time to time.

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

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

2.247 Further, in Tariff Order dated 30/09/2021, the Commission has mandatorily made the payment of monthly electricity bills of all categories of consumers except Domestic,

Agriculture & Mushroom Cultivation exceeding Rs. 20,000/- digitally through various platforms like NEFT, RTGS, IMPS, Credit Card, Debit Card, Wallets (like PayTM, Google Pay) etc.

ISSUE 14: PPAC AND OTHER SURCHARGE

STAKEHOLDER'S VIEW

- 2.248 The DERC is requested to review implementation of PPAC. Tremendous increase in PPAC has led to drastic increase in overall electricity bills due to which industries are suffering with deep losses.
- 2.249 There are different charges under different heads levied due to which the final tariff is so high. The DERC is requested to review these charges. The Charges are mentioned below.
1. PPAC on Fixed Charges @8.75%
 2. PPAC on Energy Charges @8.75%
 3. Differential PPAC on Fixed Charges @20% approx.
 4. Differential PPAC on Energy Charges @20% approx.
 5. Surcharge on Fixed Charges @8%
 6. Surcharge on Energy Charges @8%
 7. Pension Trust Surcharge on Fixed Charge @7%
 8. Pension Trust Surcharge on Energy Charge @7%
 9. Electricity Tax @5%
- 2.250 The DERC is requested to withdraw various surcharge including Pension Trust, PPAC, differential PPAC, Deficit Revenue Recovery Surcharge.
- 2.251 The amount of PPAC is being charged beyond the provisions of the Tariff, also requested to reduce the PPAC.
- 2.252 Time of Day surcharge should not be applicable on DMRC keeping in view the nature of operations, which does not allow any flexibility of shifting the loads.
- 2.253 DISCOM has proposed for introduction kVAh billing in both lag and lead mode. However, DMRC proposed that existing practice of kVAh billing under Lag only metering may be continued to them.

- 2.254 DRS & PPAC are part of tariff. Distribution loss of BRPL 7.16% against NDPL 6.36% when the former's area is more developed. Power purchase cost per unit is not indicated.

PETITIONER'S RESPONSE

TPDDL

- 2.255 PPAC is levied to recover the incremental Power Procurement Cost on quarterly basis, over and above the Power Procurement Cost approved in the Tariff Order of the relevant year.
- 2.256 The Commission vide its Tariff Order dated 30.09.2021 has subsumed the revenue of Rs 626.57 Crore from PPAC for meeting the ARR requirement for the FY 2021-22. Thus, the PPAC has been subsumed in the Tariff Charges by the Commission. Hence, the Tariff was notified for various consumer categories by utilizing this PPAC amount in revenue of ARR. Thus, PPAC has already become part of Base Fixed Charge or Variable / Energy Charge as the revenue is considered against both as a whole. Since DRS is levied on basic tariff and PPAC has become part of base Energy Charge and Fixed Charge Tariff (excluding Taxes surcharges etc.), hence DRS should be applicable on PPAC Charges.
- 2.257 Any exemption in tariff is the prerogative of the Commission. However, Discoms need to purchase High Cost Power up to Rs 20 per unit during the Peak Period and are forced to sell the power in exchange at lower rate during off Peak Period in order to meet the fluctuating demands of consumers. Thus, the Tariff of consumer should reflect the actual cost of supply during that period irrespective of its ability to shift the load.
- 2.258 Further, the present ToD Tariff is applicable since last 7 years and hence, Tata Power-DDL requests the Commission to review its performance on the basis of the load curves noticed during the summer months [April – September] and winter months [October – March] in its distribution area which is as follows:
1. Two distinct peaks and two distinct off-peak periods are noticed in the load curves for summer as well as winter months.
 2. Summer:
 - a. Peak Periods: 0000 – 0100 hrs, 1300 – 1700 hrs. and 2100 – 2400 hrs;

b. Off-peak Period: 0300 – 0900 hrs.

3. Winter:

a. Peak Periods: 0600 – 1200 hrs, and 1700 – 2200 hrs;

b. Off-peak Period: 0000 – 0400 hrs.

2.259 While the average power purchase cost at base load @ 1400 MW April – September and @ 900 MW during October – March is almost the same based on the Merit Order Despatch (MOD) principles, the power purchase cost increases by ~ 150% to meet the peak load during April – September and ~ 30% to meet the peak load during October - March.

2.260 Accordingly, Tata Power-DDL has submitted the following proposal for ToD:

Months	Peak Period	Surcharge on Energy Charges	Off-Peak Period	Rebate on Energy Charges
April – September	0000 – 0100 hrs. 1300 – 1700 hrs. 2100 – 2400 hrs.	50%	0300 – 0900 hrs.	20%
October - March	0600 – 1200 hrs. 1700 – 2200 hrs.	20%	0000 – 0400 hrs.	20%

2.261 Regulatory Assets got created due to non-cost reflective tariff for previous years. Thus, in order to fund the said Regulatory assets Tata Power-DDL is availing loans from the market and also paying interest on the same to the banks/FIs. To overcome the problem of further creation of Regulatory Assets, the Commission had introduced Regulatory Surcharge of 8% so that the interest burden can be met out to save the consumers from further accumulation of interest. However, this 8% surcharge has not been changed and is still 8% in 2023 and is not sufficient to recover even the interest cost of Regulatory Assets and it should be enhanced to atleast 15%.

2.262 Further, recovery from the 8% Deficit Revenue Recovery Surcharge is shown in the True Up Petition under table no. 3.4 under a separate head and is also separately mentioned in the consumers' bills.

- 2.263 The Distribution Licensee is allowed to recover the incremental Power Procurement Cost on quarterly basis, over and above the Power Procurement Cost approved in the Tariff Order of the relevant year.
- 2.264 These charges can be allowed as amount per unit or as percentage but either way the same amount has to be recovered and Trued Up. So, there would not be any change in the recovery of the total amount.

BYPL

- 2.265 With regard to Power Purchase cost, the DISCOM has sourced its power requirement through mix of long term and short-term sources to meet the demand in its licensed area. The power procured under long term PPAs through Long term which are owned by Central Government (like NTPC, NHPC), State Generating Stations (Pragati Power, Indraprastha) which are owned by State Government, IPP and JVs and any shortfall during the year is sourced through power exchange, bilateral & banking.

COMMISSION'S VIEW

- 2.266 Rationale of different charges are as follows:

Fixed Charges: Fixed charges are levied to recover the Fixed Costs incurred by DISCOMs which include Capacity Charges to Generating companies / Transmission companies. It is determined based on DERC (Terms and Conditions for Determination of Tariff) Regulations 2017.

Energy Charges: Energy Charges are levied to recover the variable costs incurred by DISCOMs which include the Fuel Cost of Generating plants and other Variable Charges. It is determined based on DERC (Terms and Conditions for Determination of Tariff) Regulations 2017.

Power Purchase Cost Adjustment Charges (PPAC): Power Purchase Cost is uncontrollable in nature, therefore, the variation of increase in Cost over and above the approved Cost in the Tariff Order is allowed to be recovered through a mechanism called PPAC. Such variation of Cost is on account of increase in Fuel Cost,

increase in Fixed Cost of Power Plants, increase in Transmission Charges etc. Section 62(4) of Electricity Act, 2003 and Tariff Policy 2016 empowers the Commission to implement PPAC mechanism. Accordingly, PPAC is levied in accordance with DERC (Terms and Conditions for Determination of Tariff) Regulations 2017. It is levied on Fixed Charges and Energy Charges.

Pension Trust Surcharge (7%): It is for recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD. It is levied on Fixed Charges and Energy Charges.

Regulatory Asset Surcharge (8%): It is for liquidation of Regulatory Assets based on the submission before Hon'ble Supreme Court in Civil Appeal No. 884 of 2010 and 9003 & 9004 of 2011. It is levied on Fixed Charges and Energy Charges.

Electricity Duty (5%): It is levied and collected by respective DISCOMs on the basis of DMC (Assessment and collection of Tax on the consumption, Sale of Supply of Electricity) Bye Laws 1962. It is levied on the Energy Charges.

Time of Day Tariff: ToD Tariff is a measure to flatten the load curve and avoid high cost peaking power purchases. In this peak hour consumption is charged at higher rates which reflect the higher cost of power purchase during peak hours. At the same time, a rebate is being offered on consumption during off-peak hours, as follows:

MONTHS	PEAK HOURS (HRS)	SURCHARGE ON ENERGY CHARGES	OFF-PEAK HOURS (HRS)	REBATE ON ENERGY CHARGES
May - September	1400–1700 & 2200 – 0100	20%	0400 – 1000	20%

ISSUE 15: MISCELLANEOUS

STAKEHOLDER'S VIEW

2.267 The DERC is requested that DISCOMs shall come under ambit of RTI Act to establish transparency. DISCOMs stresses upon time bound recovery of Regulatory Assets but

resist application of RTI.

- 2.268 The DERC is requested to not link Tariff revision to Consumer Price Index.
- 2.269 The DERC is requested to direct BRPL/BYPL to re-state their books of accounts by considering the firm liability of LPSC rate as per provisions of applicable Tariff Regulations and PPA signed between IPGCL and PPCL. As unilateral reduction of LPSC rate from 18%/15% to 12% in their books of accounts does not reflect true and fair accounting.
- 2.270 Legal Expenses of DISCOMs may be restricted to the expenses in case of the Electricity Court only.
- 2.271 Interest on Security Deposit shall not be paid by the Consumers held by DPCL.
- 2.272 The collection charges recovered from MCD shall be treated as NTI.
- 2.273 The Advocate fee shall be restricted to Electricity Court cases only not for Petitions filed in Tribunal, High Court and Supreme Court.
- 2.274 The Books of accounts prepared by BYPL show that BYPL has unilaterally changed the rate of LPSC from 18%/15% to 12%. The Commission may give directions to BYPL to re-state their books of accounts by considering the firm liability of LPSC rate as per provisions of applicable Tariff Regulations and PPA signed between IPGCL and PPCL, for the default in Payment of IPGCL and PPCL, so as to reflect the true and fair accounts.
- 2.275 DERC is requested to direct BRPL to honour the Orders of Hon'ble Supreme Court, Hon'ble APTEL and Hon'ble DERC and clear the outstanding dues of DTL pending since October – 2010, at the earliest including LPSC @ 15%/18%.
- 2.276 BRPL has not complied with the directions of Hon'ble Supreme Court for payment of 70% of Current Dues and against which BRPL has made payment only 41.51% of Current Dues.
- 2.277 The existing practice of KVAh billing under "Lag only" metering may be continued.
- 2.278 DISCOMs may be advised to create awareness regarding harmonics among all HT/EHT consumers so that they can take steps to minimize the harmonics voluntarily at their level.

- 2.279 Meter reading must be done after due communication. In case the household person is female, only woman employees shall be authorized to take meter reading.

PETITIONER'S RESPONSE

TPDDL

- 2.280 The applicability of RTI to DISCOMs has been challenged in the Hon'ble Delhi High Court and the matter is sub-judice. Hence, it won't be appropriate to comment on the same.
- 2.281 Besides, the Commission always does the prudence check and considers the stakeholders' comments before the release of Tariff Order to ensure transparency. The Commission does the prudence check of energy sales & revenue, power purchase cost, O&M expenses, Loans and capitalization through in house officers and 3rd party CAG empanelled auditors before truing up.
- 2.282 Increase in cost of Coal, Gas and Transportation direction, impacts the long term and short-term Power Purchase Cost. Though the PPAC formula covers the increase in long term power purchase cost to some extent however, there is delay of at least four months from incurring the cost to its recovery. Besides, recovery is also limited up to maximum of 8.75% on *Suo moto* basis. There is considerable delay in recovery of rest of differential cost through adjudication of differential PPAC Petition. Further, the Commission also provides increase in yearly O&M expenses by linking it to Inflation.
- 2.283 Consumer doesn't provide its equipment and installation with appropriate and adequate capacitor compensation. Mostly consumer uses fixed capacitors or bulk compensation on HT in fixed mode, thereby leading to additional Reactive (lead) Power Charges, which is causing undesirable unwarranted burden on other Tata Power-DDL consumers.
- 2.284 It is important to note that, more particularly, during winter season, there is hardly any reactive injection, and due to high capacitive injection by high end consumers, the voltage becomes very high and sometimes it becomes difficult to control the same.
- 2.285 Further, it has been observed that some of the high end consumers are using fix type capacitors matching with maximum demand. In these cases, the reduction in load/less

load, causes excess injection of leading reactive power leading to billing of reactive charges by DTL to DISCOMs. However, actions from only DISCOM will not serve the purpose of reactive power management in power system as reactive injection and drawl can be from generator as well as transmission system.

- 2.286 It is only the distribution companies who are paying for the inefficiency of other entities in power sector value chain.
- 2.287 The reactive compensation is effective when it is nearer to the load and the extra reactive compensation by industrial consumers cannot be used / compensated against extra reactive energy drawl by agricultural section.
- 2.288 The most effective remedy to remove such anomaly is to introduce kVAh billing in lag as well lead mode i.e. kVARh consumption in the leading power factor mode has to be taken in account as consumption. Introduction of kVAh metering and tariffs in lead as well lag mode will also encourage the consumers to reduce their electricity bill by ensuring that they do not draw reactive power and switch over to using efficient devices with proper power factor correctors or will install only appropriate capacitors at their premises. Therefore, to ensure better quality and reliable supply of power for the consumers, it is proposed to charge even the leading power factor cases on kVAh basis so that the injection by high end consumers (More than 30 KVA) is as per their actual requirement and proper voltage is maintained for all the consumers.
- 2.289 It has to be noted that Tata Power-DDL is creating suitable awareness among the consumers to minimise the harmonics. However, it is not yielding the impact. The presence of harmonic distortion is highly detrimental to the health of electrical network. Bulk consumers of electricity have higher capability to inject current harmonics in the network by virtue of large nonlinear loads. The Forum of Regulators has specified such group of customers as “Designated customers” based on their potential to inject harmonics in the electrical network. The end users and utilities share responsibility for limiting harmonic current injections and voltage distortion at the point of common coupling.
- 2.290 Regulation 8 of DERC (Supply Code and Performance Standards) Regulations, 2017,

also talks of penal charges on non-compliance which are to be notified by the Hon'ble Commission. This Regulation is reproduced below for ready reference:

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

- 2.291 However, since the Commission has not notified any penal charges till date, Tata Power-DDL requests for notification of the same at the earliest and direct all the HT/EHT consumers to install Power Quality meters in accordance to Central Electricity Authority (Technical Standards for Connectivity of the Distributed Generation Resources) Amendment Regulations, 2019 and also specify the periodicity for sharing the recorded data of PQ meters with the DISCOMs as stipulated in the Amended Regulations of CEA.
- 2.292 Allowing expenses incurred in defending/prosecuting regulatory matters/Appeals/Tariff Orders or any other contentious actions of generating companies etc. is necessary to allow Tata Power-DDL to effectively avail of its statutory remedies before the Hon'ble Commission or the Hon'ble CERC or the Hon'ble APTEL under the applicable provisions of the Act. All the benefits arising out of successful litigations are passed on to the consumers.
- 2.293 Tata Power-DDL being engaged in distribution and retail supply of electricity is exposed to a variety of litigation and legal issues. These range from filing of Petitions, Appeals and cases which are mandatory under applicable Regulations, Acts, for instance Legal expenses pertaining to power procurement (Approval of PPA/PSA, seeking clarifications, responding to petitions filed by generators, transmission licensees, renewable power related, miscellaneous proceedings); Public Interest Litigations initiated where Tata Power-DDL is made a party to the proceedings and has to respond/defend the matters upon it; Miscellaneous matters in Forums like National Green Tribunal, Remand back matters to this Hon'ble Commission, Central Information Commission, Scheduled Casts and Minorities Commission, National

Human Rights Commission, Labour law courts/forums, recovery suits in courts and so on.

- 2.294 Non allowance of legal expenses amounts to curtailment of Statutory Right of the DISCOM to challenge the decisions of the Commission and is against the principle of natural justice as well as the same is against Article 14 of the Constitution of India. The distribution business is a regulated business under the aegis of the Hon'ble Commission. Majority of the issues in Distribution Business will arise out of orders/directions issued by the Hon'ble Commission. In all such cases, the DISCOM has right to challenge the same before the Hon'ble High Court, Hon'ble Appellate Tribunal for Electricity and Hon'ble Supreme Court thereafter. The final Judgment passed at the Appellate stage will be binding on both the DISCOM as well as the Hon'ble Commission. Therefore, all legal expenses without any distinction should be allowed as an expense in the ARR.
- 2.295 DISCOM also agrees that the responsibility of funding of pension trust lies with GoNCTD and the amount recovered from pension trust should be used for liquidation of Regulatory assets.
- 2.296 The Commission had directed the GoNCTD to have a forensic audit of the Pension Trust conducted which has not been done till date. The responsibility solely lies with GoNCTD and it should meet the shortfall in the Trust at any stage and ensure benefits of the pensioners. This will ensure that electricity consumers are not directly impacted with this burden.
- 2.297 Further, the Pension Trust was mandated to get an annual actuarial valuation of its corpus to ascertain its solvency on a year on year basis. Till date, Pension Trust has failed to conduct the actuarial valuation in terms of the statutory framework ordained for the functioning and funding of the Pension Trust.
- 2.298 While there is no Tariff hike in Delhi DISCOMs for past 7 years, Pension Trust surcharge has been increased from 3.8 to 7% resulting in Tariff increase for the end consumer.
- 2.299 Electrification for street lights and roads is the responsibility of respective Municipal corporation or road owning agencies like PWD, DSIIDC, MCD etc. Distribution

companies can electrify the roads/ streetlights after receiving request from respective agencies after receiving payment of electrification charges.

2.300 If there is no further surcharge levied on Temporary Residential Connections, there is no motivation for residential consumers to switch from temporary to permanent connection as he is availing temporary connection at the same Tariff.

- a) It will create a lot of safety concerns, since, there is no standardization of cables used by consumers. There is chance of theft by tapping the service cable used by consumer.
- b) There is a scope of misuse of existing permanent connection as consumer will not ask for temporary connection for construction of additional floor/units by consumer as there is no fear of any penalty etc. on account of misuse.
- c) Temporary connection cannot be denied as per supply code, and there is possibility that consumer will use the same and will not go for permanent connection which is provided subject to feasibility.
- d) Already domestic consumer is subsidized and excluding surcharge from long term temporary connection is like providing them double benefit.
- e) TPDDL procures Long Term Power based on the demand of the existing consumers and for the temporary connections, for which TPDDL has to make temporary arrangement in terms of procuring additional power on Short Term Basis, which is at much higher rates as compared to long term power being procured on a regular basis.

2.301 Considering above, the Commission is requested to allow levy of surcharge on all residential connections under temporary supply category.

2.302 The Petitioner follows the DERC (Supply Code and Performance Standards) Regulations, 2017 and Tariff Orders issued by the Commission for Temporary Connections. Depending on construction of large buildings, malls and Public Infrastructures like Metro lines and bridges, the construction periods will vary from 6 months to several years. Therefore, consumer should have option of having temporary

connection of longer duration.

- 2.303 Interest on security deposit of consumers is adjusted in bills in accordance with the DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.304 Non-Tariff Income are shown as per relevant Regulations. All Non-Tariff Incomes are included in the ARR and benefit given to the consumers.
- 2.305 As regard to stakeholder comment on diluting fire safety norms, it is submitted that TPDDL being a regulated entity, follows the Regulations and directions issued by the Commission.
- 2.306 As regard to stakeholder comment on handing over of old/ damaged meters, it is submitted that old meters are prone to misuse. Hence, handing over of damaged meter is not done as it no use to the consumer.

BYPL

- 2.307 Private DISCOMs are not covered under the RTI Act, however, transparency in ARR / Tariff determination and functioning of DISCOMs is maintained. Further all the information on performance parameters is shared with the Commission.
- 2.308 The DISCOM would like to submit that the determination of electricity tariff to be charged from a consumer is the sole prerogative of the Commission under section 45 of the Electricity Act, 2003.
- 2.309 The matter relating to Late Payment Surcharge (LPSC) is subjudice before the Hon'ble Supreme Court in Writ Petition no. 104 & 105 of 2014.
- 2.310 The determination of Retail Tariff and Surcharges is the sole prerogative of the Commission and the Petitioner is bound to levy Tariff on consumers for a period as determined and approved by the Commission under the Electricity Act 2003.
- 2.311 The Non-Tariff Income for True-up of FY 2020-21 has been claimed by the Petitioner based on the Audited Accounts of FY 2020-21 in line with the actuals of past years and provisions under the Tariff Regulations, 2017 and Business Plan Regulations, 2019.
- 2.312 As per the Policy on replaced meter under tempering/DEA, the damaged/replaced meters are sent to the laboratories for disposal.
- 2.313 As regard to stakeholder's comment pertaining to Income from Electric Poles, it is

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

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

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

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

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

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

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

BRPL

- 2.322 The audited accounts has been submitted to the Hon'ble Commission prior to filing the Petition vide letter no. RA/2022-23/01/A/429 dated 22.11.2022 and the same has been referred while preparing the petition. Hon'ble Commission vide letter no. F.11 (2053)/ DERC/ 2022-23/7593/1859 dt. 09.12.2022 sought audited accounts for FY 2021-22 along with other details on Petition of True Up upto FY 2021-22. Thereafter, BRPL vide letter no. RA/2022-23/01/A/472 dt. 19.12.2022 has again shared the audited accounts for FY 2021-22 in Annexure 4 and the same has been uploaded by the Hon'ble Commission in its website.
- 2.323 Purchase cost of Publication (₹100/-)/ e-Publication (₹25) is fixed by the Commission in its Public Notice. Any change in the cost of the Petition is the sole prerogative of the Commission.
- 2.324 Private DISCOMs are not covered under the RTI Act, however, transparency in ARR / Tariff determination and functioning of DISCOMs is maintained. Further all the information on performance parameters is shared with the Commission.
- 2.325 In compliance of the Order dated 12.05.2016 passed by the Hon'ble Supreme Court, BRPL has been endeavoring to make 70% payment of the current dues to DTL while also considering the adjustment of Subsidy released by GoNCTD, which is a current receivable to BRPL. Tabulated statement of the payments made by BRPL against the bills raised by DTL during FY 2021-22
- 2.326 As regards the contentions of DTL qua alleged non-payment of dues / non-compliance with Orders of the Hon'ble Commission and the Hon'ble Supreme Court, detailed submissions have been made hereinabove at Paras. 2 to 2.7 which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity. It is submitted that: -
- a) Carrying cost and surcharge for recovery of Regulatory Asset is being allowed by the Hon'ble Commission to BRPL in terms of Clause 8.2.2 of the statutory Tariff Policy, 2016 notified under Section 3 of the Electricity Act and directions of Hon'ble APTEL and Hon'ble Supreme Court, and the same cannot be linked to payment of alleged outstanding dues of DTL.

b) Without prejudice to the above, the surcharge of 8% for recovery of Regulatory Asset being allowed to BRPL by the Hon'ble Commission is inadequate as itself acknowledged by the Hon'ble Commission in its Statutory Advise dated 01.02.2013 given to the GoNCTD under Section 86(2)(iv) of the Electricity Act wherein it was *inter alia* noted that M/s. SBI Capital Markets Ltd. in their presentation have assessed that liquidation of pending Revenue Gap will require a surcharge of 20% for BRPL and 25% for BYPL on the applicable tariff from 2012-13 up to 2018-19. Issue of insufficiency of 8% surcharge has been raised by BRPL before this Hon'ble Commission, in matters before Hon'ble APTEL as well as before the Hon'ble Supreme Court.

c) Similarly, any incentive accruing to BRPL is on account of its efficiency in performance and has no bearing on alleged non-payment of dues of DTL.

2.327 It is submitted that BRPL is entitled to retain any gains on account of its efficiency in terms of Regulation 152(d) of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017 ("Tariff Regulations, 2017"), especially when BRPL is already being prejudiced on account of the non-cost reflective tariff determination and accumulation of Regulatory Asset year-on-year. The aforesaid contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Hon'ble Commission. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

2.328 The contentions raised by DTL are erroneous and misconceived. It is submitted that there is no reduction in the LPSC liability and the same has been considered as Trade Payables (12%) and remaining as Contingent Liability based on various background facts, including: -

- a) Regulations specified by the Hon'ble Commission / Hon'ble Central Electricity Regulatory Commission;
- b) Ministry of Power, Government of India's ("MoP") Advisory dated 20.08.2020;

- c) Trend of reducing LPSC rates in the country recognized inter alia in the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 ("LPSC Rules, 2022") even though the same are not strictly applicable. MoP by its Affidavit dated 12.12.2022 filed in W.P. (C) No 105 of 2014 has stated that: "...the Late Payment Surcharge fixed by most of the Commissions was about 18% which was usurious considering the fact that the present lending rate in Banks is around 6 to 7 percent."
- d) This Hon'ble Commission's Order dated 13.05.2019 in Petition Nos. 8 and 26 of 2018 wherein the Hon'ble Commission has inter alia expressed its 'no-objection' to a Bilateral Settlement between the parties;
- e) Ongoing settlement talks between the Delhi Utilities and BRPL;
- f) Proceedings pending adjudication before various forums including the Hon'ble Supreme Court and the Hon'ble Commission.
- g) Constrained ability of BRPL to pay LPSC at exorbitant rates especially in view of non-cost reflective tariff fixed by the Hon'ble Commission, year-on-year, resulting in accumulation of substantial Regulatory Asset.
- h) Further, the fact that no bills were raised by DTL after June 2014 and the manner of treatment of LPSC in the Books of Accounts of DTL would show that DTL has been recognizing LPSC in a very conservative manner.
- i) BRPL has been consistently, honestly, with the highest standards of corporate governance and to provide a true and fair view recognizing and disclosing, in its accounts, even a possible claim of LPSC. LPSC is levied as a penalty for willful non-payment or delay in payment under the Electricity Act and the Regulations framed under it.

2.329 On one hand, BRPL is not fully allowed to recover its cost from the consumers in tariff and, on the other hand, is being burdened with high LPSC rate from the Delhi Utilities on account of delay in payment. LPSC, being levied on account of an artificially induced

inability to pay, leads to an incidence of LPSC liability being levied for no fault of BRPL. There is clear inconsistency in the rate of LPSC accrued (15% p.a. / 18% p.a.) on BRPL as: -

- a) Rate of Carrying Cost being allowed to BRPL on the Regulatory Asset which is in the range of 11% to 13% p.a.
- b) Cost of borrowing of BRPL, which was in the range of 13% to 15% p.a. due to the weakened financial position and substantial volume of Trade Payables caused by accumulation of substantial Regulatory Asset being created year-on-year and insufficient tariff being determined by the Hon'ble Commission.
- c) Cost of borrowing of the Delhi Utilities which is at an average rate of ~ 9% p.a.

2.330 Aforesaid differential impact of 6% p.a. is a perpetual drain on the net worth of BRPL, which is not a pass through in tariff, and has deteriorated its financial position and creditworthiness for reasons beyond the control of BRPL and which can be fairly considered to be a circumstance akin to Force Majeure. Since the reversal of 6% was neither recovered nor is eligible to be recovered through tariff, there is no question of wrongful gains or illegal profiteering by the BRPL.

2.331 In view of the above, it is submitted that the aforesaid contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Hon'ble Commission. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

2.332 DTL's contention that Subsidy amount released by GoNCTD must be adjusted against the outstanding dues only, is misconceived, erroneous and unlawful as: -

- a) It has been the consistent stand of BRPL that the Subsidy amount cannot be adjusted unilaterally towards payment of outstanding dues of other State utilities.
- b) The subsidy received by BRPL under Section 65 of the Electricity Act is a current receivable / revenue required to meet the current expenses incurred

by BRPL including obligations towards power purchase costs on a monthly basis.

c) Any adjustment of the subsidy against past dues impairs the ability of BRPL to pay the monthly dues for power purchase cost of the Generating and Transmission Companies and also exposes BRPL to levy of unwarranted LPSC.

d) Recently, on 26.07.2023, the MoP has notified the Electricity (Second Amendment) Rules, 2023 wherein Rule 15 of the Electricity Rules, 2005 has been amended to inter alia provide that subsidy must be provided by State Government in accordance with Section 65 of Electricity Act. In case the subsidy has not been paid in advance, then the State Commission shall issue the order for implementation of the tariff without subsidy, in accordance with provisions of Section 65. Relevant extracts of the Electricity (Second Amendment) Rules, 2023 are as under: -

“2. For rule 15 of the Electricity Rules, 2005 (hereinafter referred to as the said rules), the following rule shall be substituted, namely:-

‘15. Subsidy accounting and payment.-

(1) The accounting of the subsidy payable under section 65 of the Act, shall be done by the distribution licensee, in accordance with the Standard Operating Procedures issued by the Central Government, in this regard.

(2) A quarterly report shall be issued by the State Commission for each distribution licensee, in its jurisdiction, giving findings whether demands for subsidy were raised by the distribution licensee in the relevant quarter based on accounts of the energy consumed by the subsidised category and consumer category wise per unit subsidy declared by the State Government, the actual payment of subsidy in accordance with section 65 of the Act and the gap in subsidy due and paid as well as other relevant details.

Explanation: For the purpose of this rule, (The term “Unit” means Kilo Watt Hour (kWh) or Kilo Watt (kW) or Horse Power (HP) or Kilo Volt Ampere (kVA), in accordance

with the relevant Regulations or the Tariff Orders issued by the Appropriate Commission.

(3) The quarterly report shall be submitted by the distribution licensee within thirty days from end date of the respective quarter and the State Commission shall examine the report, and issue it with corrections, if any, in accordance with sub rule (2), within thirty days of the submission.

(4) In case the subsidy has not been paid in advance, then the State Commission shall issue order for implementation of the tariff without subsidy, in accordance with provisions of the section 65 of the Act.

(5) If subsidy accounting and the raising bills for subsidy is not found in accordance with the Act or Rules or Regulations issued there under, the State Commission shall take appropriate action against the concerned officers of the licensee for non-compliance as per provisions of the Act.”

- 2.333 Reliance cannot be placed upon Hon’ble APTEL’s Order dated 23.05.2014 which only relates to the adjustment done in terms of GoNCTD Letters dated 12.09.2013 and 24.03.2014, and being an Interim Order does not hold any precedential value and cannot be applied as a matter of right and principle for adjustment of subsidy amounts against the old outstanding dues for perpetuity.
- 2.334 Even otherwise, the Order dated 23.05.2014 merely follows the directive of the GoNCTD to adjust Subsidy amounts towards past dues, without examining the issue of whether: -
- a) Such a direction of the GoNCTD were itself permissible in the light of Section 65 of the Electricity Act, which in fact was / is against the statute;
 - b) Such a direction was itself in violation of the Hon’ble Supreme Court’s Order dated 26.03.2014.
- 2.335 Order dated 23.05.2014 does not finally or conclusively decide an issue of adjustment of Subsidy. Further: -
- a) Order dated 23.05.2014 has been challenged by BRPL in Civil Appeal Nos. 8464-

66 of 2014 and 8387-89 of 2014 before the Hon'ble Supreme Court inter alia contending that subsidy amount has to be allowed as per mandate of Section 65 of Electricity Act and should be adjusted towards current dues only as per Order dated 26.03.2014 as specifically requested by BRPL and not otherwise. Matters are currently pending before the Hon'ble Supreme Court and being taken up along with other matters including the Writ Petitions.

b) By Order dated 19.09.2014, Hon'ble Supreme Court was pleased to issue notice on I.A. No. 2 of 2014 in aforesaid Civil Appeals filed by BRPL seeking stay of the Order dated 23.05.2014.

c) By Order dated 09.02.2015, Hon'ble Supreme Court stayed the proceedings before Hon'ble APTEL, wherein the issue of inter alia establishment of Payment Security Mechanism has been raised by the Delhi Utilities, till disposal of W.P. (C) No. 104 of 2014, as under: -

"The learned counsel for the parties have brought it to the notice of this Court that the main issue is posted for hearing before this Court on 18.02.2015. Therefore, the Appellate Tribunal is directed to defer the hearing slated to 12.02.2015 till the writ petitions are disposed of." [Emphasis Supplied]

2.336 As such, it cannot be said that the issue of adjustment of subsidy has been finally adjudicated in terms of the Order dated 23.05.2014 and the subsidy is liable to be adjusted against the old outstanding only.

2.337 In view of the above, it is submitted that the aforesaid contentions of DTL are erroneous and misconceived, and as such, liable to be rejected by the Hon'ble Commission. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.

2.338 BRPL in its True Up Petition at Paras. 3A.196 to 3A.273 has provided detailed reasoning for considering the aforesaid heads of income under the category of Income from Other Business and not NTI, which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition in the

ensuing Tariff Order.

- 2.339 The contentions raised by DTL are erroneous and misconceived. Detailed submissions as regards the alleged change in Accounting Policy have been made hereinabove at Para. 6 to 6.4 which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity. Hon'ble Commission is requested to allow the claims of BRPL in the True Up Petition and the ARR Petition in the ensuing Tariff Order.
- 2.340 DISCOM physically inspects and tests meter for its accuracy as per DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.341 As regard to stakeholder comment pertaining to Income from Electric Poles, it is submitted that the Petitioner considered the income from other business as per the DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) (First Amendment) Regulations, 2017, as per Regulation 5 (5 (a)) of the same, the Licensee can retain 40% of net revenue from other business in which Licensee utilizes the assets and facilities of the licensed business for other business and pass the remaining 60% to the Regulated Business. The Regulation 5(5(a)) is quoted as under:
- “(5) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues from the other Business as follows:*
- (a) where the Licensee utilizes the assets and facilities of the licensed business for other business the Licensee shall retain 40% of the net revenue from such business and pass on the remaining 60% of the net revenue to the regulated business; and...”*
- 2.342 Accordingly, the 80 income has been duly considered under Non-Tariff Income in the ARR Petition.
- 2.343 For consumer grievance, Consumers have access to multiple avenues/institutions for redressed of grievances. The Petitioner, on its part, has instituted the Consumer Grievance Cell at its Corporate Office at Nehru Place. The customers in the licensee's

area of supply also have a 24 x 7 access to a dedicated “No Supply” call Centre - manned by trained personnel (phone number 39999707 and 19123 – 24x7 Toll Free Helpline). The licensee has conducted special training programs for all personnel manning the call centres. Alternatively, consumers can also register their grievance by sending an email at brpl.customer@relianceada.com. Consumers can also visit the conveniently located customer care centres and contact the customer care officials / Business District Manager in person. All complaints lodged are monitored internally for faster resolution of complaints.

- 2.344 With regard to the comment of frequent voltage fluctuations, it is submitted that the complaint has been forwarded to the divisional O&M office for resolution.
- 2.345 As regard to stakeholder’s comment on diluting Fire Safety norms, it is submitted that DISCOM provides new connection to the consumer under DERC (Supply Code and Performance Standards) Regulations, 2017 and its subsequent amendments.
- 2.346 As regard to stakeholder’s comment on Surcharge of temporary connections, it is submitted that BRPL is bound to levy tariff on consumers for a period as determined and approved by the Commission under the Electricity Act 2003.
- 2.347 BRPL has submitted the Non-Tariff Income for True-up of FY 2020-21 based on the Audited Accounts of FY 2020-21 in line with the actuals of past years and provisions under the Tariff Regulations, 2017 and Business Plan Regulations, 2019.
- 2.348 SBI MCLR rate is considered for computing the interest on Consumer Security Deposit in accordance with the Schedule of Charges and the procedure under DERC (Supply Code and Performance Standards) Regulations, 2017.
- 2.349 In regard to the stakeholder’s comment regarding unauthorized usage/theft of electricity, it is submitted that BRPL attributes highest priority to reduction of theft and for this express purpose, has within its structure, an independent and exclusion department which is focused in reduction of theft. BRPL enforcement teams are fully equipped and self-sufficient in curbing theft which is one of the reasons why BRPL has been able to bring down AT&C losses from over 50% to below 8% at present. However, enforcement team often have to face violent resistance in several areas and have been

physically assaulted on several occasions. In spite of facing such violence, the enforcement officials remain un-deterred in discharging their duties under difficult and hostile conditions.

- 2.350 The Petitioner has been able to save substantial amount on account of collection from theft / enforcement due to the aggressive clampdown on theft and avoidance of power purchase cost which would have been necessary in absence of any enforcement activities. This amount saved has directly benefitted consumers by way of reduced tariff burden.
- 2.351 The Petitioner endeavours to resolve the consumer complaints at the earliest besides providing quality and uninterrupted supply of power. For the convenience of its consumers, the Petitioner has also launched other various options such as BSES Mobile APP, Voice Bot, etc. where the consumer can easily lodge its complaint.
- 2.352 It is submitted that in accordance DERC (Supply Code and Performance Standards) Regulations, 2017 along with the Schedule of Charges, interest on Consumer Security Deposit is being paid on the basis of SBI MCLR.

NDMC

- 2.353 No reply received.

COMMISSION'S VIEW

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

- 2.356 The Commission while determining the norms for O&M expenses in its Business Plan Regulations, 2019 has not considered the legal expenses as it shall be allowed based on prudence check in true up of ARR for the relevant year.

ISSUE 16: RITHALA PLANT

STAKEHOLDER'S VIEW

- 2.357 Rithala power plant was set up by NDPL (G) in 2009 – 10 in NDPL area of distribution on a plot of land of DDA during the prestigious Commonwealth Games held in 2010 in Delhi. The Combined Cycle was commissioned long after the games were over. Since 2009 Delhi was power surplus.
- 2.358 Delhi's total power requirement in 2010 was 5000MW, the NDPL (G) offer of 94.8MW CCGPP came as a beacon of hope for the State with a drop in the ocean of surplus power. DISCOMs are claiming increasing tariff by filing petition after petition in various courts spending tens of crores of rupees.
- 2.359 Rithala CCGPP 94.8MW was procured second – hand from China around 2009 under non – working condition. GoNCTD allowed power plant on a temporary basis for five to six years for the purpose of Commonwealth games. Delhi became power surplus in 2009 – 10.
- 2.360 In the Tariff Order of 31.08.2017, the Commission decided the variable cost of APM gas @ Rs.3.68/kWh and for RLNG @ Rs. 8.45/kWh for combined cycle operation. This power was outside the MOD and hence there was no supply to Delhi system. As per 2007 regulation, no fixed charges shall be payable to the power plant in case of no supply. The Rithala had no buyer.
- 2.361 As per letter dated 21.04.2016, the Delhi Govt. has informed that Delhi is power surplus and TPDDL are pursuing for surrender / re – allocation of surplus power. Moreover, the time period for which the permission and approval for this power plant were given is over. TPDDL shall decommission the plant and hand over the land back to the Government.
- 2.362 Delay of over 7 years to decommission the plant shall invite penalty of Rs.11.85Cr. which is also to be adjusted against approved Regulatory Assets.

- 2.363 Unjust benefit of Rs. 78.42Cr. was provided to TPDDL for Rithala Generating Company in Tariff Order for FY 2019-20

TPDDL

- 2.364 The Commission has issued trued up tariff order for Rithala on dated 11th Nov, 2019. In the said Tariff Order, the Hon'ble Commission has approved recovery of fixed charges & variable charges from FY 2010-11 to FY 2017-18. We have accordingly requested the Hon'ble Commission for providing impact of True Up order in ensuing Tariff Order.

COMMISSION'S VIEW

- 2.365 The Commission in True-up Order for FY 2020-21 has dealt with the matter in detail.

ISSUE 17: NON TARIFF INCOME

STAKEHOLDER'S VIEW

- 2.366 NDMC should focus on maximizing the revenue from property tax without any significant expenses, the same should be used to subsidize the electricity division.
- 2.367 For calculating the ARR for FY 2023-24, Income from Other Business is considered as NIL, since the Company is already in other business in past years, it is necessary that projected income from other business should be considered in NTI. Thus, the same should be reduced from the ARR of the Company.
- 2.368 DTL requested to consider the following amount as Non-Tariff Income of BRPL:
- (i) LPSC collected from customers @ Rs. 41.4 Cr.
 - (ii) Short-term gain @ Rs. 12.5 Cr.
 - (iii) Transfer from consumer contribution for capital works @ Rs. 50.4 Cr.
 - (iv) Bad debts recovered @ Rs. 1.4 Cr.
 - (v) Income from NTPC @ Rs. 20.6 Cr.
 - (vi) Gain on retirement of assets @ Rs. 15.3 Cr.
 - (vii) Income from sale of scrap @ Rs. 7.4 Cr.

- 2.369 DTL requested to consider the following amount as Non-Tariff Income of BRPL:

- (i) LPSC collected from customers @ Rs. 25.1 Cr.
- (ii) Short-term gain @ Rs. 5.27 Cr.
- (iii) Transfer from consumer contribution for capital works @ Rs. 18.4 Cr.
- (iv) Bad debts recovered @ Rs. 4.1 Cr.
- (v) Interest on Income Tax Refund @ Rs. 2.78 Cr.
- (vi) Income from NTPC @ Rs. 2.2 Cr.
- (vii) Gain on retirement of assets @ Rs. 1.56 Cr.
- (viii) Income from sale of scrap @ Rs. 4.95 Cr.

PETITIONERS' RESPONSE

TPDDL

2.370 The Company has kept Non-Tariff Income for FY 2023-24 at Rs. 94.01 Cr which is in line with the methodology followed by the Commission in the past. Kindly refer Table No. 2.41 & 2.43 of ARR Petition for FY 2023-24.

BRPL

2.371 BRPL submitted that they have provided detailed reasoning for considering the aforesaid heads of income under the category of Income from Other Business and not NTI, which may be read as part of the response and the same are not being repeated for the sake of brevity and to avoid prolixity. The Commission is requested to allow the claims of BRPL in the True Up Petition in the ensuing Tariff Order.

COMMISSION'S VIEW

2.372 The Commission conducts prudence check of the income under the head of Non-Tariff Income that are submitted by the utilities. The same are available in Chapter-3 of this True-up Order.

A3 TRUE UP FOR FY 2021-22**BACKGROUND**

- 3.1 The True up of FY 2021-22 shall be considered in accordance with the provisions of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and *DERC (Business Plan) Regulations, 2019*.
- 3.2 The Commission has appointed the C&AG empanelled Auditors M/s ADRIOT & CO. hereinafter referred as 'Regulatory Auditor' Or 'Consultant' for conducting the Regulatory Audit relating to True up of Expenses for FY 2021-22 as claimed under the Petition including verification of Books of Accounts of the Petitioner.
- 3.3 The report of the Consultant has been considered appropriately by the Commission for True-up of various parameters of ARR of FY 2021-22 as submitted in the Petition by the Petitioner in accordance with the applicable principles laid down under the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017*, *DERC (Business Plan) Regulations, 2019* and Books of Accounts maintained as per the Companies Act.
- 3.4 The Commission has also conducted various prudence check sessions with the Petitioner for True-up of various parameters of ARR for FY 2021-22 submitted in the Petition. Wherever required clarifications were sought on various issues from the Petitioner in accordance with the applicable principles laid down under the *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017*, *DERC (Business Plan) Regulations, 2019* and with respect to the Books of Accounts of the Petitioner maintained as per the Companies Act. The Commission has considered all information submitted by the Petitioner as part of Tariff Petition, Audited Accounts for past years, response to queries raised during discussions and also considered the stakeholder's submission during Virtual/ physical Public Hearing process and those submitted in written for finalization of the Tariff Order as per the principle laid down under *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* and *DERC (Business Plan) Regulations, 2019*.
- 3.5 The impact on account of Hon'ble APTEL Orders not given in the preceeding True Up orders will be considered in the subsequent True-Up Orders.

ENERGY SALES

PETITIONER'S SUBMISSION

- 3.1 Regulation 152 of the DERC Tariff Regulations, 2017 provides that true up of ARR for Distribution (Wheeling & Retail Supply) Licensee shall be conducted on the principles of variation in revenue and sales of the distribution licensee based on projected revenue and sales vis-à-vis actual revenue and sales. Accordingly, the Petitioner requests the Commission to carry out the true-up of the variation in the revenue and sales for FY 2021-22. The quantum of energy sales is an uncontrollable factor and therefore any variation and its impact thereto ought to be allowed by the Commission.
- 3.2 The actual energy sales during FY 2021-22 after taking into account the impact of Hon'ble Supreme Court judgment dated 18.10.2022 is 6,145 MU against which the Hon'ble Commission had approved estimated energy sales of 6411 MU during FY 2021-22 in the Tariff Order dated 30.09.2021. The comparison of category-wise energy sales projected by the Hon'ble Commission vis-a-vis actual during FY 2021-22 is tabulated here as follows:

Table 3. 1: Petitioner Submission - Category-wise energy sales for truing up during FY 2021-22 MU)

Sr. No.	Category	Load	Consumers	Energy Sales
		MW	No.	MU
1	Domestic	3,046	14,22,314	4,018
1.1	Domestic	2,978	14,19,583	3,929
1.2	SPD for GHS (CGHS)	10	17	18
1.3	Worship & Hospital	50	32	56
1.4	DVB Staff	9	2,682	14
2	Non-Domestic	1,589	3,93,050	1,382
2.1	Non-Domestic LT (up to 3kVA)	486	2,94,185	315
2.2	Non-Domestic LT (above 3kVA)	904	98,566	825
2.3	Non-Domestic HT	200	299	242
3	Industrial	215	7,644	326
3.1	Industrial LT	181	7,609	261
3.2	Industrial HT	34	35	65
4	Agriculture	0	41	0
5	Mushroom Cultivation	0	1	0
6	Public Utilities	180	4,765	314
6.1	Public Lighting	29	3,152	59
6.2	Delhi Jal Board (DJB)	89	1,610	147
6.3	Delhi Metro (DMRC)	62	3	108
7	Delhi Airport (DIAL)			
8	Advertisement and Hoardings	1	320	0

Sr. No.	Category	Load	Consumers	Energy Sales
		MW	No.	MU
9	Charging Stations for EV	8	768	17
9.1	EV Charging at LT	6	767	16
9.2	EV Charging at HT	3	1	1
10	Self-Consumption	6	206	9
11	Temporary Supply	-	-	61
12	Enforcement	-	-	18
	Total	5,046	18,29,109	6,145

ENFORCEMENT SALES

3.3 The Petitioner has submitted that Regulation 5 (10) of Tariff Regulations, 2017, states that

“Any units assessed and billed on account of theft shall only be considered in the year of its realization as specified in the Section 126 (6) of the Act.”

3.4 Accordingly, in the terms of the aforesaid Regulation, the Petitioner has considered 44.74 MU during FY 2021-22 on account of theft i.e. the units assessed and billed upto FY 2021-22 and for which the payment has been realised during FY 2021-22. The same has also been reflected in Note 61 of the Audited Financial Statement of FY 2021-22.

3.5 The petitioner further submitted that the methodology followed by the Commission regarding Enforcement sales i.e. calculation of units billed on account of enforcement by dividing the amount realised by twice ABR has been set aside by the Hon’ble Supreme Court in its judgment dated 18.10.2022 wherein the Hon’ble Supreme Court has directed the Hon’ble Commission as under:

“ 79. ...We are of the view that the methodology adopted by the DERC is contrary to the settled principle of law that when the law deems a certain imaginary state of affairs as real, DERC would not let its imagination boggle at treating the 100 units as sales. We are of the view that such imaginary state of affairs must be taken to its logical end and commend the treatment of 100 units as ‘sales’.

80. We are of the view that the assessed energy has to be considered as supply by the appellants in enforcement cases. Therefore, we direct the DERC to consider assessed energy for calculation of enforcement sales and allow the impact of the same along with carrying costs....”

- 3.6 Accordingly, in view of the directions of the Hon'ble Supreme Court in the aforesaid judgment, enforcement sales of 44.47 MU considered for FY 2021-22 would also undergo change. This is due to the reason that Regulation 5(10) of the Tariff Regulations, 2017 which is applicable since 2017-18 onwards provides for consideration of units in the year of realisation. Hence, the enforcement units to be considered for FY 2021-22 ought to include only those cases where the units have been assessed and billed after 31st March 2017 and for which payment has been received for the first time during FY 2021-22. Therefore, the Petitioner has considered 18.16 MU (44.74 MU minus 26.31 MU considered in previous years in terms of Hon'ble Supreme Court directions) as enforcement sales in the instant petition for True-up of FY 2021-22.

OWN CONSUMPTION

- 3.7 The Petitioner submits that Own Consumption includes energy sales towards self-consumption in its establishment i.e. its offices, call centres, sub-stations, etc. There is a mandatory direction by the Hon'ble APTEL in its judgment dated March 2, 2015 to inter alia arrive at the quantum of self-consumption based on the actual figure. The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal No. 178 of 2012) ruled as under:

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

"We feel that the Appellant should have installed meters for self-consumption in all its offices, call centres, sub-stations, etc. The Respondent no.2 does not need specific instructions for the same. When the Respondent no.2 is including self-consumption in its energy sale figures, then it was legally bound to supply electricity for gross consumption only through correct meters. We feel that the State Commission should have allowed self-consumption only to the extent of actual consumption for metered installations. The formula proposed by the Respondent no. 2 for calculating own consumption in its installations is for calculating energy consumption for consumers in case of faulty meters. Accordingly, we direct the State Commission to re-determine the self-

consumption based on the metered data only. We also do not feel that this would result in change in procedure in true up with respect to the MYT order dated 23.02.2008. In the MYT order the consumption is based on the projections. In the MYT order the State Commission has not approved that the self-consumption would not be metered and would only be assessed by a formula considering the load, number of days/hours, load factor, etc.”

3.8 Further, Regulation 23 (2) of Business Plan Regulations, 2019 specifies as follows:

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

3.9 Accordingly, the Petitioner has submitted the actual units metered and billed by the Petitioner towards Own Consumption during FY 2021-22 i.e. 9.42 MU which is also within the normative limit as specified by the Hon’ble Commission in Business Plan Regulations, 2019, as under:

Table 3. 2: Petitioner Submission: Comparison of Normative Self consumption and actual self-consumption during FY 2021-22 (MU)

Sr.No	Particulars	Units
A	Units Billed Excluding Self consumption	6135
B	Self-consumption on Normative basis 0.25% of A	15.3
C	Actual Self consumption claimed by Petitioner	9.4

COMMISSION ANALYSIS

3.10 The Commission after exercising prudence check based on data / information provided by the Petitioner and based on the verification of the Category-wise Sales data from the Petitioner’s SAP system with the Books of Accounts for FY 2021-22 by the Consultant, validated the billing database. The Commission observed as follows:

ENFORCEMENT SALES

- 3.11 Regulation 5(10) of DERC (*Terms and Conditions for Determination of Tariff*) Regulations, 2017 states "any units assessed and billed on account of theft shall only be considered in the year of its realization as specified in Section 126(6) of the Act".
- 3.12 Section 126(6) of Electricity Act 2003 states that "the assessment shall be made at a rate equal to twice the tariff rates applicable for relevant category of services".
- 3.13 The Petitioner has submitted 18.16 MU on account of Enforcement Sales and based on Annual Revenue realised on account of Enforcement as Rs. 18.64 Cr.
- 3.14 Hon'ble Supreme Court vide its Judgement dated 18/10/2022 directed to consider the "Assessed Energy" as Enforcement Sales. Accordingly, the Commission has considered the Enforcement units as 18.16 MU against revenue collected amounting to Rs. 18.64 Cr to arrive at the Trued-up sales for FY 2021-22. However, these figures are provisional and are subject to confirmation on the basis of report of the Auditors being appointed by the Commission.

OWN CONSUMPTION

- 3.15 Regulations 23(2) and 23(3) of DERC (*Business Plan*) Regulations, 2019 stipulates:
- "23(2) The Distribution Licensees shall be allowed own (Auxiliary) consumption, at Zero Tariff for actual recorded consumption subject to a maximum of 0.25% of total sales to its retail consumers for the relevant financial year as part of O&M expenses for the relevant year."*
- "23(3) Actual recorded own (Auxiliary) consumption in excess of 0.25% of total sales to its retail consumers for the relevant financial year, shall be billed at Non Domestic Tariff of respective year's Tariff Schedule and shall form part of revenue billed and revenue collected for the same year."*
- 3.16 The Petitioner has reported actual Self-Consumption of Energy as 9.4 MU which is lower than the Normative Self-Consumption computed at 15.3 MU $[0.25\% \times (6144.86-9.40)]$. Thus, the Commission has considered the Self Consumption of Energy by the DISCOM as 9.4 MU.

ADJUSTMENT IN BILLING BY MORE THAN 1%

- 3.17 The Commission issued directive 6.8 in Tariff Order dated 31/08/2017 which states as follows:

“6.8. The Commission directs the Petitioner to restrict the adjustment in units billed on account of delay in meter reading, raising of long duration provisional bills etc. to a maximum of 1% of total units billed.”

- 3.18 Further, the Commission in its Order dated 28/08/2020 had deliberated the issue of the adjustment in billing by more than 1% considering various aspects like Contra Entries/Invoice Reversals, Provisional Billing, Open Access and other adjustments etc.

- 3.19 Accordingly, the Commission in its Tariff Order dated 28/08/2020 revised the directive, as follows:

“6.8 The Commission directs the Petitioner to restrict the adjustment in units billed on account of delay in meter reading, raising of long duration provisional bills etc. to a maximum of 1% of total units billed. The adjustment in units billed shall be considered on a yearly basis. Further, the adjustment of Contra Entry, adjustment for Open Access consumers and adjustment on account of Provisional Billing related to period till two (2) months shall not form the part of adjustment in units billed. Further, also the real adjustments/other adjustments shall be considered without sign change i.e. such adjustments either resulting into increase in revenue billed or decreased into revenue billed shall be considered on gross basis rather than net basis.”

- 3.20 The above directive was also reiterated in the Tariff Order dated 30/09/2021 and True-Up Order dated 19/07/2024.

- 3.21 In line with above, the Commission during prudence check sessions analysed the Auditor certificate on Adjustment in Units billed, quarterly Form 2.1(a) and has not considered the Contra Entries (being counter entries), adjustments related to Open Access consumers and Provisional Billing less than 2 months as adjustments in Units Billed. Other adjustments submitted by the Petitioner have been considered without sign change (gross) as adjustments indicate total adjustments without +/- nature. Accordingly, It is

observed that the Adjustment Sales in units for FY 2021-22 is within the permissible limit of 1% of total units billed.

TRUED-UP SALES FOR FY 2021-22

3.22 Based on the findings indicated in paras above, the Commission considers the Trued-up sales for FY 2021-22 as follows:

Table 3. 3: Commission Approved - Trued up Sales FY 2021-22 (MU)

Sr. No.	Consumer Category	As per Petitioner	As per Commission
1	Domestic	4017.6	4017.56
2	Non Domestic	1382.4	1382.38
3	Industrial	325.9	325.90
4	Agriculture Cultivation	0.2	0.23
5	Mushroom Cultivation		0.02
6	Public Utilities	313.7	313.66
7	Advertisement and Hoardings	0.0	0.03
8	Temporary Supply	60.6	60.62
9	Charging Stations for E-Vehicle	16.9	16.90
10	Others-Self Consumption	27.6	9.40
11	Others-Enforcement		18.16
12	Net Metering	-	-
13	1% adjustment	-	-
Total		6144.9	6144.86

DISTRIBUTION LOSS AND COLLECTION EFFICIENCY FOR FY 2021-22

PETITIONER'S SUBMISSION

3.23 The Petitioner has submitted that 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 considered as 6680.99 MU for FY 2021-22 as under:

Table 3.4: Petitioner Submission-Energy Input considered for the purpose of calculation of Distribution Loss

Sr.No	Particulars	Units
A	Energy Input as per SLDC	6794.1
B	Less: Energy Input on account of Open Access	113.1
C	Net Energy input consider for calculation of distribution loss	6681.0

3.24 The Petitioner vide its letter dated RA/BYPL/2021-22/228 Dated 12/11/2021, submitted a representation on revision of Distribution Loss target for FY 2020-21 to FY 2022-23 in the business plan period due to the adverse impact of COVID-19 pandemic. The Petitioner brought the following facts to the notice of the Commission:

- a) GoNCT of Delhi vide order no. 364 dated 6/04/2021 imposed strict curbs in the city like night curfew till 30/04/2021 and weekend curfew from 16/04/2021(10.00PM) till 19/04/2021(05.00AM) vide its order no 373 dated 15/04/2021 resulting in closure of shopping malls, auditoriums, gyms, spas, bars and dine-in services at restaurants. Subsequently, the Govt. of NCT of Delhi on 19th April, 2021 announced complete curfew starting from 19 April 2021(10.00PM) till 26 April 2021. (05.00AM) vide DDMA order NO. F.2/07/2020/pt file-III/381 19th April'2021.
- b) The Commission vide its order no. F.17 (266)/DERC/Engg./2018-19/6330/ dated 27/04/2021 suspended the Standards of Performance which was then revoked vide order no. F.17 (266)/DERC/Engg./2018-19/6330/ dated 22/06/2021. The Commission again has suspended Standards of Performance vide its Order dated 10/01/2022 which was then revoked on 3/02/2022.
- c) Due to the closure of non-essential activities during restrictions and fear of spread of the pandemic in the general public even during the 'unlock' phase, the consumption of electricity, mainly under Non-Domestic, DMRC, Industrial categories has been severely affected even in FY 2021-22.
- d) During the period of restrictions in FY 2021-22, the Petitioner has faced challenges to carry out Capex works towards loss reduction activities. In fact, the Hon'ble Commission in Para 4.133 of Tariff Order dated 30.09.2021 has taken cognizance of the situation arisen due to COVID-19 pandemic which may have affected mobilisation/availability of resources such as equipment, materials, supplies, labour, etc. which will impact the commissioning of new projects/ schemes in FY 2021-22. The Commission is of the view that the

impact of COVID-19 pandemic may lead to reduction of around 20% in projected Capitalisation of the projects.

- e) Due to the outbreak of COVID-19, the activities related for controlling theft and reduction in distribution losses were not operational in the containment zones even post the easing of the lockdown. As per the Business Plan Regulations, theft shall be considered on realization basis for calculation of distribution loss.
- f) However, despite the insurmountable odds which the pandemic presented, the Petitioner ensured 24x7 un-interrupted power supply to all of its consumers. Further, it is respectfully submitted that the Hon'ble Commission in its Tariff Regulations, 2017 has defined the force majeure event as under:

*"(34) **"Force Majeure"** for the purpose of these, Regulations means any event circumstance or a combination of events and circumstances, which or any consequences of which materially and adversely affects the performance of the Utility in the discharge of its obligations or completion of project/scheme, within the specified time and which is beyond its reasonable control and which the Utility could not have prevented by the exercise of reasonable care and diligence;"*

- 3.25 Due to aforesaid reasons, the Petitioner submitted that the operations were materially and adversely affected due to COVID-19 pandemic. Therefore, the Petitioner has requested to consider the submissions made vide its representation dated 12/11/2021 and review/ revise the Distribution Loss target for the control period from FY 2020-21 to FY 2022-23 specified in Regulation 25(1) of Business Plan Regulation 2019 as per the methodology proposed in the table given below:

Table 3.5: Petitioner Submission-Proposed request to revise the Distribution loss Target for Control period

Particulars	FY 21	FY 22	FY 23	Remarks
Distribution loss target as per Regulation 25(1) of Business Plan Regulation 2019	9.00%	<u>8.75%</u>	8.50%	
% YOY Reduction		-2.78%	-2.86%	

Particulars	FY 21	FY 22	FY 23	Remarks
Less: Adverse impact of change in voltage wise Mix	0.17%			
Less: Adverse Impact on Theft and other loss reduction activities	0.30%			
Less: adverse Impact of reduced Capex in Q1	0.32%			
Revised Distribution loss target proposed	9.80%	<u>9.53%</u>	9.25%	

3.26 The Petitioner submitted its claim based on the Distribution Loss targets approved in the Business Plan Regulations, 2019. The actual distribution loss level achieved and submitted by the Petitioner during FY 2021-22 is tabulated below:

Table 3.6: Petitioner Submission-Distribution loss for FY 2021-22

S.No.	Particulars	UoM	Figure
A	Energy Input	MU	6,681.0
B	Energy Billed	MU	6,144.9
C	Distribution loss	%	8.02%
D	Distribution Loss Target	%	8.75%
E	Reduction in Distribution Loss from target	%	0.73%

3.27 Accordingly, in terms of Regulation 159 of Tariff Regulations, 2017, Regulation 25 (2) and Regulation 25(4) of Business Plan Regulations, 2019, the total financial impact claimed on account overachievement of 0.73% towards Distribution Loss target for FY 2021-22 is ₹ 24.92 Cr, out of which ₹ 15.2 Crore is to be retained by the Petitioner and ₹ 9.7 Crore is to be passed on to the consumers. The detailed computation is tabulated as follows:

Table 3.7: Petitioner Submission- Financial Impact of overachievement in Distribution loss target for FY 2021-22

Sr. No	Particulars	UoM	Figure
A.	Distribution Loss target for previous Year (PYT)	%	9.00%
B.	Distribution Loss target for Current Year (CYT)	%	8.75%
C.	Actual Distribution loss	%	8.02%
D.	50% (PYT - CYT)	%	0.13%
E.	CYT-50% OF (PYT-CYT)	%	8.63%
F.	Energy Input	MU	6681
G.	Average Power Purchase cost	Rs./Unit	5.14
H.	Total Financial Gain	Rs. Cr.	24.9

Sr. No	Particulars	UoM	Figure
I.	Petitioner Share 1 of incentive (less than Loss Target – 50%*(PYT-CYT)	Rs Cr.	1.4
J.	Petitioner Share 2 of incentive (up to Loss Target – 50%*(PYT-CYT)	Rs Cr.	13.8
K.	Share of financial gain to be retained by the Petitioner	Rs Cr.	15.2
L.	Share of financial gain passed on to the consumers	Rs Cr.	9.7

COMMISSION ANALYSIS

ENERGY INPUT

- 3.28 The Petitioner submitted its Energy Input at DISCOMs periphery at 6,794.10 MU. The Commission vide its Letter No. F.3(703)/Tariff/DERC/2023-24/7778/554 dated 19/06/2023 directed Delhi SLDC to submit Statement for Energy Input (*net of Open Access and Net Metering if any*), Station Wise Power Procurement, Short Term Transactions – Exchange, Bilateral, Banking etc., Additional UI Charges and Sustain Deviation Charges for the purpose of True up of FY 2021-22. Accordingly, the SLDC vide its email dated 11/07/2023 has submitted the jointly signed statement. It was observed from this statement that the Petitioner's consumption based on Special Energy Meter (SEM) data was 6,793.92 MU including Open Access schedule of 113.11 MU. Further, 0.19 MU from solar embedded generation as indicated in the joint signed statement has been considered for Energy Input of the Petitioner.
- 3.29 Regarding consideration of Energy Input on account of Net Metering, the Petitioner submitted as follows:

Table 3. 8: Petitioner Submission

Sr. No.	Particulars	Details
A	Gross Generation (MU) by the Consumer	26.27
B	Off-set in Billing/Self-consumed by the Consumer (MU)	7.40
C	Balance units settled at APPC as mandated under Net Metering Regulations, 2014 at the end of FY 2021-22 (MU)	2.81

- 3.30 The footnote of the Audited power purchase certificate as submitted by the Petitioner indicated that the total Energy credited received from the Consumers was 10.21 MU at Rs. 4.71 Cr. The Petitioner further submitted that out of these 10.21 MU, 7.40 MU were

set off against the billing of such consumers during the year. The balance 2.81 MU as credited by the Consumers which remain unadjusted during end of FY 2021-22 were considered by the Petitioner to be purchased at Rs. 1.43 Cr from such consumers.

3.31 The Commission has considered the net metered units of 2.81 MU towards power purchase as per the Average Power Purchase Cost of the Petitioner in its Power Purchase Cost.

3.32 Accordingly, the Energy Input of the Petitioner as approved by the Commission is as follows:

Table 3. 9: Commission Approved - Energy Input approved for FY 2021-22 (MU)

Sr. No.	Particulars	Petitioner submission	Commission approved
A	SLDC- Total Input Based on SEM Data	6794.10	6,793.92
B	BYPL Rooftop Solar injection	-	0.19
C	Energy Input from Net Metering	-	2.81
D	Energy Input from Open Access	113.10	113.11
E	Actual Input (A+B+C-D)	6681.0	6,683.80

DISTRIBUTION LOSS

3.33 Regulation 25(1) of *DERC (Business Plan) Regulations, 2019* specifies the Distribution Loss Targets for FY 2021-22 as follows:

Table 3. 10: Commission Approved - Distribution Loss targets for FY 2021-22

DISTRIBUTION LICENSEE	FY 2021-22
BYPL	8.75%

3.34 Regulation 159 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states,

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

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

Where,

Q1 = Actual Quantum of energy Purchased at Distribution periphery.

L1 = Distribution Loss Target in %

L2 = Actual Distribution Loss in %

$P = \text{Trued up Average Power Purchase Cost (APPC) per unit at distribution periphery in (Rs./kWh).}$

- 3.35 Regulation 25(2) of *DERC (Business Plan) Regulations 2019*, states “The amount for Overachievement/Underachievement on account of Distribution Loss target shall be computed as per the formula specified in the Regulation 159 of the *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* for the Distribution Licensee.”
- 3.36 Accordingly, the financial impact of overachievement or under-achievement on account of distribution loss target has been determined in accordance with the Regulation 159 of *DERC (Terms and Condition for Determination of Tariff) Regulations, 2017* as follows:

Table 3. 11: Commission Approved - Actual Distribution Loss for FY 2021-22

Sr. No.	Particulars	UoM	Petitioner submission	As per Commission
A	Energy Input	MU	6,681.00	6,683.80
B	Energy Billed	MU	6144.90	6,144.86
C	Actual Distribution Loss Level	%	8.02%	8.06%
D	Targeted Distribution Loss Level	%	8.75%	8.75%
E	Average Power Purchase Cost	Rs./Unit	5.14	5.176
F	Financial Impact of Over achievement or Under achievement	Rs.Cr	24.9	23.76

- 3.37 Regulation 25(4) of *DERC (Business Plan) Regulations 2019* states,
- “Any financial impact due to Overachievement on account of Distribution Loss target by the distribution licensee for the relevant year shall be shared between the Distribution Licensee and Consumers as follows:

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

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

3.38 In accordance with the Regulation 25 (4) of *DERC (Business Plan) Regulations 2019*, the sharing of the financial impact of over achievement on account of Distribution Loss target has been computed as follows:

Table 3. 12: Commission Approved - Incentive/Dis-incentive for Distribution Loss for FY 2021-22

Sr. No.	Particulars	UoM	Petitioner submission	As approved
A	Distribution Loss Target in previous Year	%	9.00%	9.00%
B	Distribution Loss Target in Current Year	%	8.75%	8.75%
C	Actual Distribution Loss	%	8.02%	8.06%
D	50% of (previous year target - current year target)	%	0.13%	0.125%
E	Distribution loss target - 50% of (previous year target - current year target)	%	8.63%	8.625%
F	Actual Energy Input at Distribution periphery	MU	6,681.00	6,683.80
G	Average Power purchase Cost	Rs/KWh	5.14	5.176
H	Total Incentive	Rs. Cr	24.9	23.76
I	Petitioner Share 1 of incentive (less than Loss Target-50%*(PYT-CYT))	Rs. Cr	1.4	1.44
J	Petitioner Share 2 of incentive (up to Loss Target-50%*(PYT-CYT))	Rs. Cr	13.8	12.95
K	Total Incentive to Petitioner	Rs. Cr	15.2	14.40
L	Incentive to Consumer	Rs. Cr	9.7	9.36

REVENUE BILLED

PETITIONER SUBMISSION

3.39 The Petitioner has submitted that the actual revenue billed (net of E. tax and Pension Trust Surcharge) from sale of power by the Petitioner at approved Retail Supply Tariffs during FY 2021-22 is Rs. 4704.88 Crore. The category wise and component wise revenue billed during the year is tabulated here as follows:

Table 3. 13: Category-wise Energy Sales and Revenue for FY 2021-22

Sr. No.	Category	Energy Sales	Fixed Charges	Energy Charges (incl. Other)	PPAC	Total Charges	Avg. Billing Rate	Regulatory Assets Surcharge
		MU	₹ Cr.	₹ Cr.	₹ Cr.	₹ Cr.	₹ /Unit	₹ Cr.
1	Domestic	4,017.6	184.5	1,594.5	261.5	2,040.6	5.1	142.4
2	Non-Domestic	1,382.4	487.7	1,159.0	244.7	1,891.4	13.7	131.5
3	Industrial	325.9	66.0	270.6	50.7	387.4	11.9	28.1
4	Agriculture & Mushroom	0.2	0.0	0.0	0.0	0.1	4.0	0.0
5	Public Utilities	313.7	42.7	203.2	36.6	282.5	9.0	24.2
6	DIAL					-		
7	Adv. & Hoardings	0.0	0.0	0.0	0.0	0.1	15.9	0.0
8	Temporary	60.6	12.9	55.0	10.0	77.9	12.8	5.4
9	Charging Stations for EV	16.9	-0.0	7.6	1.1	8.7	5.1	0.6
10	Others	27.6	-0.0	16.4	-0.0	16.4	5.9	1.1
11	Total	6,144.9	793.8	3,306.4	604.7	4,704.9	7.7	333.2

3.40 The Petitioner has billed gross amount of Rs. 5473.70 Cr. during FY 2021-22 which includes amount on account of Electricity Tax, 8% RA Surcharge, and Pension Surcharge. The Amount Billed considered for the purpose of computation of Collection Efficiency during FY 2021-22 is tabulated below:

Table 3. 14: Petitioner Submission - Revenue Billed for FY 2021-22 (Rs. Cr.)

Sr.No.	Particulars	FY 2021-22
A	Total Revenue Billed	5473.7
B	Less: Electricity Tax Billed	194.4
C	Less: 8% RA surcharge Billed	333.2
D	Less: Pension Surcharge	241.2
E	Revenue Billed for AT&C True up	4704.9

3.41 The Petitioner has submitted that Pension Trust surcharge of 7% with effect from 01/10/2021 is levied over the approved retail supply Tariff to meet the Pension Trust liability of erstwhile DVB employees/ Pensioners as recommended by GoNCT of Delhi.

3.42 Further, in compliance to directive 6.2 of Tariff Order dated 30/09/2021, the Petitioner submitted to have collected an amount of ₹ 238.24 Crore towards Pension Trust

Surcharge during FY 2021-22 against billed amount of ₹ 241.20 Cr, tabulated as follows:

Table 3. 15: Petitioner Submission - Pension Trust Surcharge for FY 2021-22

Sr. No.	Particulars	UOM	FY 2021-22
1	Revenue Billed on account of Pension Trust Surcharge	₹ Cr.	241.20
2	Amount Collected on account of Pension Trust Surcharge*	₹ Cr.	238.24

**Deposited in the Bank account of Pension trust in compliance with the directions of the Commission.*

COMMISSION ANALYSIS

3.43 The Regulatory Auditor has verified the Revenue Billed by the Petitioner from Form 2.1a and Note 64 of Audited Accounts. Further, during prudence check sessions, the Commission has also verified the Revenue billed by the Petitioner from the Audited Form 2.1 (a), SAP and Audited Books of Accounts (Note 62) for FY 2021-22 and accordingly, the same is approved as follows

Table 3. 16: Commission Approved - Tariff Category-wise Revenue Billed for FY 2021-22 (Rs. Cr.)

Consumer Category	Amount
Domestic	2381.45
Non Domestic	2188.39
Industrial	452.64
Agriculture Cultivation	0.10
Mushroom Cultivation	0.01
Public Utilities	331.69
Advertisement and Hoardings	0.06
Temporary Supply	90.53
Charging Stations for E-Vehicle	10.22
Self Consumption	-0.01
Enforcement	22.66
Net Metering	0.00
Total	5477.75
Less:	
Electricity Tax	194.59
RA Surcharge	333.56
Pension Trust Surcharge	241.40
Net Amount Billed	4708.20

REVENUE COLLECTION**PETITIONER SUBMISSION**

3.44 The Petitioner has submitted that the Gross Revenue Collected during FY 2021-22 is Rs.5523.41 Cr. which includes collection on account of Electricity Tax, LPSC, 8% RA Surcharge and Pension Surcharge. The Revenue Collected considered for the purpose of computation of Collection Efficiency during FY 2021-22 is tabulated below:

Table 3. 17: Petitioner Submission - Revenue Collected FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	FY 2021-22
A	Total Revenue Collected	5523.4
B	Less: LPSC	25.1
C	Less: Electricity Tax	195.2
D	Less: 8% RA Surcharge	336.5
E	Less: Pension Surcharge	238.2
F	Net revenue Collected	4,728.3

COMMISSION ANALYSIS

3.45 During the prudence check sessions, the Commission verified the Revenue Collected by the Petitioner from the Audited Form 2.1 (a), SAP and Audited Books of Accounts for FY 2021-22 and the Revenue Collected as approved by the Commission, is as under:

Table 3. 18: Commission Approved - Revenue Collected for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	As per Petitioner	As per Commission
A	Actual Revenue realized including Electricity duty/tax, LPSC, Regulatory Surcharge, Pension trust surcharge	5,523.4	5,523.41
B	Less: LPSC	25.1	25.12
C	Less: Electricity Tax	195.3	195.20
D	Less: 8% RA Surcharge	336.5	336.52
E	Less: Pension Trust Surcharge	238.2	238.24
F	Net Revenue Realised	4,728.3	4728.33

COLLECTION EFFICIENCY DURING FY 2021-22**PETITIONER SUBMISSION**

3.46 Regulation 5(11) of Tariff Regulations 2017 states that:

“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”

- 3.47 Further, Regulation-26 (1) of the Business Plan Regulations, 2019 specifies targets for Collection Efficiency from FY 2020-21 to FY 2022-23 at 99.50%, the relevant extract of Regulation 26 of the Business Plan Regulations, 2019 as follows:

“26. TARGET FOR COLLECTION EFFICIENCY

(1) The targets for Collection Efficiency for FY2020-21 to FY2022-23 of the Distribution Licensees shall be 99.50%.

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

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

- 3.48 Accordingly, in terms of Regulation 163 of Tariff Regulations, 2017 and Regulation 26(2) and Regulation 26(3) of the Business Plan Regulations, 2019, the total financial gain on account of overachievement of 1.00% towards Collection efficiency target is Rs. 46.97 Crore, out of which Rs. 35.21 Cr. is to be retained by the Petitioner and Rs. 11.76 Cr. to be passed Consumers is tabulated as follows:

Table 3. 19: Petitioner Submission - Financial Impact of Overachievement of Collection Efficiency Target

S.No.	Particulars	UOM	FY 2021-22
A	Net Revenue Billed	Rs. Cr.	4704.88
B	Actual Collection Efficiency	%	100.50%
C	Collection Efficiency	%	99.50%
D	Revenue Realised over 99.50% Collection Efficiency Target	Rs Cr.	46.97

S.No.	Particulars	UOM	FY 2021-22
E	Share of financial gain passed on to the consumers	Rs. Cr.	11.76
F	Share of financial gain to be retained by the Petitioner	Rs. Cr.	35.21

COMMISSION ANALYSIS

3.49 Regulation 163 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states:

“163. The financial impact on account of over or under achievement of Collection Efficiency Targets shall be computed as under:-

$$\text{Incentive or (Penalty)} = (C1 - C2) * A_b$$

Where,

$$C1 = \text{Actual Collection Efficiency in \%} = [A_r / A_b] * 100$$

A_r = Actual amount collected excluding electricity duty, late payment surcharge, any other surcharge in Rs. Cr.;

A_b = Actual amount billed excluding electricity duty, LPSC and any other surcharges in Rs Cr.

$$C2 = \text{Target Collection Efficiency in \%}$$

3.50 Regulation 164 of *DERC (Terms and Conditions for Determination of Tariff) Regulations 2017* states:

“Any financial impact on account of underachievement less than the target and overachievement above 100% with respect to Collection Efficiency targets shall be to the Licensee’s account:

Provided that any financial impact on account of over achievement over and above the target and limited to 100% with respect to Collection Efficiency targets shall be shared as per the mechanism indicated in the Business Plan Regulations of the Control Period.”

3.51 Regulation 26 of *DERC (Business Plan) Regulations 2019* states:

“26. TARGET FOR COLLECTION EFFICIENCY

(1) The targets for Collection Efficiency for FY2020-21 to FY2022-23 of the Distribution Licensees shall be 99.50%.

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

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

3.52 Accordingly, the Collection Efficiency combined for FY 2021-22 after exercising prudence check based on data / information provided by the Petitioner and verified by the Consultant appointed by the Commission is as follows:

Table 3. 20: Commission Approved: Incentive/Dis-incentive for Collection Efficiency for FY 2021-22

Sr.No	Particulars	UoM	Target	As per Petitioner	As per Commission
1	Amount billed	Rs. Cr		4,704.9	4708.20
2	Amount collected	Rs. Cr		4,728.3	4,728.33
3	Collection Efficiency	%	99.50%	100.50%	100.43%
4	Over/ Under-achievement	Rs. Cr		46.97	43.67
5	Amount to be retained by petitioner and consumer shared 50:50 for achievement of collection efficiency Target from 99.50% to 100%	Rs. Cr		35.21	11.77
6	Entire 100% to be retained for achievement over 100%	Rs. Cr			20.13
7	Total Incentive/(disincentive) towards DISCOM	Rs. Cr		35.21	31.90

CASH COLLECTION EXCEEDING Rs. 4,000/-

3.53 As per the directive of the Commission “No payment shall be accepted by the Distribution Licensees from its consumers at its own collection centres/mobile vans in cash towards

electricity bill exceeding Rs. 4000/- except from blind consumers, for court settlement cases & payment deposited by the consumers at designated schedule commercial bank branches upto Rs. 50,000/-. Violation of this provisions shall attract penalty to the level of 10% of total cash collection exceeding the limit.”

- 3.54 The Commission after exercising prudence check based on data / information provided by the Petitioner for cash collection during FY 2021-22 and verified by the Consultant appointed by the Commission observed that the cash collections above Rs. 4,000/- by the Petitioner are on account of court settlement cases which is permitted as per the directive.

POWER PURCHASE QUANTUM (MU)

PETITIONER'S SUBMISSION

- 3.55 The Petitioner has submitted that most of the power is purchased from generating companies owned and/ or fully controlled by the Central Government and State Government by virtue of long term power purchase agreements which have been inherited from DTL (initially signed by M/s DTL) and assigned by the Commission as per its Orders dated 31/03/2007.
- 3.56 The summary of actual power purchase quantum procured by the Petitioner at its periphery during FY 2021-22 is as follows:

Table 3. 21: Petitioner Submission - Power Purchase Quantum for FY 2021-22 (MU)

Sr. No	Particulars	Submission
A	Power Purchase:	
I	Gross Power Purchase Quantum (including Banking)	9000.3
ii	Power sold to other sources	1950.4
iii	Net Power Purchase	7049.9
B	Transmission Loss:	
I	Inter-State Transmission Loss	368.9
ii	Intra-State Transmission Loss	
iii	Total transmission loss	368.9
C	Net power available after Transmission Loss*	6681.0

SHORT TERM POWER PURCHASE QUANTUM

PETITIONER'S SUBMISSION

3.57 During FY 2021-22, the Petitioner has procured total of 723 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. 22: Petitioner Submission - Details of Short Term Power Purchase

Sr. No	Particulars	FY 2018-19		FY 2019-20		FY 2020-21		FY 2021-22	
		Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)
A	Bilateral	1	0%	0	0%	62	9%	17	2%
B	Banking	1019	96%	83	30%	426	62%	548	76%
C	Exchange	8	1%	192	68%	192	28%	154	21%
D	Intra-State	5	0%	0	0%	0	0%	0	0%
E	UI	31	3%	7	2%	7	1%	4	1%
F	Total	1064		282		687		723	

SHORT TERM POWER SALES QUANTUM

PETITIONER SUBMISSION

3.58 During FY 2021-22, the Petitioner has sold total of 1950 MU short term sale through Bilateral/Banking/Intrastate/UI mode. The Petitioner has tabulated the source-wise details of sale of surplus power as below:

Table 3. 23: Petitioner Submission - Details of Short Term Power Sales

Sr. No	Particulars	FY 2018-19		FY 2019-20		FY 2020-21		FY 2021-22	
		Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)	Energy (MU)	(%)
A	Bilateral	77	3%	0	0%	267	19%	73	4%
B	Banking	1157	46%	466	32%	466	33%	908	47%
C	Exchange	1245	50%	0	0%	614	43%	932	48%
D	Intra-State	3	0%	66	4%	0	0%	0	0%
E	UI	7	0%	947	64%	66	5%	38	2%
F	Total	2489		1478		1412		1950	

LONG TERM POWER PURCHASE QUANTUM

PETITIONER SUBMISSION

3.59 The Petitioner has submitted Plant-wise Power Purchase Quantum for FY 2021-22 as follows:

Table 3. 24: Petitioner Submission - Details of Power Purchase Quantum Station wise for FY 2021-22 (MU)

Sr. No	Stations	Petitioner Share (MU)
A	NTPC	
1	ANTA GAS POWER PROJECT	0.7
2	AURAIYA GAS POWER STATION	6.2
3	BADARPUR THERMAL POWER STATION	-
4	DADRI GAS POWER STATION	9.6
5	FEROZE GANDHI UNCHAHAR TPS 1	26.6
6	FEROZE GANDHI UNCHAHAR TPS 2	58.4
7	FEROZE GANDHI UNCHAHAR TPS 3	38.6
8	FARAKKA STPS	23.9
9	KAHALGAON THERMAL POWER STATION 1	70.5
10	NATIONAL CAPITAL THERMAL POWER	0.0
11	RIHAND THERMAL POWER STATION 1	-
12	RIHAND THERMAL POWER STATION 2	196.1
13	SINGRAULI STPS	480.3
14	KAHALGAON THERMAL POWER STATION 2	248.7
15	TALCHER	-
16	DADRI TPS-II	702.0
17	RIHAND THERMAL POWER STATION 3	393.4
18	KOLDAM HPS-I	-
	Sub Total	2,255.0
B	NHPC Ltd.	
1	BAIRASIUL P S	16.0
2	SALAL P S	96.5
3	CHAMERA I P S	37.5
4	TANAKPUR P S	
5	URI P S	80.1
6	DHAULIGANGA PS	39.9
7	CHAMERA - II PS	45.1
8	DULHASTI PS	68.1
9	SEWA-II	2.1
10	CHAMERA - III PS	31.9
11	URI II	53.4
12	PARBATI-III	19.3
	Sub Total	503.6
C	NPCIL	
1	Nuclear Power Corp. of India Ltd. Narora	-
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	103.1
	Sub Total	103.1
D	Satluj Jal Vidyut Nigam Ltd.	
1	Satluj Jal Vidyut Nigam Ltd.	166.7

Sr. No	Stations	Petitioner Share (MU)
	Sub Total	166.7
E	Tehri Hydro Development Corp. Ltd.	
	Tehri	
	KOTESHWAR	
	Sub Total	
F	Tala Power thru PTC	20.7
G	Damodar Valley Corporation	
1	Mejia Units 6	137.5
2	CTPS 7 & 8	503.9
3	MTPS Unit 7	645.2
	Sub Total	1286.7
H	Power stations in Delhi	
	Indraprastha Power Generation Co.Ltd. IP	
1	Indraprastha Power Generation Co.Ltd. RPH	
2	Indraprastha Power Generation Co.Ltd. GT	43.4
3	Pragati Power Corp.Ltd. Pragati I	236.8
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	563.1
	Sub Total	843.3
	OTHERS	
1	Delhi MSW Soluction Limited	33.1
2	East Delhi Waste Processing Company	-
I	Sub-Total	876.4
H+I	Power stations in Delhi	
J	Aravali Power Corporation Ltd .	
	JHAJJAR	204.6
	Sub Total	204.6
K	Sasan	2464.5
L	SECI	
1	SECI - Kilaj S(M)PL	0.7
2	SECI - Alfamar EPL	25.3
3	SECI - EDEN MSPL	71.9
4	SECI - Kilaj S(M)PL	125.0
5	SECI - Alfamar EPL	132.8
6	SECI - EDEN MSPL	40.9
	Sub Total	396.6
	Grand Total	8,277.8

COMMISSION ANALYSIS

3.60 The Commission in its Tariff Order dated 30/09/2021 has approved Gross Power Purchase

Quantum of 8,065 MU from all sources including Central & State Sector Generating Stations and Short Term Sources for FY 2021-22.

- 3.61 The Commission directed Delhi SLDC to verify the figures of Long Term Power Purchase and Short Term Power purchase/sale for Delhi DISCOMs and submit a reconciliation to the Commission. The jointly signed statement by SLDC and the Petitioner for source wise Long Term Power Purchase and Short Term Power purchase/sale was duly submitted.
- 3.62 Further in the joint Energy Statement signed between Distribution Licensee and SLDC, a difference of approx. 106 MU was observed in Quantum of Power received from Long Term Sources (SLDC- 7294.29 MU & BYPL- 7400.58 MU). During prudence check of FY 2021-22, the Petitioner submitted that a 106 MU Energy was procured & recorded under STOA till LTA operationalization in joint energy statement. After operationalization of LTA, Power received from RE plants i.e. ERCPL, Adani Power, SBSR etc. has been procured through LTOA.
- 3.63 Further, the Commission has considered Net Energy Credits as per Regulation 9 of *Delhi Electricity Regulatory Commission (Net Metering for Renewable Energy) Regulations, 2014*.
- 3.64 Based on the audited Power purchase certificate and submission of SLDC, the Power Purchase Quantum of the petitioner is Trued up for FY 2021-22 as follows:

Table 3. 25: Commission Approved - Power Purchase Quantum (MU) for FY 2021-22

Sr. No.	Particulars	As per Petitioner	As per Commission
	Power Purchase Quantum		
I	Long Term Power Purchase	9000.3	8,277.79
II	Short Term Power Purchase		174.92
III	Banking Import		547.62
IV	Net metering	-	2.81
A	Gross Power Purchase Quantum	9,000.3	9,003.14
I	Banking Export	1950.4	907.92
II	Short Term Sale		1,042.52
B	Net Power Purchase Quantum	7,049.9	7,052.70
C	Transmission Loss	368.90	368.90
D	Total Power MU	6,681.0	6,683.80

POWER PURCHASE COST**PETITIONER SUBMISSION****LONG TERM POWER PURCHASE COST**

- 3.65 The Petitioner submitted that the Power Purchase cost is primarily based on the Tariff determined by the Appropriate Commission under section 62(1)(a) or adopted under Section 63 of the 2003 Act for the supply of electricity from generating companies to distribution licensees. Accordingly, 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 for those generating companies. In rest of the cases, the Commission determines/adopts the tariff of the generating companies owned and/or controlled by the GoNCT of Delhi. The Petitioner has considered the total cost on account of long term sources during FY 2021-22 which includes fixed cost, variable cost, arrears, other charges etc. as scheduling of power is controlled by SLDC.
- 3.66 The Petitioner further submits that as per Section 32 of the Electricity Act, 2003, the scheduling is being done by SLDC and DISCOMs have no control over backing-down of the costly power plants.
- 3.67 The Petitioner further submits that various vital aspects may be noted in order to determine actual power purchase cost such as Force Majeure/exceptional circumstances due to decline in coal supply to TPPs, SLDC intimated that scheduling of Central Generating Stations and other inter-state Generating Stations is controlled by RLDC and hence DISCOM wise scheduling is not possible, The availability of Plants is beyond the control of DISCOMs and the actual availability of Plants differs from the projections. The monthly MOD submitted by the DISCOMs is based on past Month ECR which may not be valid on real time basis, multiple buyers from each generator and this forming part load operation which may impact the MOD schedule of the buyers.
- 3.68 Further to above the petitioner has also submitted that the decision of actual operation/availability of plant is not under control of the DISCOMs. Besides above uncontrollable situation, the Petitioner strictly follows of Merit Order Dispatch (MOD) while giving request of schedules to Delhi SLDC on daily basis.

3.69 Accordingly, the Petitioner has requested to consider forced outage/Force Majeure data while considering scheduling and other factors which are beyond the control of Petitioner.

3.70 In view of the above, the details of station-wise power purchase cost during FY 2021-22 as claimed by the Petitioner is as follows:

Table 3. 26: Petitioner Submission - Details of Power Purchase Cost Station wise for FY 2021-22

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
1	2	3	4	5	6	7	8	9
Central Sector Generating Stations (CSGS)								
A	NTPC							
1	ANTA GAS POWER PROJECT	0.7	5.6	0.5	0.0	0.2	6.3	96.87
2	AURAIYA GAS POWER STATION	6.2	8.2	4.0	0.0	-1.0	11.2	18.00
3	BADARPUR THERMAL POWER STATION	0.0	0.0	0.0	0.0	18.2	18.2	
4	DADRI GAS POWER STATION	9.6	8.1	7.1	0.8	3.4	19.4	20.24
5	FEROZE GANDHI UNCHAHAR TPS 1	26.6	4.2	8.8	0.1	0.2	13.4	5.03
6	FEROZE GANDHI UNCHAHAR TPS 2	58.4	8.4	19.5	0.6	3.7	32.2	5.51
7	FEROZE GANDHI UNCHAHAR TPS 3	38.6	6.6	12.8	0.4	0.0	19.8	5.12
8	FARAKKA STPS	23.9	2.8	6.9	0.3	0.9	10.9	4.56
9	KAHALGAON THERMAL POWER STATION 1	70.5	8.3	18.1	0.0	0.4	26.8	3.79
10	NATIONAL CAPITAL THERMAL POWER	0.0	2.2	0.0	-2.1	-4.9	-4.8	
11	RIHAND THERMAL POWER STATION 1	0.0	0.0	0.0	0.0	0.7	0.7	0.0
12	RIHAND THERMAL POWER STATION 2	196.1	14.9	28.1	0.0	0.6	43.7	2.23
13	SINGRAULI STPS	480.3	32.2	72.5	0.0	-0.3	104.5	2.18
14	KAHALGAON THERMAL POWER STATION 2	248.7	30.3	60.9	0.0	0.2	91.5	3.68
15	TALCHER	0.0	0.0	0.0	0.0	0.0	0.0	
16	DADRI TPS-II	702.0	173.6	233.9	4.3	23.9	435.8	6.21

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
17	RIHAND THERMAL POWER STATION 3	393.4	54.0	55.4	0.6	-0.3	109.7	2.79
18	KOLDAM HPS-I	0.0	0.0	0.0	0.0	0.0	0.0	
	Sub Total	2254.95	359.5	528.6	5.1	46.0	939.2	4.16
B								
	NHPC Ltd.							
1	BAIRASIUL P S	16.0	1.5	1.4	0.5	0.1	3.5	2.19
2	SALAL P S	96.5	7.8	5.9	10.2	0.7	24.6	2.55
3	CHAMERA I P S	37.5	3.8	4.3	0.0	0.3	8.4	2.23
4	TANAKPUR P S	13.6	2.8	2.2	0.0	0.1	5.1	3.74
5	URI P S	80.1	7.6	6.6	3.4	1.2	18.7	2.33
6	DHAULIGANGA PS	39.9	5.8	4.8	0.0	2.7	13.3	3.34
7	CHAMERA - II PS	45.1	5.4	4.5	0.0	0.2	10.2	2.25
8	DULHASTI PS	68.1	18.9	17.7	3.3	1.1	41.0	6.02
9	SEWA-II	2.1	0.4	0.6	0.0	1.5	2.4	11.37
10	CHAMERA - III PS	31.9	8.0	6.3	0.0	0.0	14.3	4.47
11	URI II	53.4	11.0	10.0	4.2	0.4	25.6	4.80
12	PARBATI-III	19.3	9.7	3.0	0.0	-0.1	12.6	6.51
	Sub Total	503.6	82.5	67.3	21.6	8.2	179.5	3.57
C	Nuclear Power Corp. of India Ltd.							
1	Nuclear Power Corp. of India Ltd. Narora	0.0	0.0	0.0	0.0	0.1	0.1	
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	103.1	0.0	38.5	1.7	-0.6	39.6	3.84
	Sub Total	103.1	0.0	38.5	1.7	-0.5	39.6	3.85
D	Satluj Jal Vidyut Nigam Ltd.							
	Satluj Jal Vidyut Nigam Ltd.	166.7	21.5	19.2	0.0	-0.5	40.2	2.41
	Sub Total	166.7	21.5	19.2	0.0	-0.5	40.2	2.41
E	Tehri Hydro Development Corp. Ltd.							
	Tehri	0	0	0	0	0	0	0.00
	KOTESHWAR	0	0	0	0	0	0	0.00

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
	Sub Total	0	0	0	0	0	0	0.00
F	Tala Power thru PTC	20.7	0.0	4.5	0.0	0.0	4.5	0
G	Damodar Valley Corporation							
1	Mejia Units 6	137.5	23.9	41.9	0.0	0.0	65.8	4.79
2	CTPS 7 & 8	503.9	80.9	134.7	0.1	0.1	215.7	4.28
3	MTPS Unit 7	645.2	105.7	187.2	0.1	0.0	292.9	4.54
	Sub Total	1286.703	210.4	363.8	0.2	0.1	574.5	4.47
H	Power stations in Delhi							
1	Indraprastha Power Generation Co.Ltd. IP	0	0	0	0	-1	-1	0.00
2	Indraprastha Power Generation Co.Ltd. RPH	0	0	0	0	0	0	0.00
3	Indraprastha Power Generation Co.Ltd. GT	43.4	7.5	36.7	0.0	34.6	78.7	18.14
4	Pragati Power Corp.Ltd. Pragati I	236.8	24.6	212.2	0.0	10.8	247.5	10.45
5	Pragati Power Corp.Ltd. Pragati III (Bawana)	563.1	220.1	171.1	-0.7	14.9	405.3	7.20
	Total SGS	843.3	252.1	420.0	-0.7	60.2	731.6	8.68
1	Delhi MSW Solution Limited	33.1	0.0	23.3	0.0	0.0	23.3	7.03
	Power stations in Delhi	611	175	212	1	-7	387	6.33
I	Aravali Power Corporation Ltd .							
	JHAJJAR	204.6	77.0	72.9	6.1	2.0	157.9	7.72
	Sub Total	204.6	77.0	72.9	6.1	2.0	157.9	7.72
J	Sasan	2464.5	35.8	283.4	38.4	4.4	362.0	1.47
K	SECI							
1	SECI - Thar Surya 1	0.7	0.0	0.1	0.0	0.0	0.1	1.85

Sr. No	Stations	Petitioner Share (MU)	Fixed Cost (Rs. Cr.)	Variable Cost (Rs. Cr.)	Other Charges (Rs. Cr.)	Arrears (Rs. Cr.)	Total Charges (Rs. Cr.)	Average Rate (Rs. / kWh)
2	SECI - SBSR PCEPL	25.3	0.0	5.1	0.0	0.0	5.1	2.03
3	SECI - EDEN RCPL	71.9	0.0	19.2	0.0	0.0	19.2	2.67
4	SECI - Kilaj S(M)PL	125.0	0.0	32.6	2.2	0.9	35.7	2.85
5	SECI - Alfamar EPL	132.8	0.0	33.5	0.0	0.0	33.5	2.52
6	SECI - EDEN MSPL	40.9	0.0	22.5	0.0	0.0	22.5	5.51
	SECI Total	396.6	0.0	113.0	2.2	0.9	116.1	2.93
	Grand Total	8277.79	1038.8	1934.3	74.6	120.8	3168.5	3.83

COMMISSION ANALYSIS

- 3.71 The Commission, in its Tariff Order dated 30/09/2021 had projected the Long-term Power Purchase cost at Rs. 2,852 Cr.
- 3.72 The Consultant in their Regulatory Audit Report has submitted that they had verified all the invoices raised by Generating Stations consisting of Capacity Charges (Fixed Charges), Energy Charges (Variable Charges) and Other charges for FY 2021-22 vis-à-vis Petitioner's claim submitted in the Petition and Audited Power Purchase Certificate.
- 3.73 Further, the Commission during the prudence check sessions has verified all the invoices raised by Generating Stations consisting of Capacity Charges (Fixed Charges), Energy Charges (Variable Charges) and Other charges for FY 2021-22 as submitted in the Petition and Audited Power Purchase Certificate.
- 3.74 Accordingly, the Long-Term Power Purchase Cost from various Long Term Sources as considered by the Commission for True-up is as follows:

Table 3. 27: Commission Approved - Long Term Power Purchase Cost for FY 2021-22

Particulars	Quantum (MU)	Amount (Rs. Cr.)
NTPC	2,254.95	939.16
NHPC	503.62	179.55
Others*	5,519.22	2,049.77
Total Long Term Sources	8,277.79	3,173.64

*Includes Reactive Energy Charges of Rs. 5.16 Cr

SHORT TERM POWER PURCHASE

PETITIONER SUBMISSION

- 3.75 The Petitioner has submitted that the 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.
- 3.76 The Petitioner further submits that the 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.
- 3.77 The Petitioner further submitted that the Commission vide letter dated 09.10.2021 has relaxed the directives related to exemption in seeking prior approvals for Banking and Bilateral Contracts and exemption for non-intimation and non consideration of the Power Procured above ₹ 5/kWh for computing restriction in impact of such purchase on total Short Term Power Purchase not exceeding 10 Paise/kWh for FY 2021-22.
- 3.78 The Petitioner has considered the power purchase cost through short term sources during FY 2021-22 which includes the cost on account of purchase through bilateral, banking, Exchange, intra-state and UI.
- 3.79 The petitioner submitted that in the Banking Transactions, the Commission in its Short Term Power Procurement Guidelines contained in its letter dated 20.01.2010 stated that arrangement/ disposal of power through banking transactions is preferred. This was reiterated in the various Orders, wherein the Hon'ble Commission directed the DISCOMs to optimize power purchase cost through Banking transactions. In accordance thereto, the Petitioner requests the Hon'ble Commission to allow all banking transactions as they

are revenue neutral in nature.

- 3.80 Regarding, the Contingency Limit of 5% on UI, the petitioner submitted that in terms of Regulation 28(1) of the Business Plan Regulations 2019, the Commission has defined a contingency limit on UI and that the petitioner is well within the limits during the FY 2021-22 as stipulated in the Business Plan Regulations, 2019.
- 3.81 Regarding, the Additional UI Charges and Sustained UI Charges the Petitioner submits that the Commission vide letter dated 09.10.2021 relaxed the directive related to Additional UI Charges and Sustain Deviation Charges and directed the same to be allowed as a pass through in Power Purchase Cost. The Commission in Tariff Order dated July 13, 2012 had deducted the additional UI Charges borne below 49.5 Hz frequency based on the recommendations given by Forum of Regulators (FOR). The Petitioner had challenged the issue of additional UI Charges borne on account of UI power purchased below 49.50 Hz before Hon'ble APTEL. The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 177 & 178 of 2012) has given its observations on the said issue against the Petitioner. However, the Petitioner has preferred a statutory appeal before the Hon'ble Supreme Court against the aforesaid Judgment of the Hon'ble APTEL dated March 2, 2015. Without prejudice to the pendency of aforesaid Appeal, and without admitting or waiving any of its contentions against the said Judgment dated March 2, 2015 or this Hon'ble Commission's order dated July 13, 2012 insofar as the decision on additional UI Charges is concerned, the Petitioner has considered the actual UI purchase while computing the power purchase cost.
- 3.82 The Petitioner has considered the power purchase cost through short term sources during FY 2021-22 which includes the cost on account of purchase through bilateral, banking, Exchange, intra-state and UI. The Petitioner has considered the power purchase cost through short term sources during FY 2021-22 which includes the cost on account of purchase through bilateral, banking, Exchange, intra-state and UI. The source-wise details of short term power purchase cost during FY 2021-22 as follows:

Table 3. 28: Petitioner Submission - Details of Short Term Power Purchase for last 3 years

Sr. No	Particulars	FY 2019-20		FY 2020-21		FY 2021-22	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(₹ / kWh)	(₹ Cr.)	(₹ / kWh)	(₹ Cr.)	(₹ / kWh)	(₹ Cr.)
A	Bilateral	4.07	2	4.65	29	6.69	11
B	Banking	4.71	355	4.63	197	4.68	256
C	Exchange	4.06	32	3.51	67	6.02	93
D	Intra-State	1.39	0	-	0	-	0
E	UI	4.9	9	4.9	3	10.05	4
F	Total		398		297		364

COMMISSION ANALYSIS

SHORT TERM POWER PURCHASE RATE

3.83 The Commission in its Tariff Order dated 30/03/2021 has directed the Petitioner as follows:

“6.10n. To strictly adhere to the guidelines on short-term power purchase/sale of power issued by the Commission from time to time and to take necessary steps to restrict the cost of power procured through short term contracts, except trading through Power Exchange & IDT, at Rs.5/kWh. In case the cost of power proposed to be procured exceeds the above ceiling limit, this may be brought to the notice of the Commission within 24 hours detailing the reasons or exceptional circumstances under which this has been done. In the absence of proper justification towards short term power purchase at a rate higher than the above ceiling rate (of Rs.5/kWh), the Commission reserves the right to restrict allowance of impact of such purchase on total short term power purchase not exceeding 10 Paisa/kWh during the financial year.”

3.84 The Commission observed that the short term power purchased by the Petitioner through the Bilateral mode is 17 MU at the cost of Rs. 11 Cr. The average cost of purchase per unit is Rs. 6.69/kWh which is higher than Rs. 5.10/kWh as permissible under directive 6.10m of the Commission. During prudence check the DISCOM submitted statements of accounts issued by SLDC indicating that the said transactions were in the nature of IDT of Surplus energy. Accordingly, the Commission allowed the above cost in accordance with

the directive 6.10n.

BANKING TRANSACTIONS

3.85 The Commission has analysed the Banking Transactions made by the Petitioner for FY 2021-22. *Regulation 121 (3) of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* specifies that the Normative cost of banking transaction is considered at the rate of average power purchase cost of the portfolio of the distribution licensee read as follows:

“While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering:

- 1. Availability of Generating Stations which may be based on Load Generation Balance Report published by Central Electricity Authority (CEA) for relevant Financial Year;*
- 2. Principles of merit order schedule and dispatch based on the ranking of all approved sources of supply in the order of their variable cost of power purchase on monthly basis;*
- 3. Normative cost of banking transaction at the rate of Average Power Purchase Cost of the portfolio of the Distribution Licensee;*
- 4. The gap between Average Power Purchase Cost of the power portfolio allocated and average revenue due to different consumer mix of all the distribution licensee:*

Provided that the Commission may adjust the gap in Power Purchase Cost by reassigning the allocation of power amongst the Distribution Licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi by Ministry of Power, Government of India.”

3.86 Further, the Commission vide its letter dated 16/11/2018 provided clarification to DISCOMs that Normative Cost of Banking Transactions shall be weighted average rate of all long-term sources considering only Variable Cost for the relevant year. Relevant extract of the Commission’s letter dated 16/11/2018 is as follows:

“.....that the normative cost of Banking transactions shall be weighted average rate of all long-term sources considering only variable cost for the relevant year. Further, the sample calculation for incentive on sale of surplus power is annexed herewith.”

- 3.87 During the prudence check sessions and further scrutiny of the information submitted by the Petitioner, it is observed that the Petitioner has not considered the Variable Cost for the relevant year for evaluating the normative cost of Banking transactions for FY 2021-22 as mandated in above mentioned letter.
- 3.88 It is pertinent to state that when Delhi Distribution Licensee is in Surplus, then they Bank their Surplus Energy to those entities (especially outside Delhi) which are in power deficit. This Surplus Banked power is out of the Long Term sources of Delhi Distribution Licensee whose Fixed Cost is borne by them, however, the power not being put to use in Delhi is being Banked to other Deficit State. Accordingly, the Commission vide its letter dated 16/11/2018, has considered the Variable Cost of Weighted Average Rate of all Long-Term Sources as the Normative Cost of Banking Transactions.
- 3.89 Further, it is pertinent to state that the Banking Transactions are revenue neutral in nature i.e., the variable cost considered for Forward Banking & Reverse Banking leads to no impact in Power Purchase Cost since the Forward Banking & Reverse Banking transactions spill over to multiple years after considering the impact of Banking Return Ratio. The concept of revenue neutral in Banking transactions has also been endorsed by Hon'ble APTEL in Appeal No. 14 of 2012, wherein Hon'ble APTEL rejected the claim of the Distribution Licensee related to Financing Cost incurred in relation to Power Banking.
- 3.90 The Commission in its Tariff Order dated 30/09/2021 revised the Normative Cost of Banking Transactions based on letter dated 16/11/2018. The Commission has considered the same approach for FY 2021-22 for determining the Normative cost of Banking Transmission, considering Variable Cost of weighted average rate of all Long-Term Sources for FY 2021-22 as follows:

Table 3. 29: Revised working of Normative Cost of Bank transaction

Particulars	UoM	FY 2021-22
Banking Export	MU	(907.92)

Particulars	UoM	FY 2021-22
Banking Import	MU	547.62
Banking Export Rate- As per Petitioner	Rs. /kWh	4.62
Banking Import Rate- As per Petitioner	Rs. /kWh	4.68
Banking Export	Rs. Cr.	(419.59)
Banking Import	Rs. Cr.	256.04
Net Banking (Import - Export)	MU	(360.30)
Normative Cost on Banking i.e., Variable Cost of weighted average rate of all long-term sources	Rs. /kWh	2.34
Net Normative Cost / (Sale) to be allowed	Rs. Cr.	(84.20)

CONTINGENCY LIMIT OF 5% ON UI SALE

3.91 Regulation 28 of DERC (Business Plan) Regulations, 2019 stipulates,

“28(1)The Contingency Limit for disposing off of Power through Deviation Settlement Mechanism in terms of the Regulation 152 (c) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 from FY 2020-21 to FY 2022-23 of the Distribution Licensees shall be 5% of Net Power Procured by the Distribution Licensee for the relevant month.”

“28(2)In case the Distribution Licensee disposes off more than 5% of the net Power procured by the Licensee for the relevant month through Deviation Settlement Mechanism (Unscheduled Interchange Charges) than the rate of realisation through UI shall be considered at the average rate of power purchase/sale through exchange during same month for Delhi region.”

3.92 The Commission has verified the same. Accordingly, no impact on account of Contingency Limit is considered for FY 2021-22 by the Commission.

ADDITIONAL UI CHARGES AND SUSTAINED DEVIATION CHARGES

3.93 The third proviso of Regulation 152 (c) of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 stipulates as follows:

“Provided that any Additional/Penal Deviation Settlement Mechanism (Unscheduled Interchange) Charges other than forced scheduling of power as certified by SLDC paid by the Distribution Licensee shall not be allowed in Power Purchase Cost”

- 3.94 Further, Hon'ble APTEL has also upheld the view of the Commission in its Judgment dated 20/07/2016 which is also recorded by the Commission in its Tariff Order dated 28/03/2018 as follows:

"COMMISSION'S ANALYSIS

3.235 The Commission has given the detailed reasoning regarding penal nature of payment towards additional UI Charges due to non-adherence of the scheduled drawl by the Petitioner in its various Tariff Orders which has also been upheld by the Hon'ble APTEL in its judgement in Appeal No. 271/2013 as follows:

" 7.6) Penal interests are applicable at the specified rates for over-drawal of electricity for each time block when grid frequency is below 49.5 Hz. The time block under UI Regulations is 15 minutes. We are totally unable to accept the contention of the appellant that the appellant has taken all the necessary steps to ensure compliance with the requirements of UI Regulations, overdrawal from grid below 49.5 Hz frequency is inevitable despite efficient management of the appellant. These are the problems which are to be sorted out by a Discom by making efficient management, proper scheduling of power and procurement etc. What is provided under the Regulation is that the State Commission is bound to follow those Regulations, without giving any dilution or relaxation in the provisions of Act or Rules. We are unable to accept the appellant's contention that over-drawal or under-drawal depends on the scheduled generation available, since, the generation available changes constantly and further due to loss of generation the schedules are affected resulting in over-drawal by Discoms. In view of the above discussions, we do not find any merit in the contentions of the appellant and hence, this Issue No.8 is decided against the appellant."

3.236 Therefore, this matter does not merit consideration."

- 3.95 The Commission has considered the penalty on account of Additional UI Charges and Sustained Deviation Charges to the extent of Rs. 2.72 Cr. and Rs. 1.70 Cr. respectively for FY 2021-22 as submitted by SLDC. Such Additional UI charges are imposed on the Petitioner to maintain the Grid discipline.

SHORT TERM SALE OF POWER AND INCENTIVE ON SALE OF SURPLUS POWER

PETITIONER SUBMISSION

- 3.96 The Petitioner submitted that the Commission vide letter dated 09.10.2021, after considering the request of the Petitioner relating to Power crisis, granted exemption for non-intimation and non-consideration of the Power Procured above Rs.5/kWh for computing restriction in impact of such purchase on total Short Term Power Purchase not exceeding 10 Paise/kWh for FY 2021-22 True up. Further, the Petitioner submitted to have put significant efforts to maximize the revenue through sale of surplus power. However, the Petitioner has realized the revenue of ₹784 Cr from sale of surplus power during FY 2021-22.
- 3.97 The source-wise details of revenue realized through sale of surplus energy during FY 2021-22 are tabulated as follows:

Table 3. 30: Petitioner Submission –Revenue from Short Term Power Sales for last 3 years

Sr. No	Particulars	FY 2019-20		FY 2020-21		FY 2021-22	
		Rate per unit	Amount	Rate per unit	Amount	Rate per unit	Amount
		(₹ / kWh)	(₹ Cr.)	(₹ / kWh)	(₹ Cr.)	(₹ / kWh)	(₹ Cr.)
A	Bilateral	3.2	34	2.97	79	4.84	35
B	Banking	4.35	355	4.53	211	4.62	420
C	Exchange	2.4	132	2.27	139	3.44	321
D	Intra-State	1.53	0.04	-	0	-	-
E	UI	0.39	1	2.06	14	2.08	7.84
			522		443		784

- 3.98 The Petitioner requested the Commission to consider the revenue on account of sale of surplus power while approving the net power purchase.
- 3.99 The Petitioner have submitted that Regulation 29 of Business Plan Regulation, 2019 read with Regulations 123, 157 and 165 of Tariff Regulations 2017 contemplate a slot-

wise/time block basis for the computation of incentives and not on monthly basis. Additionally, as per the Indian Electricity Grid Code (IEGC) all the power (Long term + Short term) is scheduled/managed on a 15 minutes' time block. Without Prejudice to above, the Petitioner has computed Incentive on sale of surplus in line with the DERC clarification letter dated 16/11/2018 and accordingly computed the incentive as tabulated below:

Petitioner Submission Table 3A 1: Details of Total Sale Rate Incentives (₹ Crore)

S. No	Particulars	Amount
1	Total Incentive earned	57
2	DISCOM Share (as per BPR 2019)	27

**Excludes banking incentive*

3.100 Accordingly, the Petitioner requested to allow incentive of Rs. 27 Cr. for FY 2021-22.

COMMISSION ANALYSIS

3.101 Regulation 121 of *DERC (Terms and Conditions for determination of Tariff) Regulations 2017*, stipulates that *while approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering the principles of merit order schedule and despatch based on ranking of all approved sources of supply in the order of their variable cost of power purchase on monthly basis.*

3.102 As per the above mentioned Regulation, the Petitioner is required to procure the power in an economical manner following the principle of Merit Order Dispatch which is an integral part of this process. As per Merit Order Dispatch principle, the plants are stacked in least cost approach of their Variable Cost. The demand is then met through stations in ascending order of their Variable Cost subject to various technical constraints and the balance power though available from the left over stations after meeting the required demand, are thus not scheduled. Such balance power as available from the left over stations could have been backed down considering Technical Constraints or kept under reserve shutdown and such surplus costly power could have been avoided.

3.103 The Commission further observes that it has directed SLDC vide its letter dated 21/11/2013 to implement DISCOM-wise scheduling in Delhi based on the request of the Distribution Licensees.

3.104 The Commission has excluded various power stations from Merit Order Dispatch principle

which have must run status like Nuclear & Hydro, State GENCOs which are also considered in the islanding scheme of Delhi and Eastern Region Plants where there is time delay in revision of schedule.

- 3.105 Regulation 123 of DERC (*Terms and Conditions for Determination of Tariff*) Regulations, 2017 states,

“123.To promote economical procurement of power as well as maximizing revenue from Sale of Surplus Power the distribution licensee shall ensure the cost benefit for rate of sale of surplus power in the relevant slots through Banking, Bilateral and Power Exchange transactions other than the forced scheduling, as certified by the SLDC, in comparison with the next higher variable cost of the generating stations from which power is surplus after meeting the demand of power in it’s area of supply;”

- 3.106 Regulation 165 of DERC (*Terms and Conditions for Determination of Tariff*) Regulations, 2017 states,

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

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

- 3.107 Regulation 29 of DERC (*Business Plan*) Regulations 2019 defines the incentive sharing mechanism as follows:

“29. INCENTIVE SHARING MECHANISM FOR SALE RATE OF SURPLUS POWER

(1) The computation of incentive for Sale Rate of Surplus Power in terms of the Regulation 165 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 from FY 2020-21 to FY 2022-23 of the Distribution Licensees shall be as follows:

i. The variable cost of the generating station for which power is surplus and required to be sold through Power Exchanges shall be considered as the previous month's billed variable cost of such generating station.

ii. The variable cost of the generating station for which power is surplus and required to be sold through Banking and Bilateral arrangements shall be considered as the previous month's billed variable cost of such generating station prevalent at the date of entering into such contracts:

Provided that the normative cost of banking transactions shall be weighted average rate of variable cost of all long term sources.

iii. The incentive shall be the product of Rate difference (Actual Sale Rate- Variable Cost) and Quantum of Power actually sold.

(2) The incentive computed under sub-clause (1) above shall be shared between the Consumers and the Distribution Licensees in the following prescribed manner: -

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

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

3.108 The Commission vide its letter dated 16/11/2018, in respect of clarification sought by the Petitioner for rate of Banking transaction and mechanism for incentive of surplus power as per various provisions of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* and *DERC (Business Plan) Regulations, 2017*, has clarified as under:

“the normative cost of banking transactions shall be weighted average rate of all long term sources considering only variable cost for the relevant year. Further the sample calculation for incentive on sale of surplus power is annexed herewith.”

- 3.109 The Commission through the above referred letter dated 16/11/2018 clarified by way of sample calculation the computation of the incentive on a monthly basis in line with the Regulation 165 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017*.
- 3.110 The methodology followed by the Commission is as per the above letter of the Commission and whenever there was a surplus sale of power, such surplus sale of power has been considered from the station having higher variable cost as lower variable cost stations must have been used first for the consumers.
- 3.111 Further, in the cases where the sale rate of surplus power was excess of power purchase cost of high variable cost station, that case only was considered for the calculation of Incentive on surplus power.
- 3.112 For the purpose of calculation of cost of higher variable cost station, ECR of previous month has been considered which is as per Regulation 29 of *Business Plan Regulations, 2019*. Incentive on sale of surplus power, in line with the Regulation and the clarification issued by the Commission for FY 2021-22 is as follows:

Table 3. 31: Commission Approved - Incentive on Sale of Surplus Power (Rs. Cr.)

Months	As approved by the Commission		
	Exchange	Bilateral	Intrastate
Apr-20	0.75	-	-
May-20	1.11	-	-
Jun-20	-	-	-
Jul-20	-	-	-
Aug-20	-	-	-
Sep-20	0.13	-	-
Oct-20	19.70	-	-
Nov-20	-	-	-
Dec-20	0.28	-	-
Jan-21	0.19	-	-
Feb-21	0.24	-	-

Months	As approved by the Commission		
Mar-21	3.62	-	-
Total	26.03	-	-

3.113 Accordingly, incentive of Rs. 26.03 Cr. has been considered by the Commission in Revenue towards ARR in True up of FY 2021-22.

TRANSMISSION CHARGES

PETITIONERS SUBMISSION

3.114 The Petitioner has considered the Transmission charges for FY 2021-22 as follows:

Table 3. 32: Petitioner Submission - Transmission Charges (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
i	Power Grid Corp. of India Ltd.	489.5
ii	Delhi Transco Ltd.	142.7
iii	Other Transmission etc. (BBMB, DVC, SECI, NTPC, others)	11.8
iv	Open Access Charges	49.4
v	Total Transmission charges	693.4

COMMISSION ANALYSIS

3.115 The Commission has verified the Transmission charges from the books of accounts and bills raised by various parties. Accordingly, the Commission allows the total Transmission and Open Access charges of Rs. 693.4 Cr. for FY 2021-22.

REBATE ON POWER PURCHASE AND TRANSMISSION CHARGES

PETITIONER SUBMISSION

3.116 The Petitioner has submitted that the Commission vide letter dated 05/06/2014 specified the format for submission of details of rebate on power purchase and transmission charges. As regards to 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. 33: Petitioner Submission - Details of Rebate Claimed for FY 2021-22 (Rs. Cr.)

Sr. No.	Party/Company	Rebatable Amount	Non-Rebatable Amount	Actual Rebate Claimed
1	NTPC	941	(2)	10.59
2	NHPC	169	10	1.59
3	Nuclear	38	1	-
4	SJVNL	40	-	0.49
5	THDC	-	0	-
6	Tala HEP	4	-	0.02
7	DVC	559	0	
8	Power stations in Delhi			
8.1	PPCL	644	8	-
8.2	IPGCL	60	18	-
9	ARAVALI	159	(1)	-
10	SASAN	319	43	3.52
11	SECI	91	26	0.85
12	EDWPCPL	-	-	
13	DMSWSL	23	-	0.31
A	Total Long Term Purchase	3,064	104	17
11	Short Term Purchase	11	-	-
12	Short Term sale	35	-	-
13	Transmission Charges			
13.1	Power Grid Corp. of India Ltd.	489	1	3.29
13.2	Delhi Transco Ltd.	147	-	-
13.3	Bhakra Beas Management Board		0	
13.4	NTPC	4	-	-
13.5	Damodar Valley Corporation	1		
13.6	SECI		5	-
13.7	DTL SLDC Chg		(4)	-
B	Total Transmission Charges	641	2	3
C	Total	3,681	107	20.66

3.117 The Petitioner has submitted that the normative rebate ought not be applied at the time of truing-up due to the following reasons:

- a) Power purchase being an uncontrollable parameter which has to be trued up on the basis of actuals. In terms of Regulation 119 of the Tariff Regulations, 2017,

Normative rebate is to be considered only while projecting the tariff i.e. at the time of ARR and not truing up. Considering the normative rebate in the truing up is *ex facie* contrary not only to the aforesaid Regulation 152 of the Tariff Regulations but also to the truing up principles held by the Hon'ble Supreme Court in its Order and judgment dated 18/10/2022.

- b) The Revenue from the Tariff was not enough during FY 2021-22 to meet actual power purchase cost and other expenses. Therefore, the recovery of power purchase cost during FY 2021-22 was deferred due to delay in issuance of PPAC Orders. Also, the Hon'ble Commission itself directed Delhi DISCOMs to approach CERC for deferment of huge arrears bills of GENCO/TRANSCO.
- c) A large part of the tariff of the DISCOMs is unrecovered in the form of Regulatory Assets. The accumulated Regulatory Assets is of no immediate value to the Petitioner in discharging contractual liabilities for carrying out its business year on year.
- d) A similar issue is pending before Hon'ble Tribunal in the Tariff Appeals filed against the previous Tariff Orders.
- e) The concept of normative rebate is based on assumptions that the system is perfect and business is being conducted as usual. The assumption that:
 - i. There is no creation of Regulatory Asset. However, there is an accumulated figure of ₹3111 Crore upto FY 2019-20 as Regulatory Asset (as per Tariff Order dated 30.09.2021);
 - ii. Various APTEL's judgments have been implemented. However, in point of fact, that is not the case and various judgments are yet to be implemented;
 - iii. There is no major variation in power purchase cost, which is also not the case.

Pertinently, in no other state any DISCOM has been able to avail maximum normative rebate when aforesaid conditions are not met.

3.118 Additionally, the Petitioner also has to pay LPSC to the Generators which is not allowed by Hon'ble Commission and where there is a difference in the rate of LPSC charges (18%)

vis-a-vis rate of funding & carrying cost resulting in further adverse financial constraint to the Petitioner.

- 3.119 In view of the above submissions read with the Regulation 152, the Petitioner requests the Hon'ble Commission to consider the actual rebate on power purchase and Transmission Charges during FY 2021-22.

COMMISSION ANALYSIS

- 3.120 Regulation 119 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017, specifies that:

“Distribution Licensee shall be allowed to recover the net cost of power purchase from the long term sources whose PPAs are approved by the Commission, assuming maximum normative rebate available from each source, for supply to consumers”

- 3.121 The Commission noted from power purchase agreement that the maximum normative rebate in case of NPCIL is 2.5% and 2% for other CGS, SGS and Transmission Companies. Accordingly, the Commission has considered the maximum normative rebate on Rebatale amount based on the submissions of the Petitioner as follows:

Rebate for FY 2021-22 (in Rs. Cr.)				
Entity	Rebatable Amt.	Non - Rebatable Amt.	Maximum Normative Rebate %	Normative Rebate approved
NTPC	941	-2	1.50%	14.12
NHPC	169	10	1.50%	2.54
Nuclear	38	1	2.50%	0.95
SJVNL	40	0	1.50%	0.60
THDC	0	0	1.50%	0.00
Tala HEP	4	0	0.52%	0.02
DVC	559	0	1.50%	8.39
Power stations in Delhi				0.00
PPCL	644	8	2.00%	12.88
IPGCL	60	18	2.00%	1.20
ARAVALI	159	-1	1.50%	2.39
SASAN	319	43	2.25%	7.18
SECI	91	26	2.00%	1.82
EDWPCPL	0	0	2.00%	0.00
DMSWSL	23	0	2.00%	0.46
Total Long Term Purchase	3,064	104		0.00
Short Term Purchase	11	0	1.50%	0.17
Short Term Sale	35			
Transmission Charges				
Power Grid Corp. of India Ltd.	489	1	1.65%	8.07
DTL	147		2.00%	2.94
Bhakra Beas Management Board		0		0.00
NTPC	4	0	1.50%	0.06
DVC	1	0	1.50%	0.02
SECI		5	2.00%	0.00
DTL SLDC Chg.		-4		0.00
Total Transmission Charges	641	2		0.00
Total	3,681	107		63.78

RENEWABLE PURCHASE OBLIGATION

PETITIONER SUBMISSION

3.122 The Petitioner has submitted that they filed a detailed representation in Petition no. 23 of 2021 in the matter of waiver/deferment/relaxation of RPO targets for FY 2019-20 and FY 2020-21 and relaxation of norms of RPO for period FY 2019-20 onwards up till FY 2021-

22. Accordingly, the Petitioner requests to take cognizance of the matter pending adjudication and allow the prayers in the Petitioner No. 23 of 2021

3.123 In view of the extensions granted by SECI to the RE Generators, the Ministry of Power (MoP) vide its letter dated 9/03/2021 to the various State Regulatory Commissions including this Commission has requested that no penalty be imposed on the DISCOMs such as the Petitioner for such shortfall in RE procurement due extension in SCOD of RE capacity tied up by the DISCOMS.

COMMISSION ANALYSIS

3.124 Regulation 27 of *DERC (Business Plan) Regulations 2019* states,

“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%

(2) The Distribution Licensee shall comply with its RPO through procurement of Solar energy and Non-Solar energy: Provided that on achievement of Solar RPO compliance as specified in aforesaid sub Regulation (1) to the extent of 85% and above, remaining shortfall if any, can be met by excess Non-Solar energy/Non-Solar REC purchased beyond non-Solar RPO for that particular year: Provided further that on achievement of Non-Solar RPO compliance as specified in aforesaid

sub-Regulation (1) to the extent of 85% and above, remaining shortfall if any, can be met by excess Solar energy/Solar REC purchased beyond Solar RPO for that particular year: Provided also that the Distribution Licensee may purchase power from various Renewable Energy sources or RECs or combination of both for any shortfall in meeting their total RPO targets for any financial year within three months from the date of completion of the relevant financial year.

...

(5) Non-compliance of the RPO targets by the Distribution Licensee shall attract penalty at the rate of 10% of the weighted average Floor Price of Solar and Non-Solar Renewable Energy Certificate, as specified by Central Electricity Regulatory Commission for the relevant year, for quantum of shortfall in RPO.

(6) The amount of penalty imposed on the Distribution Licensee due to non-compliance of the RPO targets shall be reduced from the ARR during True up of the relevant Financial Year in terms of the Regulation 124 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017.

3.125 The Commission further issued Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2021, under which the HPO was added. The relevant extract is as follows:

"4. RENEWABLE PURCHASE OBLIGATION (RPO)

(1) Every Obligated Entity shall purchase electricity from Renewable Energy Sources for fulfilment of a defined minimum percentage of the total consumption during the year, under the Renewable Purchase Obligation, as specified below – Table 1: RPO Targets for Obligated Entities

Sr. No.	Particulars		2020-21	2021-22	2022-23
1	Non Solar	Other Non Solar RPO	10.25%	10.25%	10.50%
		HPO (applicable only for Distribution Licensees)	-	0.18%	0.35%
2	Solar Target		7.25%	8.75%	10.50%
	Total		17.50%	19.18%	21.35%

Provided further that the targets specified for Obligated Entities for FY 2022-23 shall be continued beyond FY 2022-23 unless specified by the Commission separately.

...

(3) The Obligated Entity shall comply with its RPO targets separately for Solar & Non-Solar, excluding consumption met from hydro other than small hydro sources of power and other than LHPs considered for fulfilment of HPO, through procurement of Solar energy and Non-Solar energy: Provided that such obligation to purchase renewable energy shall be inclusive of the purchases, if any, from Renewable Energy Sources already being made by the obligated entity concerned: Provided further that on achievement of Solar RPO compliance as specified in aforesaid sub Regulation (1) to the extent of 85% and above, remaining shortfall if any, can be met by excess Non-Solar energy/Non-Solar REC purchased beyond Non-Solar RPO for that particular year: Provided further that on achievement of Other Non-Solar RPO compliance as specified in aforesaid sub Regulation (1) to the extent of 85% and above, remaining shortfall if any, can be met by excess Solar energy/Solar REC/eligible Hydro Energy purchased beyond Solar RPO or HPO for that particular year: Provided further that, on achievement of HPO compliance to the extent of 85% and above, remaining shortfall, if any, can be met by excess Solar or Other Non-Solar energy consumed beyond specified Solar RPO or Other Non-Solar RPO for that particular year. Provided also that the Obligated Entities may purchase power from various Renewable Energy Sources or RECs or combination of both for any shortfall in meeting their total RPO targets for any financial year within three months from the date of completion of the relevant financial year."

- 3.126 It is observed that Petitioner has purchased 691.01 MU power from Hydro Stations which is to be excluded from total MU billed for the purpose of calculation of MU to achieve the RPO targets.
- 3.127 Accordingly, the Petitioner's RPO targets and penalty on account of non-fulfilment of RPO

targets for FY 2021-22 has been computed as follows, which is reduced from power purchase cost as per above stipulated Regulations:

Table 3. 34: Commission Approved - Penalty on account of non-fulfilment of RPO targets for FY 2021-22

Particular	Solar	Non Solar	HPO	Total
Total MU Billed				6,144.86
Less:- Procurement of Hydro Power				691.01
MU Billed excluding Hydro				5,480.12
Actual RP obligation for 2021-22 (%)	8.75%	10.25%	0.18%	19.18%
Actual RP obligation for 2021-22 (MU)	479.51	561.71	9.86	1,051.09
Actual RP Purchase 2021-22 (MU)	301.59	177.61	-	479.20
SECI (Solar)	263.74			
Self-Generation	0.19			
Roof Top (Gross Generation)	26.27			
GDAM/GTAM(Solar)	11.38			
EDWPCPL		-		
SECI (Non-Solar)		132.81		
MSW Bawana		33.09		
Open Access		-		
GDAM/GTAM(Non-Solar)		11.71		
Bairasul(70%)			-	
REC Purchased	-	-	-	-
Balance Obligation	177.92	384.10	9.86	571.89
RPO Penalty@10%REC @Rs 1/unit (Cr.)				5.72

TOTAL POWER PURCHASE COST

PETITIONER SUBMISSION

3.128 The Petitioner has submitted the gross power purchase cost claimed during FY 2021-22 as follows:

Table 3. 35: Petitioner Submission - Gross Power Purchase Cost before rebate during FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	Submission
A	Audited Gross Power Purchase Cost (Before Rebate)	
i	Purchase of Energy	3102.3
ii	Transmission cost	693.4
B	Total Gross Power Purchase Cost excluding LPSC (i+ii)	3,795.7

3.129 Accordingly, the reconciliation of the Power cost as per Audited accounts with break-up

is submitted in the following table:

Table 3. 36: Petitioner Submission –Power Purchase Cost based on Auditor's certificate (Rs. Cr.)

Sr. No	Particulars	FY 2021-22	Reference
A	Power Purchase Cost		
I	Gross Power Purchase Cost	3,113.0	
ii	Power sold to other sources	363.9	
lii	Other Payments	5.2	
	Net Power Purchase Cost	2,754.2	i-ii
B	Transmission Charges		
I	Inter-state transmission charges	489.5	
ii	Intra-state transmission charges	142.7	
iii	Other Transmission charges	61.2	
iv	Total Transmission charges	693.4	i+ii+iii+iv
C	Rebate		
i	Power Purchase Rebate	20.7	
ii	Special Rebate		
	Less: Total rebate	20.7	i+ii
D	Add: Net Metering	4.7	
E	Add: Self Generation	0.1	
F	Net Power Purchase Cost including Transmission charges net of rebate	3,431.7	A+B-C+D+E

COMMISSION ANALYSIS

3.130 Based on the above submissions, the Commission approves the power purchase cost for the Petitioner for FY 2021-22 as follows:

Table 3. 37: Commission Approved - Trued-up Power purchase cost for FY 2021-22 (Rs.Cr.)

Sr. No.	Particulars	Petitioner Submission		As Approved	
		Quantum (MU)	Amount (Rs Cr)	Quantum (MU)	Amount (Rs Cr)
A	Power Purchase Cost				
I	Long Term Power Purchase	8,277.79	3,168.50	8,277.79	3,168.48
II	Short Term Power Purchase	174.92	108.10	174.92	108.02
III	Banking Import	547.62	256.00	547.62	
IV	Gross Power Purchase Cost	9,000.33	3,532.60	9,000.33	3,276.50
V	Banking Export	907.92	419.60	907.92	
VI	Short Term Sale	1,042.52	364.10	1,042.52	363.93
VII	Other payments (Reactive Energy Charges)		5.20		5.16

Sr. No.	Particulars	Petitioner Submission		As Approved	
		Quantum (MU)	Amount (Rs Cr)	Quantum (MU)	Amount (Rs Cr)
VII	Normative Cost on Banking i.e. Variable Cost of weighted average rate of all long term sources- as per Clarification issued vide DERC letter dated 16/11/2018 on DERC Tariff Regulations, 2017 and BPR, 2017				(84.20)
VIII	Net Power Purchase Cost	7,049.89	2,754.30	7,049.89	2,833.54
B	Transmission Cost				
I	Transmission Charges				
A	Inter-State Transmission Charges		489.50		643.05
B	Intra- State Transmission Charges		142.70		
II	Open Access Charges				49.42
III	Other Charges		61.20		6.09
IV	Total Transmission Loss/Cost	368.90	693.40	368.90	698.56
C	Additional UI				2.72
D	Sustain Deviation				1.70
E	Rebate				
I	Special Rebate				-
II	Rebate on Power Purchase	17.37			52.69
III	Rebate on Power Transmission	3.29			11.08
IV	Total Rebate	20.66			63.78
F	Less: RPO penalty				5.72
G	Net Metering and Rooftop		4.70		1.45
H	Net Power Purchase including Transmission Loss/ charges net of rebate	3,431.7			3,459.64
I	Power Purchase Quantum (MU)	6,681.0		6,683.80	
J	Per Unit Power Purchase Cost (Rs/Kwh)	5.14			5.176

OPERATION AND MAINTENANCE EXPENSES (O&M) EXPENSES

PETITIONER SUBMISSION

3.131 The Petitioner has submitted that the normative O&M expenses for FY 2021-22 are computed by multiplying the average capacity of transformers and average line length during FY 2021-22 with approved per unit rates for the same year. Accordingly, the

Petitioner has computed the average network capacity as given below:

Table 3. 38: Petitioner Submission – Network Capacity for FY 2021-22

Particulars	Unit	Opening as on 01.04.2021	Additions	Closing as on 31.03.2022
66KV Line (CKT KMS)	₹ Lakh/ckt. Km	235	9	244
33KV Line (CKT KMS)	₹ Lakh/ckt. Km	422	1	423
11KV Line (CKT KMS)	₹ Lakh/ckt. Km	3012	111	3123
LT line (CKT KMS)	₹ Lakh/ckt. km	5684	82	5766
66/11 & 66/33 KV Grid S./Stn. (MVA)	₹ Lakh/MVA	1865	0	1865
33/11 KV Grid S./Stn. (MVA)	₹ Lakh/MVA	2056	9	2065
11/0.415 KV DT (MVA)	₹ Lakh/MVA	3515	60	3575

3.132 The Petitioner vide its letter No. RA/BYPL/2022-23/32 dated 29.04.2022 had submitted to the Commission the details of network capacity addition during FY 2021-22.

3.133 Based on the above average network capacity, the Petitioner has computed normative O&M expenses for FY 2021-22 is computed below:

Table 3. 39: Petitioner Submission - O&M Expenses for BYPL for FY 2021-22

Particulars	Unit	FY 2021-22		
		Average Capacity	Norms	Amt. (₹ Cr.)
66KV Line (CKT KMS)	₹ Lakh/ckt. km	240	5.043	12.1
33KV Line (CKT KMS)	₹ Lakh/ckt. km	423	5.043	21.3
11KV Line (CKT KMS)	₹ Lakh/ckt. km	3068	2.114	64.9
LT line (CKT KMS)	₹ Lakh/ckt. km	5725	9.524	545.2
66/11 & 66/33 KV Grid S./Stn. (MVA)	₹ Lakh/MVA	1865	1.201	22.4
33/11 KV Grid S./Stn. (MVA)	₹ Lakh/MVA	2061	1.201	24.7
11/0.415 KV DT (MVA)	₹ Lakh/MVA	3545	2.631	93.3
Total				783.9

COMMISSION ANALYSIS

3.134 The Commission at Regulation 23 of DERC (Business Plan) Regulations, 2019 has notified norms for Operation and Maintenance Expenses for FY 2021-22 in terms of Regulation 4(3) of DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 as follows:

“23. Operation and Maintenance Expenses

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

Table 3: O&M Expenses for BYPL for the Control Period

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

.....”

- 3.135 The Petitioner has submitted the actual network capacity as on 31/03/2021 as above and claimed towards the O&M expenses Rs. 783.90 Cr. The prudence and due diligence exercise of the Capitalisation of Assets (works & Schemes) including the capex verification of the said Assets are continuing process of the Commission. While the Commission is approving the O&M expenses based on the details of the Capitalisation submitted by the Petitioner, any discrepancy/shortfalls/defaults in such capitalisation observed/noticed/verified by the Commission at any point of time irrespective of the period/ Financial Year shall be suitably adjusted (recovered) from the ARR of the Petitioner for the period during which such discrepancy/shortfalls/defaults are found by the Commission.
- 3.136 Accordingly, the Commission considers the capitalisation as per Audited book of Accounts for FY 2021-22 and approves the amount of Rs. 783.83 Cr. on normative basis towards the O&M expenses for FY 2021-22.

Table 3. 40: Commission Approved - O & M Expenses for FY 2021-22 (Rs. Cr.)

Particulars	Capacity as on 31st March 2021 (a)@	Capacity as on 31st March 2022 (b)	Average Capacity for FY 2021-22 (c=(a+b)/2)	Multiplying factor (as per BPR 2019) (d)	Provisional Commission approved O&M for FY 2021-22 (Rs. Cr.) (e=c*d)
66KV line	656.30	666.30	661.30	5.043	33.35
33KV line					
11KV line	3012.80	3123.80	3068.30	2.114	64.86
LT Line System	5683.40	5765.40	5724.40	9.524	545.19
66/11KV Grid Substation	3921.00	3930.00	3925.50	1.201	47.15
33/11KV Grid Substation					
11/0.415KV DT	3515.25	3575.25	3545.25	2.631	93.28
Total Amount					783.83

@ As per DERC BYPL True-Up Order dated 19/07/2024

ADDITIONAL O&M AND OTHER EXPENSES

PETITIONER SUBMISSION

3.137 Regulation 87 of Tariff Regulations, 2017 provides that in addition to the normative expenses, additional expenses which are uncontrollable in nature will be allowed during truing-up, as follows:

“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.”

3.138 Accordingly, the Petitioner is seeking item wise claims 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 in line with Regulation 87 of Tariff Regulations, 2017.

IMPACT ON ACCOUNT OF 7TH PAY COMMISSION

PETITIONER SUBMISSION

3.139 The Petitioner has submitted factual position of 7th Pay Commission for eligible employees as tabulated below:

Table 3. 41: Petitioner Submission - Total impact of 7th Pay Commission (₹ Crore)

Particulars	Gross Earnings	Provisions	Total	Actual Paid
FY 2017-18 (Including Arrear w.e.f. 01.01.2016)	47.62	42.52	90.14	47.62
FY 2018-19	36.16	18.16	54.32	36.16
FY 2019-20	44.26	18.36	62.62	44.26
FY 2020-21	107.93	46.81	154.74	107.93
FY 2021-22	0.00	0.00	0.00	43.97
Total-till FY 2021-22	235.97	125.85	361.82	279.94

3.140 The Petitioner in its petition Claimed that the differential amount accrued and payable upto FY 2020-21 was Rs. 125.85 Crore. This amount included Rs. 12.74 Crore towards retirees and the balance amount 113.11 Crore pertain to LSC and PC both for active employees and retirees. During FY 2021-22, the Petitioner has paid an amount of Rs. 43.97 Crore out of the unpaid amount (provisions) of Rs. 125.85 Crore till FY 2020-21. Further, the balance unpaid amount will be paid in due course. Accordingly, the Petitioner requests to allow Rs. 43.97 Crore on account of actual payment of 7th Pay Commission over and above the normative O&M expenses.

3.141 The Petitioner made further submission dated 19.09.2024 on the issue under the certificate of its Auditors as follows:

Liability & Payments Details

Sr.No.	Financial years	Total Liability for the Year*	Discharged/ paid in Financial years (Rs. In Crs.)						
			2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
1	2017-18	90.14	47.62				42.52		90.14
2	2018-19	54.32		36.16			1.37	16.79	54.32
3	2019-20	62.62			44.26			18.36	62.62
4	2020-21**	174.05				126.3		47.36	173.66
5	2021-22**	99.09					88.08	11.01	99.09
6	2022-23**	93.94						93.94	93.94
7	Total (As per Books of Accounts)	574.16	47.62	36.16	44.26	126.3	131.97	187.46	573.77

Sr.No.	Financial years	Total Liability for the Year*	Discharged/ paid in Financial years (Rs. In Crs.)						
	Not Paid								0.39

*Includes amount actually paid and provided for in the Books of Accounts

**7th pay Commission was implemented by BYPL in January 2021 post which the FRSR employees were paid salary as per 7th pay Commission. Accordingly, the impact of 7th pay Commission paid as part of regular salaries of FRSR Employees for the period Jan'21 to Mar'23 is included in the Total Employee cost in the audited Books of Accounts i.e. Rs. 18.37 Crs in FY 2020-21, Rs. 88.08 Cr in FY 2021-22 and Rs. 93.94 Cr in FY 2022-23.

Capitalisation of Liability and Payment

Sr.No.	Financial years	Capitalisation of total liability of 7th Pay Commission during the years #	Year on year capitalisation of total liability on payment basis ## (Rs. In crores)						
			2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Total
		Amount (in Rs. Cr.)							
1	2017-18	13.61	7.19				6.42		13.61
2	2018-19	6.69		4.45			0.17	2.07	6.69
3	2019-20	6.96			4.92			2.04	6.96
4	2020-21	20.49				14.87		5.57	20.44
5	2021-22	13.22					11.75	1.47	13.22
6	2022-23	11.97						11.97	11.97
7	Total (As per Books of Accounts)	72.93	7.19	4.45	4.92	14.87	18.34	23.12	72.89
	Rate of Capitalisation		15.10%	12.31%	11.12%	11.77%	13.34%	12.74%	

In proportion of total expenses capitalised during the year as per methodology adopted by the Company

In proportion of payment of liability and provisions

COMMISSION ANALYSIS

3.142 In view of Regulation 23(5) of DERC (Business Plan) Regulations, 2019, the Commission shall consider the employees' cost on account of the 7th Pay revision subject to actual payment of the dues. During the prudence check, the Commission observed from the audited financial statement indicated the actual payment of such dues at Rs. 43.97 Cr.

towards revision in its employees' cost on account of the 7th Pay Commission. However, the Commission observed that in the subsequent submission by the Petitioner vide letter dated 19.09.2024 there is variation in the payment details on account of 7th CPC as against its earlier submission in the Petition.

- 3.143 The Commission further observed that the amount of 7th CPC arrears claimed by the Petitioner in the FY 2020-21 included the amount of provisions towards 7th CPC arrears which were already included in the base employee cost as specified in the DERC (Business Plan) Regulations, 2019 as a result of which the 7th CPC arrears were allowed extra to the extent of said amount of provisions during true up of FY 2020-21.
- 3.144 Therefore, the Commission shall need to examine the details of the actual impact of 7th CPC arrears to be allowed over and above the normative O&M expenses which shall be given effect in the next true up order.

LOSS ON SALE OF RETIRED ASSETS

PETITIONER SUBMISSION

- 3.145 The Petitioner has referred the Regulation 45, 46 and 47 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.

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.

47. Loss or Gain due to de-capitalisation of asset after the completion of useful life of asset shall be to the account of the Utility"

- 3.146 In view of the above and subject to final true-up of capitalization for previous years by the Commission, the Petitioner requests to allow Rs. 5.65 Crore for retirement of assets based on Audited Accounts.

COMMISSION ANALYSIS

3.147 Regulation 45 to 47 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 stipulates as under:

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

46. Loss or Gain due to de-capitalization of asset proposed by the Utility itself for the reasons not covered under Regulation 45 of these Regulations shall be to the account of the Utility.

47. Loss or Gain due to de-capitalization of asset after the completion of useful life of asset shall be to the account of the Utility.”

3.148 DISCOM has submitted the data, and the analysis and prudence check of the submitted data is going on. DISCOMs are still submitting various justifications/ clarifications/ data in order to get their claims verified. Based on the such submission, the Commission shall consider the impact to be allowed over and above the normative O&M expenses which shall be given effect in the next true up order.

LEGAL EXPENSES**PETITIONER SUBMISSION**

3.149 The Petitioner has referred Regulation 23(7) of *Business Plan Regulations, 2019* states as under:

“23...

(7) The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:

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

- 3.150 With respect to the above Regulation, the Petitioner submitted that actual legal expenses should be allowed without any distinction as an expense in the ARR.
- 3.151 The Petitioner submitted Rs. 15.07 Cr. incurred towards Legal Fees & claims, Rs.1.39 Cr. pertains towards filing appeals against the Orders including Tariff Orders. Further, the Ombudsman fee of ₹ 0.22 Crore paid by the Petitioner during FY 2021-22 is being claimed separately, the same has been excluded from the legal expenses.
- 3.152 Accordingly, it is requested to allow the legal expenses amounting to Rs. 13.5 Crore over and above the normative O&M expenses.

COMMISSION ANALYSIS

- 3.153 Regulation 23(7) of DERC (Business Plan) Regulations, 2019 stipulates as under:

“The Distribution Licensee may claim the legal expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:

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

- 3.154 During the prudence check, the commission observed that the petitioner has claimed the total legal expenses of Rs. 13.50 Cr. The Commission observed that Rs.6.50 Cr. are governed under the said Proviso and accordingly allow the claims in accordance with the applicable Regulations.

OMBUDSMAN FEES

PETITIONER SUBMISSION

- 3.155 The Petitioner have submitted that they paid Ombudsman Fees of Rs.0.22 Crore for FY 2021-22. Accordingly, the Petitioner is requesting to allow ombudsman expenses of Rs. 0.22 Crore over and above the normative O&M expenses.

COMMISSION ANALYSIS

- 3.156 During the prudence check, BYPL has clarified that the above expenses have been incurred for the establishment of the expense for the office of the Ombudsman. The Ombudsman

Expenses of Rs. 0.22 Cr. during FY 2021-22 has been considered by the Commission as the Ombudsman Expenses are the expenses which are used in the running the establishment of Ombudsman, Electricity.

EXPENSES FOR RAISING LOAN FOR FUNDING OF WORKING CAPITAL & REGULATORY ASSET

PETITIONER SUBMISSION

3.157 The Petitioner is requesting to allow the expenses incurred towards raising loan for funding of Working Capital amounting to Rs.0.9 Crore over and above the normative O&M expenses in True-up of FY 2021-22 as per Regulation 23 (6) of DERC Business Plan Regulations 2019.

COMMISSION ANALYSIS

3.158 Regulation 23(6) of DERC (Business Plan) Regulations, 2019 stipulates as under:

“The Distribution Licensee may claim the expenses for raising loan for working capital and regulatory assets under O&M expenses separately, subject to prudence check at the time of true up on submission of documentary evidence:

Provided that if this amount has been included in the interest on working capital and/or Regulatory assets, the same shall not be allowed.”

3.159 The charges for raising working capital loans and loan for financing RA shall be allowed if the same do not form part of Interest cost. The fresh borrowings are already netted-off with processing charges and the impact of same shall come in the Interest Cost. Moreover, there is nothing on record (or mentioned separately in Annual Audit Report of 2021-22) to prove that the petitioner has paid Rs. 0.9 Cr. towards raising working capital loans and loan for financing RA, hence the above claim regarding loan on working capital and regulatory assets is not allowed by the Commission.

COVID EXPENSES

PETITIONER SUBMISSION

3.160 The Petitioner is claiming Rs. 3.0 Cr. as expenses incurred on various measure due to COVID-19 to carry on with its day to day operations and maintain 24 X 7 uninterrupted

supply of power. These expenses were unforeseen and therefore, do not form part of normative O&M expenses allowed by the Commission in the Business Plan Regulations, 2019.

COMMISSION ANALYSIS

3.161 The Petitioner has claimed various expenses to the tune of Rs. 3.00 Cr. during the COVID period. It is observed that the expenses as claimed to have been incurred on account COVID 19 are not in excess of the actual O&M expenses of the Petitioner. The Commission observed that there has been saving in the O&M expenses due to lockdown as the actual O&M expenses are much lower than the normative O&M expenses. It may be noted that the Government of India also suspended the increase/revision in Dearness Allowance during such difficult times thus leading to no actual increase in employee cost on account of such DA revision as against the normative growth rate of 3.83% per annum as considered by the Commission while arriving at the norms for O&M expenses. Further, maintaining and operating the Distribution system is a regular and exercise and extra expenditure on the same citing the COVID period has no justification unless and until a specific extra ordinary expenditure only due to COVID condition and during the COVID period is documented by the Petitioner. Since Petitioner has not given the specific expenditure exclusively attributable to COVID condition, the additional claim of Rs. 3.00 Cr. on account of COVID 19 over and above the normative O&M expenses is not being considered.

LICENSEE FEES PAID ON ASSETS

PETITIONER SUBMISSION

3.162 The Petitioner has submitted that License Fee paid for land rights / distribution assets is a statutory levy and uncontrollable in the hands of the Petitioner. It is pertinent to mention that pursuant to Ind AS 116 notified by MCA on March 30, 2019, the nature of expenses has changed from lease rent in previous years to depreciation cost for the right-of-use assets (RoU), and finance cost for interest accrued on lease liability. Accordingly, from

April 2019 such expenses are not reflected in A&G expenses but included in Depreciation & Finance Cost and hence are not reflected in O&M expenses since FY 2019-20 onwards.

- 3.163 Accordingly, the Petitioner requested the Commission to allow the license fees of Rs. 0.60 Crore paid to GoNCTD, over and above the normative O&M expenses in True-up of FY 2021-22.

COMMISSION ANALYSIS

- 3.164 The actual O&M expenses considered by the Commission include the expenses on account of the license fee paid on assets of GoNCTD. The normative O&M expenses allowed by the Commission contains both elements of escalation on a year-to-year basis and additional O&M expenses on account of an increase in network capacity. Accordingly, after considering the license fee paid on assets considered in base year O&M expenses with a due escalation factor of 3.83%, no additional license fee need to be additionally considered for payment, other than normative O&M expenses. Therefore, the additional claim sought by the Petitioner is not justified. Accordingly, the Commission has disallowed the claim of the Petitioner.

INCREMENTAL GST PAID

PETITIONER SUBMISSION

- 3.165 The Petitioner has submitted that as per Business Plan Regulations, 2019, the Commission has allowed the GST charges on normative basis for FY 2021-22 by considering an escalation factor of 3.83% on the average value of FY 2017-18 to FY 2018-19.
- 3.166 With effect from 1/07/2017, the Petitioner is mandated 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 consumers which are now deemed as GST taxable services. However, the GST rate is 18% which is higher than the service tax rate
- 3.167 The Petitioner have submitted that there are plethora of Orders approving impact of increase in tax/introduction of new taxes, Change in law and such additional costs have been allowed as pass through which has also been approved by the Hon'ble CERC/APTEL for various competitively Bid Projects.

- 3.168 Accordingly, it is requested to allow incremental impact on account of GST charges of Rs. 6 Crore over and above the normative O&M expenses.

COMMISSION ANALYSIS

- 3.169 Under DERC (Business Plan) Regulations, 2019 and through its Statement of Reasons Business Plan Regulation, 2019, the Commission has clarified that revision of minimum wages/Any Statutory impact has already been included in the norms of O&M expenses. The additional claim of expenses is part of the normative O&M expenses and do not qualify for the second proviso to the Regulation 87 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017. Accordingly, the Commission has disallowed the claim of the Petitioner.

EXPENSES ON ACCOUNT OF NEW INITIATIVES

PETITIONER SUBMISSION

- 3.170 The Petitioner has submitted that during FY 2021-22 they have undertaken Energy Storage project in collaboration with Renew Power. The Petitioner will install around 1 MW capacity energy storage system at East of Loni, Mayur Vihar Grid, Shankar Road SCADA centre. BYPL will install around 1 MW capacity energy storage system at East of Loni, Mayur Vihar Grid, Shankar Road SCADA centre.
- 3.171 Since These expenses not allowed as part of normative O&M expenses, accordingly the Petitioner has claimed Rs. 0.2 Cr. as the expenses on account of new initiatives over and above the normative O&M expenses.

COMMISSION ANALYSIS

- 3.172 The petitioner has claimed additional O&M expenses to the tune of Rs. 0.22 Cr. under the head of certain new initiatives. The Commission observed that the expenses claimed under new initiatives relate to activities forming part of regular course of business and are easily covered under O&M expenses. Accordingly, the Commission has disallowed the claim of the Petitioner.

ADDITIONAL O&M AND OTHER EXPENSES**PETITIONER SUBMISSION**

3.173 In view of above submissions, the additional O&M expenses claimed as a part of true-up requirement for FY 2021-22 are tabulated as follows:

Table 3. 42: Petitioner Submission - Additional O&M Expenses for FY 2021-22 (₹ Crore)

Sr. No	Particulars	Amount (Rs. Cr.)	Reference
1	Impact on account of 7th Pay Commission	44.0	Note 38 of Audited Accounts
2	Legal Expenses	13.5	Note 41 of Audited Accounts
3	Loss on Sale of Retired Assets	5.7	Note 41 of Audited Accounts
4	COVID-19 expenses	3.0	Note 38 & 41 of Audited Accounts
5	Expenses for raising loan	0.9	
6	Ombudsman Fees	0.2	Note 41 of Audited Accounts
7	Licensee Fees paid on assets	0.6	
8	Incremental GST Paid	6.0	
9	New Initiatives	0.2	
	Total	74.3	Sum(1 to 8)

COMMISSION ANALYSIS

3.174 In line with above discussions, the Commission has approved the following Additional O&M for FY 2021-22:

Table 3.43: Commission Approved: Additional O&M Expenses for FY 2021-22

Sr. No.	Particular	Petitioner's Submission (Rs. Cr.)	Commission's Approved (Rs. Cr.)
1.	Loss on Sale of Retired Assets	5.65	-
2.	Impact of 7th Pay Commission	43.97	-
3.	Legal Expenses	13.5	6.50
4.	Ombudsman/legal Fees	0.22	0.22
5.	License Fee paid on assets#	0.6	-
6.	Syndication Fee/Bank charges regarding loan of Working Capital and Regulatory Assets	0.9	-
7.	Covid -19 expenses	3.0	-
8.	Incremental GST Impact#	6	-
9.	New Initiatives#	0.2	-
10.	Total	74.04	6.72

Not allowed as these expense heads as covered under the O&M Expenses being permitted on normative basis

CAPITAL EXPENDITURE AND CAPITALISATION

PETITIONER SUBMISSION

3.175 The Petitioner has submitted that they have considered the Closing balance of GFA for FY 2020-21 as opening GFA for FY 2021-22. The actual capitalisation and de-capitalisation as per the Audited Accounts for FY 2021-22 have been considered to derive the closing balance of GFA as follows:

Table 3. 44: Petitioner Submission - Gross Fixed Assets for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22	Remarks/ Ref.
A	Opening GFA	4180.5	
B	Capitalisation during the year	239.7	Note 3 of the Audited Accounts
C	De-capitalisation	14.8	Note 3 of the Audited Accounts
D	Closing GFA	4405.5	A+B-C
E	Average GFA	4293.0	(A+D)/2

COMMISSION ANALYSIS

3.176 The Petitioner has submitted the capitalisation in their Audited Books of Accounts for FY 2021-22 for Rs. 239.70 Cr. The prudence and due diligence exercise of the Capitalisation of Assets including the capex verification of the said Assets are continuing process of the Commission. The Commission approves Capitalisation submitted by the Petitioner. Any discrepancy/shortfalls/defaults in the capitalisation observed/noticed/verified by the Commission at any point of time irrespective of the period/ Financial Year shall be suitably adjusted (recovered) from the ARR of the Petitioner for the period during which such discrepancy/shortfalls/defaults are found by the Commission.

3.177 Accordingly, the Commission considers the capitalisation as per Audited book of Accounts for FY 2021-22 as under:

Sr. No.	Particulars	Amount (Rs. Cr.)
1	Capitalisation as per Audited Accounts	239.70
	Disallowance	-
2	Provision made and capitalised on account of 7 th Pay Commission	-
3	Excess Employee Expense Capitalised	-
4	Subtotal (1-2-3)	239.70

5	Additions during the year	239.70
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3.178 The claim of the Petitioner on de-capitalization of assets as per the Audited Financial statements for FY 2021-22 is considered at Rs. 14.74 Cr.

3.179 According, the Opening GFA for FY 2021-22 has been considered as follows:

Table 3. 45: Capitalization approved upto FY 2021-22 (Rs. Cr.)

Particulars	Petitioner submission	Approved
Trued up opening balance of Gross Fixed Assets	4,180.5	4,040.62
Add- Capitalization during the year	239.7	239.70
Less- Retirement/ De-capitalization for the year	14.8	14.74
Closing balance of Gross Fixed Assets	4,405.5	4,265.58
Average Gross Fixed Assets	4,293.0	4,153.10

FUNDING OF CAPITALIZATION

PETITIONER SUBMISSION

3.180 The Petitioner has submitted that they have capitalised Rs.239.7 Crore during FY 2021-22 which includes Rs. 14.8 Cr. and Rs.13.7 Crore on account of De-capitalisation and Consumer Contribution capitalised respectively during the year. The Petitioner has sought financing of Capitalisation (net of de-capitalisation and Consumer Contribution) through debt and equity in the ratio of 70:30 as under:

Table 3. 46: Petitioner Submission - Financing of Capitalisation for FY 2021-22(Rs.Cr.)

Sr. No	Particulars	FY 2021-22	Remarks
A	Total Capitalisation	239.7	
B	De-capitalisation	14.8	
C	Consumer Contribution	13.7	Note 25 of the Audited Accounts
D	Balance Capitalisation	211.3	A-B-C
E	Debt	147.9	70% of D
F	Equity	63.4	30% of D

CONSUMER CONTRIBUTION AND GRANTS

PETITIONER SUBMISSION

3.181 The Petitioner has submitted the average Consumer Contribution for FY 2021-22 as

tabulated below:

Table 3. 47: Petitioner Submission - Consumer Contribution for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Opening Balance	356.5
B	Additions during the year	13.7
C	Closing Balance	370.2
D	Average Consumer Contribution	363.4

3.182 The average Grants for FY 2021-22 is as follows:

Table 3. 48 : Petitioner Submission: Grants for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Opening Balance	16.22
B	Additions during the year	-
C	Closing Balance	16.22
D	Average Grants	16.22

COMMISSION ANALYSIS

3.183 The Commission has considered the closing balance of Consumer Contribution and Grants approved for FY 2020-21 in the Tariff Order dated 19/07/2024 as opening balance of Consumer Contribution and Grants for FY 2021-22. The Commission verified the additions towards Consumer Contribution and Grants during the year from the audited financials of the Petitioner.

3.184 Accordingly, the addition to the Consumer Contribution/Grants for the year have been considered as follows:

Table 3.49: Commission Approved - Consumer Contribution/Grants for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	As per Petitioner	Commission approved
A	Opening Balance	372.7	405.51
B	Consumer Contribution during the year	13.7	13.70
C	Closing Balance	386.4	419.21
D	Average of Cumulative Capitalized Consumer Contribution	379.6	412.36

DEPRECIATION

PETITIONER SUBMISSION

3.185 The Petitioner has submitted that for the purpose of computing depreciation for True-up

of FY 2021-22 the Petitioner has followed the same methodology as considered in the past years 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.

- 3.186 The Petitioner has tabulated the average rate of Depreciation for FY 2021-22 based on Audited Accounts as below:

Table 3. 50: Petitioner Submission - Depreciation Rate for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	Actual
A	Opening GFA as per audited accounts	4151.1
B	Closing GFA as per audited accounts	4376.1
C	Average of GFA	4263.6
D	Depreciation as per Audited Accounts	208.7
E	Average depreciation rate	4.89%

- 3.187 The Petitioner has submitted that depreciation has been computed in the audited accounts based on the schedule of depreciation rates given in the Tariff Regulations, 2017 and industry practice. In audited accounts, the depreciation has been computed based on life of assets as specified in the Regulations. In case the Commission desires the computation in support of depreciation on assets appearing in audited accounts, the same can be provided.
- 3.188 The Petitioner vide letter dated 1/10/2019 and 15/11/2022 has requested to revisit the useful life of various asset classes in the Depreciation Schedule 1 of the Tariff Regulations, 2017 so as to accommodate the suggestions of the FOR study.
- 3.189 Accordingly, the Petitioner has calculated the allowable depreciation after excluding consumer contribution and Grants from the Gross Fixed Assets as under:

Table 3. 51: Petitioner Submission - Depreciation for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Average GFA	4293.0
B	Average Consumer Contribution and Grants	363.4
C	Average assets net of consumer contribution & Grants	3929.6
D	Average rate of depreciation	4.89%
E	Depreciation	192.3

- 3.190 The Petitioner has calculated the cumulative depreciation on fixed assets at the end of FY 2021-22 as tabulated below:

Table 3. 52: Petitioner Submission - Cumulative Depreciation on fixed assets upto FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Opening balance of cumulative depreciation	2117.7
B	Additions during the year	192.3
C	Closing balance of cumulative depreciation	2310.1

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

Table 3. 53: Petitioner Submission - Utilisation of Depreciation for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Depreciation	192.3
B	Depreciation utilised for debt repayment	192.3

COMMISSION ANALYSIS

3.192 Regulations 78 to 83 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates the provisions of Depreciation as follows:

“78. Annual Depreciation shall be computed based on Straight Line Method for each class of asset as specified in Appendix-1 of these Regulations.

79. The base value for the purpose of depreciation shall be the capital cost of the asset approved by the Commission. Depreciation shall be chargeable from the first year of commercial operation and in case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.

80. The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:

Provided that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and the extended life.

81. Land other than the land held under lease shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

82. In case of existing assets, the balance depreciable value as on 1st April of any financial year shall be worked out by deducting the cumulative

depreciation as admitted by the Commission up to 31st March of the preceding financial year from the gross depreciable value of the assets.

83. The Depreciation for Life extension projects/scheme shall be allowed in the manner as indicated in Regulation 51 of these Regulations.”

3.193 Based on the Regulatory Audit Report of the Consultant, the Commission has considered Depreciation rate as 4.89% for FY 2021-22 on provisional basis, therefore, Depreciation on the assets capitalised provisionally is computed as below:

Table 3. 54: Commission Approved - Depreciation for FY 2021-22 (Rs. Cr.)

Sr.No.	Particulars	Petitioner Submission	Commission Approved
A.	Average of Fixed Assets	4,293.00	4,153.10
B.	Average Consumer Contribution	363.40	412.36
C.	Average Fixed Assets (net of consumer contribution & grant)	3,929.60	3,740.74
D.	Average depreciation rate	4.89%	4.89%
E.	Allowable Depreciation	192.30	182.92

3.194 The Commission has considered the opening balance of accumulated depreciation as Rs. 1,646.64 Cr. as per True-up Order dated 19/07/2024 for FY 2021-22. Accordingly, the accumulated depreciation for FY 2021-22 is as follows:

Table 3. 55: Commission Approved - Accumulated Depreciation for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	Petitioner Submission	Commission Approved	Ref.
A.	Opening balance of cumulative depreciation	2,117.7	1,646.64	Table 3.76 of True Up Order dated 19/07/2024
B.	Additions during the year	192.3	182.92	
C.	Less: Depreciation towards assets retired	-	8.20	
D.	Closing balance of cumulative depreciation	2,310.10	1,821.36	

WORKING CAPITAL

PETITIONER SUBMISSION

3.195 The Petitioner has computed the Working Capital Requirement for FY 2021-22 as follows:



Table 3. 56: Petitioner Submission - Working Capital Requirement (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	Annual Revenues from Tariff & Charges	5192.2
A1	Receivables equivalent to two months average	865.4
B	Power Purchase Expenses	3431.7
B1	Less: 1/12th of power purchase expenses	286.0
C	Working Capital	579.4
D	Opening Working Capital	477.6
E	Change in Working Capital	101.8

COMMISSION ANALYSIS

3.196 Regulation 84(4) of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* stipulates the working capital determination for Distribution Licensee as follows:

“84. The Commission shall calculate the Working Capital requirement for:

(4) Distribution Licensee as follows:

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

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

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

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

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

3.197 The Commission has computed the Working Capital considering the net Power Purchase Cost including Transmission Charges and ARR as approved in the truing up for FY 2021-22 as follows:

Table 3. 57 : Commission Approved - Working Capital for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	As per Petitioner	As per Commission	Ref.
A	ARR	5,192.2	4,550.73	
A1	Receivables equivalent to two month ARR	865.4	758.46	A/6
B	Power Purchase Expenses	3,431.7	3,459.64	
B1	Less: 1/12th of power purchase expenses	286.0	288.30	B/12

Sr. No	Particulars	As per Petitioner	As per Commission	Ref.
C	Total Working Capital	579.4	470.15	A1-B1
D	Opening Working Capital	477.6	452.07	TO 19/07/2024
E	Change in Working Capital	101.8	18.08	D-E

REGULATED RATE BASE (RRB)**PETITIONER SUBMISSION**

3.198 The Petitioner has computed the Regulated Rate Base (RRB) for FY 2021-22 as below:

Table 3. 58: Petitioner Submission - Regulated Rate Base for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
A	RRB Opening	2401.7
B	Δ AB (Change in Capital Investments)	27.2
C	Investments Capitalized	224.9
D	Depreciation	192.3
E	Add: Depreciation on De-capitalised Assets	8.2
F	Consumer Contribution	13.7
G	Change in WC	101.8
H	RRB Closing	2530.7
I	RRB (i)	2517.1

COMMISSION ANALYSIS

3.199 Regulation 65 to 70 of DERC (*Terms and Conditions for Determination of Tariff*) Regulations, 2017 stipulates as under:

“65. Return on Capital Employed shall be used to provide a return to the Utility, and shall cover all financing costs except expenses for availing the loans, without providing separate allowances for interest on loans and interest on working capital.

66. The Regulated Rate Base (RRB) shall be used to calculate the total capital employed which shall include the Original Cost of Fixed Assets (OCFA) and Working Capital. Capital work in progress (CWIP) shall not form part of the RRB.

Accumulated Depreciation, Consumer Contribution, Capital Subsidies / Grants shall be deducted in arriving at the RRB.

67. The RRB shall be determined for each year of the Control Period at the beginning of the Control Period based on the approved capital investment plan with corresponding capitalisation schedule and normative working capital.

68. The Regulated Rate Base for the i th year of the Control Period shall be computed in the following manner:

$$RRBi = RRB_{i-1} + \Delta ABi / 2 + \Delta WCi;$$

Where,

“ i ” is the i th year of the Control Period;

RRBi: Average Regulated Rate Base for the i th year of the Control Period;

ΔWCi : Change in working capital requirement in the i th year of the Control Period from $(i-1)$ th year;

ΔABi : Change in the Capital Investment in the i th year of the Control Period;

This component shall be arrived as follows:

$$\Delta ABi = Invi - Di - CCI - Reti;$$

Where,

Invi: Investments projected to be capitalised during the i th year of the Control Period

and approved;

Di: Amount set aside or written off on account of Depreciation of fixed assets for the i th year of the Control Period;

CCI: Consumer Contributions, capital subsidy / grant pertaining to the ΔABi and capital grants/subsidies received during i th year of the Control Period for construction of service lines or creation of fixed assets;

Reti: Amount of fixed asset on account of Retirement/ Decapitalisation during i th Year;

RRB i-1: Closing Regulated Rate Base for the Financial Year preceding the ith year of the Control period. For the first year of the Control Period, Closing RRB i-1 shall be the Opening Regulated Rate Base for the Base Year i.e. RRBO;

$$RRBO = OCFAO - ADO - CCO + WCO;$$

Where;

OCFAO: Original Cost of Fixed Assets at the end of the Base Year;

ADO: Amounts written off or set aside on account of depreciation of fixed assets pertaining to the regulated business at the end of the Base Year;

CCO: Total contributions pertaining to the OCFAO, made by the consumers, capital subsidy /grants towards the cost of construction of distribution/service lines by the Distribution Licensee and also includes the capital grants/subsidies received for this purpose;

WCO: working capital requirement in the (i-1)th year of the Control Period.

Return on Capital Employed (RoCE) for the year “i” shall be computed in the following manner:

$$RoCE = WACC_i * RRB_i$$

Where,

WACC_i is the Weighted Average Cost of Capital for each year of the Control Period;

RRB_i – Average Regulated Rate Base for the ith year of the Control Period.

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

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

Where,

D is the amount of Debt derived as per these Regulations;

E is the amount of Equity derived as per these Regulations;

Where equity employed is in excess of 30% of the capital employed, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as notional loan. The amount of equity in excess of 30% treated as notional loan. The interest rate on excess equity shall be the weighted average rate of interest on the actual loans of the Licensee for the respective years. Where actual equity employed is less than 30%, the actual equity and debt shall be considered;

Provided that the Working capital shall be considered 100% debt financed for the calculation of WACC;

Rd is the Cost of Debt;

Re is the Return on Equity."

3.200 Accordingly, the Commission approves the RRB for FY 2021-22 as follows:

Table 3. 59: Commission Approved - RRBi for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref.
A	Opening Original Cost of Fixed Assets (OCFA _o)	4,180.5	4,040.62	
B	Opening Accumulated depreciation (ADo)	2117.7	1,646.64	
C	Opening consumer contributions received (Cco)	356.5	405.51	
D	Opening Working capital (WCo)	477.6	452.07	
E	Opening RRB (RRBo)	2,401.7	2,440.54	E=(A-B-C+D)
F	Investment capitalised during the year (INVi)	224.9	239.70	
G	Depreciation during the year (Di)	192.3	182.92	
H	Depreciation on decapitalised assets during the year	8.2	8.20	
I	Consumer contribution during the year (Cci)	13.7	13.70	
J	Fixed assets retired/decapitalised during the year	14.8	14.74	
K	Change in capital investment (Δ ABi)	27.2	36.54	(F-G+H-I-J)
L	Change in working capital during the year (Δ Wci)	101.8	18.08	
M	RRB Closing	2,530.7	2,495.16	E+K+L

Sr. No.	Particulars	As per Petitioner	As per Commission	Ref.
N	RRBi	2,517.1	2,476.89	E+K/2+L

DEBT AND EQUITY, INTEREST ON LOAN, WEIGHTED AVERAGE COST OF CAPITAL (WACC)

PETITIONER SUBMISSION

3.201 The Petitioner has submitted that they have considered the average debt and equity for FY 2021-22 as per the directions and principles laid down by the Hon'ble Supreme Court in Order and Judgment dated 1/12/2021 and 18/10/2022 passed in case of the Petitioner, as tabulated below:

Table 3. 60: Petitioner Submission - Average Debt and Equity for FY 2021-21 (Rs.Cr.)

Sr. No	Particulars	Debt	Equity
A	Opening	1426.9	1104.1
B	Additions during the year		
I	Capex	147.9	63.4
ii	Working capital	101.8	
C	Less: Repayment	142.7	
D	Closing	1533.9	1167.5
E	Average	1480.4	1135.8

3.202 The Petitioner has submitted that they have considered margin for FY 2021-22 for computation of interest on loan as per Regulation 77 of Tariff Regulations, 2017 and Regulation 22 of Business Plan Regulations, 2019 tabulated as follows:

Table 3. 61: Rate of Interest on Loan (%)

Sr. No.	Particulars	Rate
A	Rate of interest on Loan	12.38%
B	SBI MCLR as on 1/04/2021*	7.00%
C	Difference	5.38%
D	Margin for FY 2021-22	4.25%

*SBI MCLR Rate

3.203 The Petitioner has submitted the computation of interest on working capital as mandated under Regulation 85 of Tariff Regulations, 2017 and Regulation 22 of Business Plan Regulations, 2019, as under:

Table 3. 62: Petitioner Submission - Rate of Interest on Loan (%)

Sr. No.	Particulars	Rate
A	Rate of Interest on Working Capital	11.03%
B	SBI MCLR as on 01.04.2021*	7.00%
C	Margin for FY 2020-21	4.03%
D	Margin for FY 2020-21	4.03%

*SBI MCLR Rate

3.204 Accordingly, the rate of interest on term loan and working capital is equivalent to minimum of (i) approved base rate of RoE of 14.00%, (ii) rate of interest w.r.t actual loan and working capital portfolio during FY 2021-22 and (iii) Bank Rate of 7.00% as on April 1, 2021 plus margin for rate of interest on loan as per Business Plan Regulations, 2019. Thus, the blended interest rate on loan is computed as under:

Table 3. 63: Petitioner Submission - Weighted Average Interest Rate on Loan (%)

Sr. No.	Particulars	FY 2021-22
A	Closing Balance of Debt	1459.0
B	Closing Debt at 100% Working Capital	504.5
C	Closing Balance of CAPEX Loan	954.5
D	Rate of Interest on Loan	11.25%
E	Rate of Interest on Working Capital	11.03%
F	Blended Rate of Interest on Loan	11.17%

3.205 Accordingly, the Petitioner has requested to consider the rate of interest debt as 11.17%. Further, for computation of WACC for FY 2021-22, the Petitioner has considered rate of interest of loans at 11.17% and RoE at 16%

3.206 The Petitioner has submitted that Hon'ble APTEL in its various judgements has laid down the ratio that the income tax assessment of the licensee must be done on standalone basis. Further, in Appeal No.173 of 2011 the Tribunal has provided the methodology for assessing the income tax liability of the licensee. Further, the Petitioner has opted for new tax regime u/s 115BAA.

3.207 The Petitioner has submitted that w.e.f. FY 2019-20, the Petitioner has opted for the new tax regime u/s 115BAA. A detailed submission in this regard has already been made by the Petitioner vide its letter no. RA/BYPL/2022-23/212 dated 12.10.2022 to the Commission.

3.208 Without prejudice to above, it is highlighted that the Hon'ble Supreme Court in its Order and Judgment dated 18.10.2022 has also laid down the principle of Truing up i.e. 'Truing up' exercise cannot be done to retrospectively change the methodology/principles of tariff determination and reopening the original tariff determination order thereby setting the tariff determination process to a naught at 'true up' stage.

3.209 Accordingly, WACC for FY 2021-22 has been computed considering the grossed-up return on equity of 21.38% is as under:

Table 3. 64: Petitioner Submission - Weighted Average Cost of Capital (WACC) (Rs. Cr.)

Sr. No.	Particulars	Rate
A	Average Equity	1135.8
B	Average Debt	1480.4
C	Return on Equity	16.00%
D	Income Tax Rate	25.17%
E	Grossed up Return on Equity	21.38%
F	Rate of Interest	11.17%
G	Weighted average cost of Capital	15.60%

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

Table 3. 65: Petitioner Submission - Return on capital employed (ROCE) (Rs.Cr.)

Particulars	FY 2021-22
Weighted Average Cost of Capital (WACC)	15.60%
RRB (i)	2517.1
RoCE	392.7

COMMISSION ANALYSIS

3.211 Regulation 22 of the *DERC (Business Plan) Regulations, 2019* stipulates the margin for rate of interest on loan as follows:

"22. MARGIN FOR RATE OF INTEREST ON LOAN

(1) The rate of interest on loan for a financial year shall be Marginal Cost of Fund based Lending Rate (MCLR) of SBI as on 1st April of that financial year plus the Margin. The Margin, in terms of Regulation 4(2) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 towards capitalisation of Assets, Working Capital and Regulatory Assets for Distribution

Licensee, is allowed as the difference between the weighted average rate of interest on actual loan portfolio and the MCLR as on 1st April of that financial year:

Provided that the Margin shall not exceed 5.00%, 4.25% and 3.50% for the first, second and third year of the control period, respectively:

Provided further that the rate of interest on loan (MCLR plus Margin) in any case shall not exceed approved base rate of return on equity i.e. 14.00%.

(2) The Distribution Licensees shall follow transparent mechanism to avail Loans and, to the extent possible, shall endeavour to invite open tender for availing Loans.”

3.212 The Commission also observed that the actual Equity and Reserves & Surplus reported in the Audited Financials statements for the Petitioner for FY 2021-22 are Rs. 2871.62 Cr as on 01/04/2021 and Rs. 3094.54 Cr as on 31/03/2022. The petitioner has revised the equity and reserves & Surplus in its respective Books of Accounts in the current year owing to retrospective revision in the LPSC charges as leviable on its outstanding dues towards Gencos and Transco. The matter is currently subjudice under petitions 24-26 of 2024 filed before the Commission. The Commission has considered the increase in Equity during the year for the respective Financial year subject to the outcome of the said Petitions before the Commission.

3.213 Accordingly based on the above pending Petitions, the provisional utilisation of Equity is being considered as follows:

Particulars	Amount (in Rs. Cr.)
Opening equity and Reserves & Surplus	1570.30
Closing equity and Reserves & Surplus	1793.31
Average Net Worth	1681.81
Equity Used for Capitalization	602.02
Equity Used for Short Term Gain	161.62
Equity available towards funding of Regulatory Assets	918.16

3.214 The WACC & ROCE as approved by the Commission for the Petitioner is as follows:

Table 3. 66: Commission Approved - WACC and ROCE for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	As per Petitioner	As per Commission
A	RRBi	2517.1	2478.43
B	Opening Equity for net Capitalisation (limited to 30%)		596.54
C	Closing Equity limiting to 30% of net capitalization		607.50
D	Average Equity for net Capitalisation (limited to 30%)	1135.80	602.02
E	Opening Debt at 70% of net capitalization		1391.93
F	Closing Debt at 70% of net capitalization		1417.51
G	Average Debt at 70% of net capitalisation	1480.40	1404.72
H	Debt at 100% of working capital		470.15
I	Debt- balancing figure		1,874.87
J	Rate of return on equity (re)	16.00%	16.00%
K	Rate of debt (rd) on capitalization		11.25%
L	Rate of debt (rd) on working Capital		11.03%
M	Rate of interest on debt(rd)	11.17%	11.17%
N	WACC	15.60%	12.34%
O	RoCE	392.70	305.75

INCOME TAX**COMMISSION ANALYSIS**

3.215 The Commission based on the submitted data, note 44 of the Audited Annual Books of Accounts for FY 2021-22 and DERC Tariff Regulations, 2017 has computed the income tax for FY 2021-22 as follows:

Table 3. 67: Commission Approved - Income tax for FY 2021-22 (Rs. Cr.)

Sr. No.	Income Tax	Approved
A	Average Equity for Capitalisation (limited to 30%)	602.02
B	Rate of return (re) (%)	16.00%
C	Return on equity	96.32
D	Effective Income Tax Rate (%)	0.00%
F	Return on equity including income tax	96.32
G	Tax	0.00
H	Actual Tax Paid	0
I	Tax allowed	0.00

NON-TARIFF INCOME**PETITIONER SUBMISSION**

3.216 The Petitioner has submitted the Non-Tariff Income during FY 2021-22 as tabulated below:

Table 3. 68: Petitioner Submission - Non-Tariff Income for FY 2021-22

Sr. No	Particulars	Amount (₹ Cr.)
A	Other Operating Income	79.6
B	Other Income	37.4
I	Total Income as per Accounts	117
C	Add: Interest on CSD	20
D	Add: Differential in SLD	21.4
II	Total Other Income	158.4
	Less: Income from other business	
E	Pole Rental Income	3.1
F	Street Light Maintenance Charges	2.3
III	Net Income to be considered	153
G	Less: LPSC	25.1
H	Less: Short term gain	5.27
I	Less: Transfer from Consumer contribution for capital works	18.4
J	Less: Bad debts recovered	4.1
K	Less: MNRE Incentive	0.6
L	Less: Write-back of miscellaneous provisions	0.9
M	Less: Collection charges on collection of Electricity Duty	5.9
N	Less: Interest on Income Tax Refund	2.78
O	Less: Interest on NTPC Refund	2.2
P	Less: Gain on Retirement of Assets	1.56
Q	Less: Income from sale of scrap	4.95
IV	Net Non-Tariff Income	81.24

COMMISSION ANALYSIS

3.217 Regulation 94 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

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

- (i) Income from rent of land or buildings;*
- (ii) Net Income from sale of de-capitalised assets;*
- (iii) Net Income from sale of scrap;*

- (iv) Income from statutory investments;
- (v) Net Interest on delayed or deferred payment on bills;
- (vi) Interest on advances to suppliers/contractors;
- (vii) Rental from staff quarters;
- (viii) Rental from contractors;
- (ix) Income from Investment of consumer security deposit;
- (x) Income from hire charges from contractors and others, etc.

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

3.218 The income from sale of scrap is being accordingly dealt to form part of the Non Tariff Income of the Petitioner in accordance with the above stated Regulations.

INTEREST ON CONSUMER SECURITY DEPOSIT (CSD)

PETITIONER SUBMISSION

3.219 The Petitioner submitted that they have considered the difference of normative interest on CSD and the actual interest booked as expense in the Audited Accounts has been added in NTI as under:

Table 3. 69: Petitioner Submission - Interest on Consumer Security Deposit (Rs.Cr.)

Sr. No	Particulars	FY 2021-22
A	Opening Balance of CSD	514.0
B	Closing Balance of CSD	543.1
C	Average Balance	528.6
D	Interest Rate	11.03%
E	Interest on CSD	58.3
F	Interest booked in Audited Accounts	38.3
G	Net Interest to be considered	20.0

COMMISSION ANALYSIS

3.220 The Commission has verified the Consumer Security Deposit with the Petitioner from the Audited financial statements for FY 2021-22. Further, it is observed from the Note 22 and Note 31 of Audited financial statements for FY 2021-22, the Consumer Security Deposit have been bifurcated by the Petitioner under two heads i.e. other financial liabilities –

non-current and other financial liabilities – current. The Commission has considered the amount of Consumer Security Deposit depicting under both the heads of the liabilities as the interest is to be paid on total liability towards the Consumer Security Deposit laying under current and non-current financial liability.

3.221 The Commission has considered the working capital interest rate for FY 2021-22 as trued up is 11.03% for the purpose of determining normative Interest on Consumer Security Deposit.

3.222 The actual amount of interest paid to the consumers comes to Rs. 35.92 Cr. as per the Note 23 of Annual Audited Books of Accounts for FY 2021-22. Accordingly, the difference in the normative interest income and the actual interest booked as expense for FY 2021-22 is being considered as part of the Non-Tariff Income of the Petitioner as follows:

Table 3. 70: Commission Approved - Consumer Security Deposit for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	Petitioner submission	Commission approved	Ref.
A	Opening Balance of Consumer Security Deposit	514.00	514.02	Note 23 and 32
B	Closing Balance of Consumer Security Deposit	543.10	543.13	
C	Average Balance of Consumer Security Deposit	528.60	528.58	(A+B)/2
D	Working Capital Interest Rate	11%	11.03%	
E	Normative amount of Interest	58.30	58.30	
F	Actual Amount of Interest	38.30	35.92	Note 23 (point no. iii) of Audited Accounts
G	Difference to be additionally offered as NTI	20.00	22.38	

DIFFERENCE ON ACCOUNT OF SERVICE LINE DEVELOPMENT (SLD) CHARGES

PETITIONER SUBMISSION

3.223 The Petitioner has stated that the Commission in its Tariff Order dated 29/09/2015 ruled as under:

“3.373 The Commission has considered the service line charges as income for a period of three years for true-up up to FY 2011-12. The service line charges up to

FY 2012-13 have been considered as part of revenue gap up to FY 2012-13 as discussed in earlier paragraphs. For FY 2013-14, service line charges of Rs. 43.37 Crore as per audited financial statement of FY 2013-14 are being considered as part of the non-tariff income of the Petitioner.”

3.224 The Petitioner has challenged the aforesaid issue before Hon’ble ATE in Appeal 290 of 2015 which is sub-judice. Without prejudice to the contentions in the Appeal, the Petitioner has added the difference between the SLD Charges received during FY 2020-21 and that appearing in the Other Income in the Audited Accounts for the purpose of computation of Non-Tariff Income as under:

Table 3. 71: Petitioner Submission - Difference on account of SLD (Rs. Cr.)

Sr. No	Particulars	FY 2021-22
1	Received during the year	45.7
2	SLD Appearing in Other Income	24.4
	Difference Considered	21.4

COMMISSION ANALYSIS

3.225 The Commission has been considering the SLD charges on receipt basis as part of the Non-Tariff income of the Petitioner.

3.226 The Commission verified the Audited Financial Statements and observed that the accounting treatment of the Petitioner continues to amortise the SLD over a period of three years. However, without pre-judice to the contentions in the Appeal 297 of 2015, the Petitioner has offered the SLD on receipt basis. Accordingly, the Commission has considered an amount of Rs. 21.36 Cr. as income from SLD and made part of Non-Tariff Income.

INCOME FROM OTHER BUSINESS (STREET LIGHT MAINTENANCE CHARGES)

PETITIONER SUBMISSION

3.227 The Petitioner has submitted that apart from distribution licensee’s business, the Petitioner is also generating revenue from other business. These other businesses are being operated in parallel by the Petitioner along with the Distribution Business. The

Petitioner is allowed under the applicable laws to carry out these unrelated business.

3.228 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”

3.229 The Petitioner further submitted that the responsibility of maintaining street light is not contained in the Distribution License of the Petitioner. The Electricity Act, 2003 does not mandate the Distribution Licensee to maintain Street Lights. Further, as per Section-42 of Delhi Municipal Corporation Act, 1957, it is the responsibility of MCDs to maintain Street lighting system which is reproduced below:

“42. Obligatory functions of the Corporation

....

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

...

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

3.230 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."

3.231 The Petition further submitted that 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.

3.232 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.

3.233 Petitioner 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.

- 3.234 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.
- 3.235 For carrying out the maintenance services the Petitioner optimally engages its existing manpower, Technicians, Electricians, Electric Men, Line Engineers and also outsources further manpower.
- 3.236 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.
- 3.237 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.
- 3.238 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.
- 3.239 Accordingly, the Petitioner requests the Commission to consider the street light maintenance charges of Rs.2.31 Crore to be reduced from the Non-Tariff Income of FY 2021-22.

COMMISSION ANALYSIS

- 3.240 The Commission in its Order dated 5/03/2004 regarding directions for street lighting in the areas of MCD stated,

"11. ... The best way doing this would be to have an in-built system of providing incentives in case of good performance and likewise, impose penalties in case the performance is lower than expectations..."

The Commission would like to evolve a system whereby good performance is rewarded. Similarly, poor performance also needs to be discouraged and therefore, the Commission directs that full maintenance charges may be paid

for 90% performance. Performance higher than 90 shall earn an incentive for the DISCOMS according to the following table:

Performance level achieved	Incentive	Example
Between 90-95%	1% for each percentage in over achievement from target of 90%	Actual Performance 93% Incentive $93-90 = 3\%$
Between 95-97%	1.5% for each percentage in over achievement from target of 95%	Actual Performance 97% Incentive $= 5 + 3 = 8\%$
Above 97%	2.0% for each percentage in over achievement from target of 97%	Actual Performance 99% Incentive $= 8 + 4 = 12\%$

Performance less than 90% shall attract disincentive for the DISCOMS according to the following table:

Performance level achieved	Incentive	Example
Between 80-90%	1% for each percentage in shortfall to achieve target of 90%	Actual Performance 83% Disincentive $90-83 = 7\%$
Between 70-80%	1.5% for each percentage in shortfall to achieve target of 80%	Actual Performance 77% Disincentive $10+4.5 = 14.5\%$
Above 70%	2.0% for each percentage in shortfall to achieve target of 70%	Actual Performance 60% Disincentive $25 + 20 = 45\%$

The incentive or disincentive would not be a pass through in the calculation of the Annual Revenue Requirement and the payment would be made by the 15th day of the following month."

3.241 The Petitioner could not substantiate its claim by way of documentary evidence of the performance levels achieved in order to claim the incentive. The Petitioner shall be allowed incentive, if any, on account of street light maintenance for FY 2021-22 on production of documentary evidence without any carrying cost. Accordingly, Commission has disallowed the claim of the Petitioner.

POLE RENTAL INCOME

PETITIONER SUBMISSION

3.242 The Petitioner has submitted that the Commission in its Order dated 06/10/2006 in Petition No. 4 of 2005 filed by NDPL has stated that the DISCOM's LT Poles can be used for laying the cable TV network and such usage can be done by way of an agreement between the cable operator and the Licensee for generating revenue. The relevant extract of the Order is reiterated as below:

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

3.243 The Petitioner has earned total income of Rs.3.13 Crore during FY 2021-22 on account of rent from the cable operators for using Petitioner's LT poles for laying their cables/set up. It is further clarified that Proper agreements have been executed between the Petitioner and the operator for such usage in terms of the above Order of the Commission.

Table 3. 72: Pole Rental Income for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	Total Income	Consumer's Share	Petitioner's Share
A	Pole Rental Income	7.83	4.70	3.13

3.244 Accordingly, the Petitioner has proposed to allow reduction from Non-Tariff Income of Rs.3.13 Crore.

COMMISSION ANALYSIS

3.245 Regulation 5(5)(a) of DERC (Treatment of Income from other businesses of Transmission Licensee and Distribution Licensee) first Amendment Regulation, 2017 states that where the Licensee utilises the assets and facilities of the Licenses business for Other business, the Licensee shall retain 40% of the net revenue from such business and pass on remaining 60% of the net revenue to the regulated business.

3.246 Accordingly, the Commission has considered 40% share to be retained by the Petitioner

and accordingly Rs. 3.13 Cr. has been allowed to be reduced from NTI.

LATE PAYMENT SURCHARGE

PETITIONER SUBMISSION

- 3.247 The Petitioner submitted that based on the representation of Foundation of Rubber & Polymer Manufacturers, the Commission vide letter dated 13/12/2012 communicated that LPSC should be charged proportional to the number of days of delay in receiving payment from the consumers by the Petitioner. The Commission in Tariff Order dated 29/09/2015 again directed the Petitioner to charge LPSC proportionate to the number of days of delay in receiving the payment from the consumers of the DISCOMs.
- 3.248 The Petitioner requested the Commission to allow the entire LPSC instead of financing cost of LPSC during FY 2020-21 as the Petitioner charged LPSC proportionate to the number of days of delay and not on flat basis. The methodology of charging LPSC proportionate to the number of days of delay leads to recovery of only financing cost of LPSC for the delay in payment and not on flat basis. However, the Commission 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.
- 3.249 The Petitioner has further submitted that 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.
- 3.250 The Petitioner has also submitted that concept of financing cost of LPSC is based on the principle that the Petitioner will fund the amount delayed through loans whereas, it is practically not possible to arrange for the funding of such delayed payment as the Petitioner does not know in advance as to which consumer will pay the bill on deadline and which consumers will not pay the bill on deadline. The process of raising loans for funding any expenditure is time taking process and therefore, in case of any default on

part of consumers to pay electricity bills in time, the Petitioner has to face the following penalties:

- a) Penalty on account of under-achievement of AT&C Loss: In case of any under-achievement of AT&C Loss, the Commission levies penalty on the Petitioner irrespective of the fact that the default in collection efficiency is on account of consumers.
- b) Penalty in repayment of Loans: 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.

3.251 The Petitioner has stated that such treatment tantamount to discrimination between GENCOs, TRANSCO and DISCOMs which is depicted in the table below:

Table 3. 73: Petitioner submission - Treatment of LPSC to various utilities in Delhi

Sr. No	Particulars	Delhi GENCOs and TRANSCO	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

Sr. No	Particulars	Delhi GENCOs and TRANSCO	Delhi DISCOMs
			computing principal amount despite of change in treatment;

3.252 Accordingly, the Petitioner requested to allow entire LPSC of Rs. 25.12 Crore during FY 2021-22 to be retained by the Petitioner as the same merely meets the financing cost of delay in payment.

COMMISSION ANALYSIS

3.253 Regulation 94 of *DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017* states,

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

...

(v) Net Interest on delayed or deferred payment on bills;

...”

3.254 The Commission during the prudence check has verified and trued up the Working Capital Interest Rate at 11.03%. Accordingly, the Commission has considered the net interest on delayed or deferred payment on bills as Non-Tariff Income of the Petitioner as follows:

Table 3. 74: Commission Approved - Financing Cost of LPSC (Rs. Cr.)

Sr. No.	Particular	As approved	Ref.
A	LPSC earned	25.12	Note 36
B	DERC Covid Order dated 7/04/2020 impact	0	
C	Late payment surcharge rate as per Regulations (%)	18%	
D	Principal Amount	139.56	A/B
E	Normative Interest Rate	11.03%	
F	Financing Cost	15.39	

SHORT TERM GAIN

PETITIONER SUBMISSION

3.255 The Petitioner submitted that they have referred Commission's Tariff Order dated August

31, 2017 has ruled as under:

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

3.256 Further, the Commission in the last Tariff Order has ruled as under:

“3.271 Regulation 94 of DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 stipulates that income from statutory investments will form part of Non tariff Income.

3.272 As short term investments with the banks are not considered towards financing of Capitalization and Regulatory Asset funding, accordingly, the Commission allows the income from such investments amounting to Rs. 9.04 Cr. to be reduced from Non Tariff Income.”

3.257 Accordingly, the Petitioner requested to allow the Petitioner to retain the income of ₹ 5.27 Crore on account of interest received on fixed deposits during FY 2021-22 and reduce the same from the Non-Tariff Income.

COMMISSION ANALYSIS

3.258 The short-term investments made by the Petitioner with the banks/Financial Institutions provide for the short term gain as claimed by the petitioner. Following the view taken in the past by the Commission, the amount of such investments made by the petitioner has not been considered towards the Equity Capital to be used for financing of Capitalisation and Regulatory Asset funding. Thus, the Commission allows the income from such investments amounting to Rs. 5.27 Cr. to be reduced from Non-Tariff Income.

TRANSFER FROM CONSUMER CONTRIBUTION AND CAPITAL WORKS

PETITIONER SUBMISSION

3.259 The Petitioner has submitted that the Commission in previous Tariff Order 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.

- 3.260 Accordingly, the Petitioner has requested to reduce the amount of Rs.18.39 Crore from the Non-Tariff Income during FY 2021-22.

COMMISSION ANALYSIS

- 3.261 The Commission is of the view that the consumer contribution is not considered for calculation of depreciation and RoCE and the Petitioner is making book adjustments in compliance of accounting standards and has no impact on cash flows. Therefore, amount of Rs. 18.39 Cr., transferred from Consumer contribution and capital works, are allowed to be reduced from Non-Tariff Income.

INCOME ON ACCOUNT OF BAD DEBTS RECOVERED

PETITIONER SUBMISSION

- 3.262 The Petitioner has submitted that in the previous Tariff Orders while dealing with this issue has held that since the amount of bad debt recovered is already considered as part of Revenue realised during the year and utilised towards meeting the ARR, the same ought to be excluded from Non-Tariff Income to avoid double accounting.
- 3.263 Accordingly, the Petitioner has requested the Commission not to consider Rs. 4.11 Crore of income recovered on account of bad debts (shown in Note of Audited Accounts) as Non-Tariff Income during FY 2021-22.

COMMISSION ANALYSIS

- 3.264 The amount billed and collected in previous years has already been considered for the purpose of Collection Efficiency during respective years. Therefore, there is no need for

adjustment of any bad debts recovered or bad debts written off in the amount billed and collected. However, as the Petitioner has shown credit amounting to Rs. 4.11 Cr. As bad Debts recovered, the same has been treated as part of Non tariff Income in the absence of any additional explanation in the accounts of the petitioner.

WRITE-BACK OF MISCELLANEOUS PROVISIONS

PETITIONER SUBMISSION

3.265 The Petitioner has submitted that at Para 3.26 of the Tariff Order dated 30.09.2021, the excess provisions written back pertaining to O&M expenses related to reversal on provisions of O&M expenses and retirement of assets is allowed. Relevant extract reproduced as under:

“3.26 Until the final disposal of the issue by the Commission based on the additional submissions made by the Petitioner, the Commission has provisionally considered the write back of miscellaneous provisions pertaining to O&M Expense provisions relating to reversal on provisions on O&M expenses and retirement of assets.”

3.266 The Petitioner has submitted that the amount of Rs.0.9 Crore appearing as Excess provisions written back in Note-36 of the Audited Accounts is an accounting entry reversing the amount of excess Provisions (shown as “Provisions” in the Audited Accounts) created in previous years. Hence, the Petitioner requested that the amount of Rs.0.9 Crore not to be considered as part of Non-Tariff Income for FY 2021-22.

COMMISSION ANALYSIS

3.267 The Commission has allowed the said amount of Rs. 0.88 Cr. as a part of Non-Tariff Income for FY 2021-22.

COLLECTION CHARGES ON ELECTRICITY DUTY

PETITIONER SUBMISSION

3.268 The Petitioner has submitted that as an agent on behalf of Municipal Corporation of Delhi (MCD), collects and pays to the MCD the Electricity Duty in terms of the ‘By laws’. 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 permit the Petitioner to engage in any other business for optimal utilization of its assets.

3.269 Petitioner further submitted that MCD pays commission/ collection charges to the Petitioner for collecting Electricity Duty on its behalf. These charges paid by MCD is purely Other Business within Section-51 of the 2003 Act, as well as, Delhi Electricity Regulatory Commission (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005 and accordingly the same would apply to the aforesaid amount earned by the Petitioner as the 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.

3.270 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 GoNCT of Delhi etc., cash-handling activities, interaction with GoNCT of Delhi 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 GoNCT of Delhi. It is submitted that if GoNCT of Delhi were to perform such similar activity, it would have involved costs. The Petitioner has reduced the efforts on behalf of GoNCT of Delhi, 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.

- 3.271 Since the 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 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.
- 3.272 Petitioner further 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.
- 3.273 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.
- 3.274 The income on account of commission/collection charges 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 11 of Tariff Regulations, 2017 clearly provides that the revenue billed and realised on account of Electricity Duty shall be excluded from the computation of 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 collection charges on such collection earned by the Petitioner cannot form a part of the ARR as Non-Tariff income.

- 3.275 Accordingly, the Income from commission/ collection charges received on account of collection of Electricity Duty i.e., Rs. 5.86 Crore ought to be deducted from Non-Tariff Income during FY 2021-22.

COMMISSION ANALYSIS

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

MNRE INCENTIVE

PETITIONER SUBMISSION

- 3.277 The Petitioner has submitted that Component B of Phase – II of Grid Connected Rooftop Solar Programme of MNRE is as follows:
- Incentives to be provided to DISCOMs for each MWp capacity of solar rooftop, added by them in their distribution area over and above 10% of base capacity installed at the end of previous year.
 - The incentive pattern is a progressive one with higher incentive rates for higher levels of achievement as under:

Table 3. 75 : Petitioner Submission:

Sr.No.	Parameter	Incentive to be Provided
1.	For installed capacity achieved above 10 % and up to 15 % over and above of the installed base capacity within a financial year	5% of the applicable cost for capacity achieved above 10% of the installed base capacity
2.	For installed capacity achieved beyond 15% over and above of the installed base capacity within one financial year	5% of the applicable cost for capacity achieved above 10% and up to 15% of the installed base capacity PLUS 10% of the applicable cost for capacity achieved beyond 15% of the installed base capacity

3.278 The Petitioner has submitted that as per MNRE Guidelines on implementation of Phase – II of Grid Connected Rooftop Solar Programme for achieving 40 GW capacity from Rooftop Solar by the year 2022 dated 20/08/2019, the incentive under the guidelines is to the account of DISCOMs. The relevant extracts of guidelines is reproduced below:

“5.2.7 As the incentives are proposed for various reasons mentioned in 5.2.1 and 5.2.2, the above incentives proposed may not be a part of Tariff Determination & Tariff Rationalisation process of SERC /JERC.”

3.279 Accordingly, the Petitioner has claimed the incentive amounting to Rs. 0.65 Crore for FY 2021-22 as also reflected in Note 36 of the Audited Accounts.

COMMISSION ANALYSIS

3.280 The Commission has allowed the said amount of Rs. 0.65 Cr. as a part of Non-Tariff Income for FY 2021-22.

INTEREST ON INCOME TAX REFUND

PETITIONER SUBMISSION

3.281 The Petitioner has submitted that they have received refund of Rs. 49.29 Crore along with interest on Income Tax refund of Rs. 4.19 Crore for FY 2019-20. The said reversal was necessitated as the Petitioner had opted for the Tax Regime u/s 115 BAA while filing the

Income Tax Return for FY 2019-20 (in FY 2020-21).

- 3.282 Since income tax of Rs. 16.63 Crore for FY 2019-20 was approved for FY 2019-20, the Petitioner has submitted to consider the amount which is received as refund during FY 2021-22 vis-à-vis amount approved by the Commission True up as follows:

Table 3. 76: Refund of Income Tax Treatment (₹ Crore)

FY	Actual Income Tax	Income Tax Approved by DERC	Refund Received			% of Refund	Refund Received Treatment in True Up Petition (Without prejudice)		
			Principle	Interest	Total		Principle (To be reduced from ARR)	Interest to be retained in NTI	Interest to be reduced from NTI
FY 2019-20	49.33	16.63	49.29	4.19	53.48	99.93 %	16.62	1.41	2.78

- 3.283 Accordingly, the Petitioner has requested to allow amount of Rs. 2.78 Crore received towards interest on Income Tax refund to be retained by the Petitioner.

COMMISSION ANALYSIS

- 3.284 The Commission considers the interest of Rs. 2.55 Cr. attributable to the income tax allowed by the Commission in the true up of FY 2019-20 as part of Non-tariff income. The Income tax earlier allowed in the True Up Order dated 19/07/2024 amounting to Rs. 19.34 Cr. towards income tax is being reduced from the ARR of FY 2021-22 as amount refunded as it is not an income but reduction in the cost of the DISCOM.

INTEREST ON NTPC REFUND

PETITIONER SUBMISSION

- 3.285 The Petitioner has submitted that they have surrendered Dadri-I Station of NTPC on completion of its useful life of 25 years under the Regulation-17 of CERC (Terms and Conditions of Tariff) Regulations, 2019, which has been upheld by the Hon'ble CERC order dated 01/07/2021.
- 3.286 Aggrieved by this, the Petitioner filed Appeal no. 239 of 2021 before the Hon'ble APTEL. The Hon'ble APTEL vide order dated 26/08/2021 had granted stay on the payment of

related fixed charges. Further, the Hon'ble APTEL vide order dated 8/02/2022 has set aside the aforesaid CERC order dated 1/07/2021, allowed the Petitioner to exit the PPA from the date of completion of 25 years from CoD, directed NTPC to not raise any Invoice with respect to any charges qua Dadri – I Station w.e.f. 1/12/2020 and refund the payment made by the Petitioner under protest along with interest as specified in the PPA / SPPA.

- 3.287 Accordingly, NTPC has refunded an amount of ₹25.95 Crore (₹23.77 Crore towards net principal and ₹2.18 Cr towards interest) paid under protest, regarding Dadri-I to the Petitioner.
- 3.288 The Petitioner has adjusted its power purchase cost by the credit towards aforesaid principal amount and has included the credit towards interest amount in the Note 36 of the audited accounts as part of other income.
- 3.289 The Petitioner submits that the as such earned interest cost is similar nature to LPSC, the interest cost ought not to be considered in the ARR as LPSC is also not considered as a part of ARR.
- 3.290 Therefore, the Petitioner requests to allow the amount of ₹ 2.18 Crore credited towards interest to be retained by the Petitioner.

COMMISSION ANALYSIS

- 3.291 The Commission had allowed the Petitioner the power purchase cost relating to the plant in the respective power purchase cost of the Petitioner in the year of claim and was thus included in arriving at its ARR. Now, when the credits have been received by the Petitioner, any interest received thereon is not in any way as LPSC as claimed by the Petitioner. Thus, the Commission has considered the said amount as a part of Non-Tariff Income for FY 2021-22.

INCOME FROM SALE OF SCRAP

PETITIONER SUBMISSION

- 3.292 The Petitioner has submitted that depreciation of any asset funded through equity and debt is allowed up to 90% of the capital cost and balance 10% is to be considered as salvage value as per Regulation 80 of the Tariff Regulations 2017. The Petitioner has

earned ₹ 4.95 Crore through Sale of Scrap during FY 2021-22.

- 3.293 Since the Commercial Principle allows the Petitioner to recover the cost against residual value, therefore the Petitioner requests to allow the amount of ₹ 4.95 Crore. received as income from sale of scrap to be retained by the Petitioner.

COMMISSION ANALYSIS

- 3.294 Regulation 94 and 95 of DERC, Tariff Regulations 2017 stipulates,

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

- (i) Income from rent of land or buildings;*
 - (ii) Net Income from sale of de-capitalised assets;*
 - (iii) Net Income from sale of scrap;*
 - (iv) Income from statutory investments;*
 - (v) Net Interest on delayed or deferred payment on bills;*
 - (vi) Interest on advances to suppliers/contractors;*
 - (vii) Rental from staff quarters;*
 - (viii) Rental from contractors;*
 - (ix) Income from Investment of consumer security deposit;*
 - (x) Income from hire charges from contractors and others, etc.*
- 95. The Non-Tariff Income shall be reduced from ARR.”*

- 3.295 The income from sale of scrap is being accordingly dealt to form part of the Non-Tariff Income of the Petitioner in accordance with the above stated Regulations.

GAIN ON RETIREMENT OF ASSETS

PETITIONER SUBMISSION

- 3.296 The Petitioner has submitted that they have earned ₹ 1.56 Crore on account of gain from sale of retired assets during FY 2021-22. Accordingly, it is requested to allow the amount of ₹1.56 Crore on account of gain from sale of retired assets to be retained by the Petitioner.

COMMISSION ANALYSIS

3.297 The Commission observes that the Petitioner has claimed Loss on retirement of Assets under Regulation 45,46,47 of DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 amounting to Rs. 5.65Cr. which is pending finalization. The Commission shall review the claim on gain of sale of retired assets after taking cognizance of the claims on retired assets in accordance with applicable Regulations. Accordingly, the amount of Rs. 1.56 Cr. as claimed by the Petitioner is retained as a part of Non-Tariff Income for FY 2021-22.

INCOME FROM ADVANCE FROM CONSUMERS**COMMISSION ANALYSIS**

3.298 It is observed that the Petitioner had claimed the advances received from consumers as revenue collected as discussed in earlier sections. As deliberated in Order dated 28/08/2020, the Commission is of the view that the advance available with the Petitioner is a liability and may have to be returned to the Consumer in case not billed in future. The Commission further sought the monthly advance balances available with the Petitioner. It was observed that the advances opening and closing balances for the financial year were higher than the average monthly balance with the petitioner on such account. Accordingly, the Commission considered the financing cost based on the working capital interest rate on the monthly average balances held with the petitioner at Rs. 8.63 Cr. to be reduced from the Non-tariff income of the Petitioner.

Table 3. 77: Commission Approved - Interest rate for the computation of financing cost

As on	31-Mar-21	30-Apr-21	31-May-21	30-Jun-21	31-Jul-21	31-Aug-21	30-Sep-21	31-Oct-21	30-Nov-21	31-Dec-21	31-Jan-22	28-Feb-22	31-Mar-22	Total
Actual amount		13.11	12.76	13.96	13.85	13.75	13.85	15.81	15.62	15.18	14.95	16.23	29.13	
SD release		27.33	27.27	27.23	27.17	27.06	26.98	26.95	26.91	26.87	26.78	26.74	26.67	
Interest on SD		18.05	15.10	13.99	12.82	12.39	12.18	12.07	12.03	11.99	11.89	11.84	30.66	
Other reasons		15.96	16.31	24.57	24.28	22.02	20.89	21.40	21.72	24.32	24.83	24.55	22.29	
Total	85.49	74.45	71.44	79.75	78.12	75.22	73.90	76.23	76.28	78.36	78.45	79.36	108.75	
Monthly average		79.97	72.95	75.60	78.94	76.67	74.56	75.07	76.26	77.32	78.41	78.91	94.06	
Monthly Interest	11.03%	0.74	0.67	0.69	0.73	0.70	0.69	0.69	0.70	0.71	0.72	0.73	0.86	8.63

COMMISSION ANALYSIS**NON TARIFF INCOME**

3.299 Thus, The Non-tariff income approved by the Commission for FY 2021-22 is as follows:

Table 3. 78: Commission Approved - Non Tariff Income for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	Petitioner's Submission	As per Commission
A	Other Operating Revenue	79.6	79.57
B	Other Income	37.4	37.40
C	Total other income	117	116.97
D	Add: Interest from CSD	20.00	22.38
E	Add: Income on SLD	21.40	21.36
F	Add: Income from Advance from Consumers	-	8.63
G	Total Income for computation of NTI	158.40	169.34
H	Less: Street Light Maintenance Charges	2.3	-
I	Less: Pole Income	3.1	3.13
J	Net Income for computation of NTI	153	166.21
K	Less: LPSC	25.10	15.39
L	Less: Write-back of misc. provisions	0.90	0.88
M	Less: Short term gain	5.27	5.27
N	Less: Transfer from Consumer contribution for capital works	18.40	18.39
O	Less: Bad debts recovered	4.10	-
P	Less: Incentive towards Street Light	-	-
Q	Less: Collection charges on ED	5.90	-
R	Less: MNRE Incentive	0.60	0.65
S	Less: Interest on Income Tax Refund	2.78	2.55
T	Less: Interest on NTPC Refund	2.20	-
U	Less: Gain on retirement of asset	1.56	-
V	Less: Income from sale of scrap	4.95	-
W	Net Non-Tariff Income	81.24	123.08

INCOME FROM SALE THROUGH OPEN ACCESS**PETITIONER SUBMISSION**

3.300 The Petitioner has submitted that in addition to the Income derived from Other Business, they have recovered Rs. 45.70 Crore as Open Access Charges during FY 2021-22 which has been considered for offsetting the revenue (gap)/surplus for the year.

COMMISSION ANALYSIS

3.301 The Commission has accordingly considered an amount of Rs. 45.70 Cr. Open Access Charges for FY 2021-22 and reduced the same from the ARR of the petitioner.

AGGREGATE REVENUE REQUIREMENT FOR TRUING-UP OF FY 2021-22**PETITIONER SUBMISSION**

3.302 The Petitioner has submitted the Annual Revenue Requirement for FY 2021-22 sought for True-up is tabulated below:

Table 3. 79: Petitioner Submission - Aggregate Revenue Requirement for FY 2021-22 (Rs.Cr.)

Sr. No	Particulars	Submission
A	Purchase of power including Transmission Charges	3,431.7
B	O&M Expenses	783.9
C	Additional O&M Expenses	74.3
D	Depreciation	192.3
E	Return on Capital Employed (RoCE)	392.7
F	Sub-total	4,875.5
G	Less: Non-Tariff Income	81.2
H	Less: Income from Open Access	45.7
I	Aggregate Revenue Requirement	4,748.1
J	Carrying Cost	444.1
K	Gross ARR	5,192.2

COMMISSION ANALYSIS

3.303 The Aggregate Revenue Requirement as approved by the Commission for FY 2021-22 is as follows:

Table 3. 80: Commission Approved - Aggregate Revenue Requirement for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	As per Petitioner	As per Commission
A	Power Purchase (including Trans. & SLDC Charges)	3,431.7	3,459.64
B	O&M Expenses	783.9	783.83
C	Additional O&M Expenses	74.3	6.72
D	Depreciation	192.3	182.92
E	RoCE/ Finance Charges	392.7	305.75
F	Income tax		-
G	Sub-total	4,875.5	4,738.85
H	Less: NTI	81.2	123.08

Sr. No.	Particulars	As per Petitioner	As per Commission
I	Less: Income from Open Access	45.7	45.70
J	Less: Income tax refund received	-	19.34
K	Aggregate Revenue Requirement (ARR)	4,748.1	4,550.73

REVENUE AVAILABLE TOWARDS ARR

PETITIONER SUBMISSION

3.304 The Petitioner has submitted the revenue available towards ARR is as follows:

Table 3. 81: Petitioner Submission - Revenue for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	Submission
A	Total Revenue Collected	4,728.3
B	Less: Amount to be retained by Petitioner on account of over achievement of Distribution Loss Targets	15.2
C	Less: Amount to be retained by Petitioner on account of Over achievement of Collection Efficiency Targets	35.2
D	Less: Incentive on Sale of Surplus Power	27.0
E	Add: Income Tax Refund	16.6
F	Revenue available towards ARR	4,667.6

COMMISSION ANALYSIS

3.305 The Commission has computed the Revenue available towards ARR as follows:

Table 3. 82: Commission Approved - Revenue Available towards ARR for FY 2021-22

(Rs. Cr.)

Sr. No	Particulars	As per Petitioner	As per Commission
A	Actual Revenue realised excluding Electricity duty, LPSC, Regulatory Surcharge, Pension trust surcharge	4,728.3	4,728.33
	Less:-		
B	Carrying Cost	-	
C	Incentive on account of overachievement of Distribution Loss Targets	15.2	14.40
D	Incentive on sale of surplus power	27.0	26.03
E	Incentive/(Penalty) on account of overachievement of Collection Efficiency Targets	35.2	31.90
F	Add: Income Tax Refund of Previous Years received in current year	16.6	-
G	Revenue available towards ARR	4,667.6	4,656.00

REVENUE (GAP)/ SURPLUS**PETITIONER SUBMISSION**

3.306 The Petitioner has submitted the revenue gap during FY 2021-22 is tabulated as under:

Table 3. 83: Petitioner Submission - Revenue (Gap) for FY 2021-22 (Rs. Cr.)

Sr. No	Particulars	Submission
A	Aggregate Revenue Requirement	5,192.2
B	Revenue available towards ARR	4,667.6
C	Revenue (Gap)/Surplus	(524.6)

COMMISSION ANALYSIS

3.307 The Revenue (Gap)/ Surplus after true up of ARR for FY 2021-22 as approved by the Commission is as follows:

Table 3. 84: Commission Approved – Revenue Surplus/(Gap) towards ARR for FY 2021-22 (Rs. Cr.)

Sr. No.	Particulars	Petitioner Submission	Commission Approved
A	ARR For FY 2021-22 (Net of carrying cost)	4,748.1	4,550.73
B	Revenue Available Towards ARR without Carrying cost	4,667.6	4,656.00
C	Revenue (Gap)/Surplus	(80.50)	105.27

CONSOLIDATED REVENUE (GAP)/SURPLUS TILL FY 2021-22

3.308 The Revenue (Gap)/Surplus upto FY 2021-22 is summarised in the table as follows:

Particulars	FY 2021-22
Opening Revenue Gap as per Tariff Order 19/07/2024	(8,419.14)
Revenue Surplus/(Gap)during the year	105.27
Recovery of Revenue Gap via 8% Surcharge	336.52
Closing Revenue Gap	(7,977.35)
Average Revenue Gap	(8,198.25)
Equity Available for Regulatory Asset	918.16
Debt for funding of Regulatory Asset	7,280.08
re	14.00%
rd	11.17%
Rate of carrying cost	11.49%
Carrying Cost Amount	(941.73)
Closing Revenue Gap	(8,919.08)

Annexure I**DELHI ELECTRICITY REGULATORY COMMISSION**

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

F.11(2054)/DERC/2022-23

Petition No. 70/2022In the matter of: **Petition for True up of expenses for FY 2021-22.**

BS&S Yamuna Power Limited,
Through its: CEO
Shakti Klean Building,
Karkardooma,
Delhi-110092.

...Petitioner/Licensee

Coram:
Hon'ble Dr. A. K. Ambast, Member

Appearance:
Mr. Buddy A Ranganathan, Adv. BYPL

INTERIM ORDER

(Date of Hearing: 24.01.2023)
(Date of Order: 24.01.2023)

1. Mr. Buddy A Ranganathan, appeared on behalf of BYPL. He has submitted that the instant Petition has been filed by M/s. BYPL for approval of True-up upto FY 2021-22. It was noted that the Petition has been scrutinised and found generally in order as per the DERC Comprehensive [Conduct of Business] Regulations, 2001.
2. On due consideration, the True Up Petition for FY 2021-22 is admitted by the Commission. Further, the Petitioner shall have to furnish clarifications/ additional information, as and when required by the Commission.


(Dr. A.K. Ambast)
Member

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

Annexure IILIST OF RESPONSES RECEIVED FROM STAKEHOLDERS ON TRUE UP OF FY 2021-22

Sr. No.	Name	Address	Category	Company/ Licensee	Date of Receipt
1.	Sh. B.S. Sachdev	Elderly People's Forum B-2/13A Keshav Puram Delhi 110 035	RWA	DISCOMs	13/06/2023 23/06/2023 28/06/2023 23/06/2023 13/12/2023
2.	Sh. Arun Kumar Datta	222, Pocket-E, Mayur Vihar Phase II Delhi 110 091	RWA	DISCOMs	21/06/2023 26/07/2023 3/09/2023 25/07/2023
3.	Sh. Anil Sood Hony President – SPCHETNA	A 414-415, Somdutt Chamber- 15 Bhkajicama Place, New Delhi	RWA	DISCOMs	23/06/2023 12/07/2023
4.	Satya Prakash Times	A-71, Shashtri Nagar, Delhi – 110052	Industrial	TPDDL	23/12/2023
5.	Sh. Pankaj Gupta Gen. Manager	Delhi Metro Rail Corporation Ltd. Metro Bhawan, 13, Fire Brigade Lane, Barakhamba Road, New Delhi 110 001	Industrial	BYPL BRPL TPDDL	06/07/2023
6.	Sh. Pawan Kr. Garg Sh. Ashish Garg	Narula Industrial Complex Welfare Association F-1999, DSIIDC Industrial Complex, Narela, Delhi – 110040	Industrial	TPDDL	30/11/2023
7.	Sh. K.K. Verma General Manager (C&RA)	Delhi Transco Ltd. General Manager (Commercial & Regulatory Affairs) 33kV Grid S/Station Building, I.P. Estate, New Delhi 110 002	Govt.	DISCOMs IPGCL	7/07/2023 19/12/2024
8.	Sh. Saurabh Gandhi Gen. Secretary	United Residents of Delhi (URD) C6/7 Rana Pratap Bagh, Delhi 110 007	RWA	DISCOMs	6/07/2023 11/09/2023 1/08/2023

Sr. No.	Name	Address	Category	Company/ Licensee	Date of Receipt
9.	Sh. Harvinder Singh Basra	Basra Engg. Works C-86, Sec-2, Bawana Industrial Area, New Delhi – 110039	RWA	DISCOM	17/11/2023
10.	Sh. Rajiv Kakria Convener	rkakria3@gmail.com	RWA	DISCOMs	6/07/2023
11.	Sh. A.K. Singh General Manager	Bharti Airtel Limited Head L&R Delhi LSA Anuj.Singh@airtel.com	Industrial	DISCOMs GENCOs TRANSCO	10/07/2023
12.	Sh. Avdhesh Kumar Upadhyay	Flat A-1, Plot A333, Street 35, Chattarpur Enclave Phase II, New Delhi – 110074	Industrial	DISCOM	-
13.	CA Sanjay Gupta General Secretary	C-4/15, Model Town-3, Delhi 110 009	RWA	DISCOMs	10/08/2023
14.	Sh. V.K. Malhotra General Secretary	DVB Engineers' Association D-3, Vikas Puri, New Delhi 110 018	Association	DISCOMs	10/07/2023 28/07/2023
15.	Sh. Rajeev Kumar	IGL Bhawan, Plot No. 4, Community Centre, Sector-9, R.K. Puram, New Delhi – 110022	Govt.	IPGCL	1/08/2023
16.	Sh. Y.K. Anand President	Babar Road Colony Lease Holders Association 58, Babar Road, Bengal Market Ykanand62@gmail.com	Domestic	NDMC	11/07/2023

Sr. No.	Name	Address	Category	Company/ Licensee	Date of Receipt
17.	Sh. Ashok Bhasin	Delhi Pradesh Congress Committee Cell Camp Office Bhagidari, 1618, Chandrawal Road, Clock Tower, Delhi 110007	Domestic	DISCOMs	7/02/2024
18.	Sh. Sachin Gupta	Public News BU-54, SFS Flats, Pitampura, New Delhi – 110034	Domestic	DISCOMs	22/01/2024
19.	Sh. Sahendra Singh	IPGCL, Himadri, Rajghat Power House Complex, New Delhi – 110002	IPGCL	DISCOMs	18/07/2023 12/09/2023 8/11/2024 10/12/2024 16/12/2024
20.	Sh. Anurag Bansal	TPDDL, NDPL House, Hudson Lines, Kingsway Camp Delhi – 110009	TPDDL	PPCL DTL IPGCL	26/03/2023 26/07/2023 28/07/2023
21.	Sh. Atul Bhardwaj	NDTA	Association	NDMC	10/07/2023
22.	Sh. Anant Trivedi	trivadianant@gmail.com	RWA	BYPL	7/08/2023
23.	Sh. Lalit Mohan Sharma	10/117, University Road, Vishshwas Nagar, New Dlehi 110 032	RWA	BYPL	4/08/2023
24.	Sh. Harmeet Singh President	2462, Basti Punjabi, Subzi Mandi, Roshanara Road, Delhi 110 007	RWA	TPDDL	15/09/2023
25.	Sh. B.B. Tiwari Secretary	sarwasharpan@gmail.com	RWA	TPDDL	22/09/2023
26.	Sh. K.C. Jain	198, Dr. Kukherjee Nagar, Delhi 110 009 kcjqcd@gmail.com	RWA	TPDDL	21/09/2023
27.	Sh. H.M. Sharma	146(FF), Vinobapur, Lajpat Nagar-2 New Delhi 110 024	RWA	DISCOMs	20/09/2023

Sr. No.	Name	Address	Category	Company/ Licensee	Date of Receipt
28.	Sh. Hariram Bhardwaj	DVB Pensiones Association, Rajghat Power House, New Delhi – 110002	RWA	DISCOMs	18/12/2024
29.	Sh. Rakesh Bansal	East Delhi Manufacturers Association B-17, Jhilmil Industrial Area, Behind Jhilmil Metro Station, Delhi – 110095	RWA	DISCOMs	26/12/2023
30.	Sh. Sushil Goel	North-West Industrial Federation 118, SMA, Co-operative Indl. Estate, G.T. Karnal Road, Delhi – 110033	RWA	DISCOMs	14/03/2024
31.	Sh. Virendra Sachdeva	Bhartiya Janta Party 14, Pt. Pant Marg, New Delhi – 110001	RWA	DISCOMs	14/07/2024
32.	Sh. Rajesh Nilkanth Shinde	Airports Authority Of India Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi – 110003	Govt.	DISCOMs	17/05/2024
33.	Sh. Sanjeev Kumar	Airports Authority Of India Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi - 110003	Govt.	DISCOM	20/02/2024
34.	Sh. Sameer Singh	BSES Rajdhani Power Ltd. BSES Bhawan, Nehru Place, New Delhi 110 019	DISCOM	DTL	9/10/2024
35.	Sh. Shiva Suman	In individual Capacity, Citizen of India	Industrial	DISCOM/SLD C/IPGCL/PPC L/DTL	12/07/2023
36.	Ms. Monika Dhyani	BSES Rajdhani Power Ltd. BSES Bhawan, Nehru Place, New Delhi 110 019	DISCOM	DTL	9/10/2024

Annexure-III

STAKEHOLDERS WHO HAVE REGISTERED AT THE VIRTUAL PUBLIC HEARING FOR THE PETITION FILED BY DISCOMs, GENCOs, AND TRANSCO ON THE APPROVAL PETITION FOR TRUING UP OF EXPENSES UPTO FY 2021-22

Sr. No.	Name	Organisation
1	Amarjeet Singh	Domestic Consumer
2	Kamal Kishore Verma	DTL
3	Lalit Chopra	NDMC
4	Chandra Mohan Jain	NDMC
5	Surendranath Amalakanti	NDMC
6	A.W. Ansari	NDMC
7	Adarsh Kumar Handa	Domestic Consumer
8	Somya Tripathi	DMRC
9	Shubham Kumar	DMRC
10	Mukesh Kumar Goel	DMRC
11	Anurag Bansal	TPDDL
12	Saurabh Gandhi	URD, RWA
13	Amit Sharma	URD, RWA
14	Amit Kansal	IPGCL/PPCL
15	Manmohan Verma	URD, RWA
16	Sandeep Kapoor	Apex Chamber of Commerce & Industry
17	Harvinder Singh Basra	Bawana Industrial Area
18	Bhagwat Prasad Agarwal	MCD, Advocate, High Court Bar Association
19	Arun Kumar Rathore	MCD
20	Arun Kumar Datta	URD, RWA
21	Vishnu Kumar	DISCOM
22	Chirag	DISCOM
23	Akash Gupta	DISCOM
24	Shweta Chaudhary	DISCOM
25	Rajul Agarwal	DISCOM
26	Monika Dhyani	DISCOM
27	Kanishk Khettarpal	DISCOM
28	Amal Sinha	DISCOM
29	Vikas Dixit	DISCOM
30	Rajeev Chowdhury	DISCOM

Sr. No.	Name	Organisation
31	Sameer Singh	DISCOM
32	Gaurav Thapan	DISCOM
33	Naveen Vats	DISCOM
34	Brajesh Kumar	DISCOM
35	Prachi Jain	DISCOM
36	Parul Prasad	DISCOM
37	Jaya Rathi	DISCOM
38	Garima Belwal	DISCOM
39	Gurmeet Singh	DISCOM
40	Sanjay Srivastav	DISCOM
41	Man Mohan Mehra	Association
42	Sanjay Gaur	Patparganj Industrial Area
43	CA Sanjay Gupta	Model Town, RWA
44	Hemanta Sharma	RWA
45	Bharti Airtel	Industrial
46	Manish Jain	TPDDL
47	Sanket Sharma	TPDDL