

CHAPTER 3B
PAST CLAIMS TILL FY 2019-20



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

- 3B.1 The present Chapter deals with that portion of Regulatory Asset which is yet to be recognised by the Hon'ble Commission in Tariff Orders issued till date. The unrecognised Regulatory Asset has been bifurcated in the following four broad categories:
1. Category-1: Impact of issues under consideration by the Hon'ble Commission.
 2. Category-2: Implementation of APTEL Judgments in absence of any stay from Hon'ble Supreme Court:
 - 2A. Impact of APTEL Judgments which have attained finality vide Supreme Court Order dated 01.12.2021
 - 2B. Impact of other APTEL Judgments yet to be implemented by the Hon'ble Commission
 3. Category-3: Impact of Review Petition filed before the Hon'ble Commission against Tariff Order dated 30.09.2021
 4. Category-4: Impact of issues challenged in Appeal and pending adjudication before the Hon'ble APTEL.
- 3B.2 These claims have been discussed in detail in subsequent paragraphs and the impact of such claims along with carrying cost accrued till FY 2020-21 has been considered as a part of Regulatory Assets claimed in this Petition.

Category-1: Impact of issues under consideration by the Hon'ble Commission**Issue-1.1: Write Back of Miscellaneous Provisions considered as Non-Tariff Income FY 2007-08 to FY 2018-19**

- 3B.3 The Hon'ble Commission in Tariff Order dated 30.09.2021 has partially implemented the impact pertaining to Review Order dated 13.12.2019 passed in Review Petition 31 of 2018. On the issue of Write Back Miscellaneous provisions considered as Non-Tariff Income upto FY 2018-19, Hon'ble Commission in the Tariff Order dated 30.09.2021 has stated that the information submitted by BYPL is under scrutiny and 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.
- 3B.4 Relevant extracts of the Tariff Order is reproduced as under:

"3.25.... There was hardly any time left for the Commission to examine and verify the authenticity of the data furnished by the DISCOMs, as the Commission was committed to issue the Tariff Order for FY2021-22 before 30/09/2021.

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."

- 3B.5 Since all the information as and when sought by the Hon'ble Commission has been duly submitted for implementation of this issue, The Petitioner requests the Hon'ble Commission to allow the complete impact which is being claimed under this category along with Carrying Cost.

Issue-1.2: Disallowances of PP cost on MOD basis for FY14

- 3B.6 As regards the disallowance of power purchase cost on account of Merit Order Despatch during FY 2013-14, the Hon'ble Commission has allowed only 50% of the impact as per Tariff Order dated 28.08.2020 stating as under:

"The Commission has also sought Plant-wise, month-wise and day-wise violations for FY 2012-13 and FY 2013-14 prior to implementation of DISCOM-wise from SLDC is still awaited. Therefore, penalty of Rs. 54.01 Cr. For FY 2013-14 has been provisionally reversed by 50%."

- 3B.7 It is submitted that the amount has not been allowed by the Hon'ble Commission for no fault of the Petitioner and therefore, the Petitioner requests the Hon'ble Commission to allow the remaining 50% impact which is being claimed under this category along with carrying cost.

Issue -1.3: To allow increase in employee expenses corresponding to increase in consumer base:

- 3B.8 In the Petitioner's licensed area of supply, consumer base has increased by 37% in FY 12 as compared to FY 2006-07 (FY 07: 8.9 Lakhs, FY 12; 12.3 Lakhs) and units billed have grown by 58 % in FY 2011-12 as compared to FY 2006-07 (Units billed 2007: 359 MU, 2012: 4844 MU). The Petitioner is obligated under the extant regulatory framework to maintain standards in supply of electricity and to retain AT & C loss levels effectively. As per the Hon'ble ATE order, the Hon'ble Commission is required to factor in the increase in employee cost required due to increase in consumer base.
- 3B.9 The Hon'ble APTEL in Judgment dated October 6, 2009 (Appeal No. 36 of 2008) has held that the Delhi Commission should true up employee expense to the extent of increase caused by increase in consumer base. The relevant extracts are reproduced below:

"74) Having gone through the impugned order we do find that the Commission has not considered the issue of possible increase in the

number of employees consequent on increase in the consumer base. Nor has the Commission ruled on the Petitioner's proposal to increase the salaries etc. The Commission has nonetheless assured to true up the employees expenses subject to prudence check. The Commission shall also take care of the related carrying cost. This should satisfy the Petitioner.

75) ... We thus conclude the issue of employees' expenses by saying that the: The Commission shall allow the expenses incurred towards the retirement benefit of SVRS optees pending decision of the Actuarial Arbitration Tribunal and shall true up the employee expenses to the extent of increase caused by increase in the consumer base..... "

3B.10 The above Judgement has attained finality as the Hon'ble Supreme Court vide its Order dated 01.12.2021 has inter-alia dismissed the Civil Appeals with a direction to implement the above mentioned APTEL Judgement dated 30.10.2009 within a period of 3 months.

3B.11 Further, the Hon'ble Commission in Tariff Order dated July 31, 2013 stated as under:

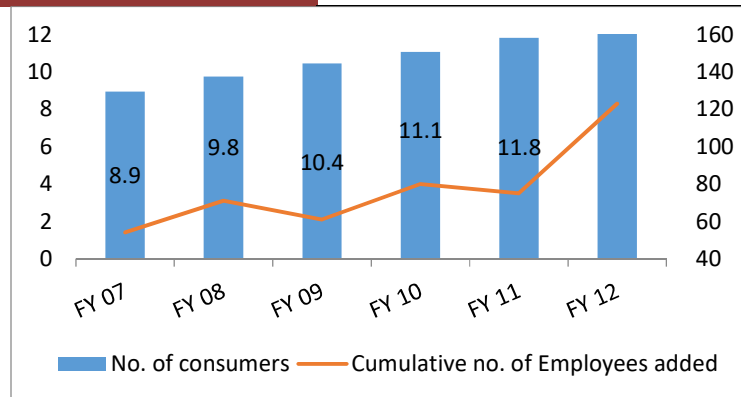
"3.95 As regard true up of the employees expenses to the extent of increased cost by increase in consumer base and salary hike comparable to sixth pay Commission's recommendations for employees other than erstwhile DVB employees, the Commission has initiated a benchmarking exercise for employee expenses taking into account the increased consumer base as well as increase in sales. This would also take into account the salary hike of employees other than the erstwhile DVB employees. The impact will be given once the benchmarking exercise is completed."

3B.12 The aforesaid benchmarking exercise has not found place in any of the tariff orders issued after July 31, 2013.

3B.13 It is further submitted that the Petitioner has added considerable number of employees during the MYT Control period to cater to the needs of the business growth as shown in the figure below:

Figure 1: Additional recruitment to meet business growth





3B.14 In view of the aforesaid submissions, the Hon'ble Commission is requested to expeditiously implement the Hon'ble APTEL judgment and to true-up the employee expenses to the extent of increased cost due to increase in consumer base along with carrying cost.

Issue 1.4: Bank Charges/Syndication Fees

3B.15 This issue pertains to the financing cost incurred by the Petitioner towards availing loans for the purpose of funding of Regulatory Assets created by the Hon'ble Commission from FY 2007-08 onwards. The Petitioner's case is that the rate of interest allowed for carrying cost is normative and does not include financing charges for availing the loans. It is well recognised that Regulatory Assets are legitimate and admitted dues of the DISCOMs and which should be created only in exceptional circumstances. However, in Delhi, Regulatory Assets have been created only to avoid tariff shock. It is an undisputed position that in FY 2010-11, the quantum of Regulatory Assets substantially increased. As a result, the Petitioner was forced to take loans from banks which charged syndication fees.

3B.16 As regards, the Petitioner also highlights that on May 2021, it had filed I.A. No. 860 of 2021 in its pending Appeal No. 235 of 2014 filed against Tariff Order dated 23.07.2014 passed by the Hon'ble Commission. The Hon'ble APTEL vide Order dated 07.06.2021 disposed of said Interim Application No. 860 of 2021 and partly allowed the Appeal, including this issue, as under:

"According to learned counsel for the Appellant, the issues referred to in the instant applications, which are enumerated therein are already covered by judgments / orders of this Tribunal, and having heard learned counsel for both the parties, we dispose of these appeals, partly, directing the Respondent Commission to follow the directions of the Tribunal on these 15 issues as held by us in Appeal No.246 of 2014 judgment dated 30.09.2019 and Appeal No. 213 of 2018, if there is no stay order on the judgments of the Tribunal by the Hon'ble Supreme Court of India. We, further direct the Respondent Commission to consider these issues on the tariff which has to be determined for the Appellants herein in the current tariff proceedings

pending before the Commission.

Accordingly, the above appeals are partly allowed. Both the IAs shall stand disposed of. The rest of the contested issues may be heard and disposed of on merits.

- 3B.17 In line with the above judgement, the Petitioner vide letter dated 09.06.2021 requested the Hon'ble Commission to implement the directions of Hon'ble APTEL. A meeting was held by the Hon'ble Commission on 17.06.2021 in this regard with the Petitioner wherein the Petitioner was directed to submit clarifications on Syndication Fees/Bank Charges. The Petitioner vide letter dated 21.06.2021 clarified that finance charges have not been included in IDC and not considered a part of CAPEX. Further, it was also highlighted that the Distribution Companies in other States have not capitalised the finance charges along with assets and respective State Commissions have allowed the same as a part of ARR. The Petitioner vide letter dated 08.07.2021 also submitted the year-wise break up of borrowing cost/bank charges/syndication fees and reconciliation of the same with Annual Audited Accounts of respective year.
- 3B.18 However, to the surprise of the Petitioner, the Hon'ble Commission in its Tariff Order dated 30.09.2021 still did not allow the Bank Charges/Syndication Fee on a new ground that the Petitioner needs to establish that such charges are not the part of interest cost as approved by the Hon'ble Commission for 2nd MYT Period. The relevant extracts of Tariff Order dated 30.09.2021 are as under:

20 Further, in accordance with Regulation 5.6 of MYT Regulation 2011,

"5.6 Return on Capital Employed (RoCE) shall be used to provide a return to the Distribution Licensee, and shall cover all financing costs, without providing separate allowances for interest on loans and interest on working capital."

3.21 The Commission has already trued-up the interest cost and has allowed RoCE to the Petitioner in accordance with the applicable Regulations. The Petitioner may establish its claim to the Commission giving its reasons for the variance from submission as forming part of the Petition and subsequent submissions before the Commission. Further, the Petitioner may establish that the interest cost as approved by the Commission while projecting the interest rates for the 2nd MYT Control period did not include such fees/charges as being claimed by the Petitioner over and above the RoCE as per Regulation 5.6 of MYT Regulations 2011."

- 3B.19 It is respectfully submitted that the Petitioner vide letter dated 08.07.2021 and 30.07.2021 has already clarified the aforesaid matter by submitting year wise break-up of Borrowing Cost/Bank charges/Syndication Fees in the specified format

provided by the Hon'ble Commission along with all back-up details and reconciliation of the same with Annual Audited Accounts from FY 2007-08 to FY 2016-17. The aforesaid submission clearly indicates that such charges are not the part of interest cost used for the purpose for ROCE computation.

- 3B.20 Based on the above submissions, the Petitioner requests the Hon'ble Commission to allow the impact of aforesaid issue in ARR along with carrying cost.

Issue 1.5: Error in consideration of impact on account of R&M expenses for FY 2004-05

- 3B.21 The issue pertains to the allowance of R&M and A&G expenses relying upon the report of the Consultant appointed by the Hon'ble Commission without sharing a copy of such report submitted to the Hon'ble Commission.

"4.1 Disallowance of R&M expenses:

14) R&M expenses disallowed for the FY 2004-05, 05-06 and 06-07 has been to the tune of Rs.13.01 Crores, Rs.1.85 Crores and Rs.18.51 Crores respectively....

91)...We are of the opinion that R&M expenses properly incurred should be approved and in case there is any gap between the demand made by the appellant and the amount sanctioned by the Commission, the Commission should enter into the exercise of a prudent check and grant the approval to such expenses. The appellant would be bound to produce whatever expenses or material that may be required for permitting the Commission to carry out a prudent check..."

Regarding Administrative and General Expenses (A&G):

10) The appellant claims to have incurred expenditure of Rs.37.37 Crores towards A&G expenses in the FY 2004-05. The Commission has allowed Rs.26.98 Crores. It is alleged that the Commission has done a second truing up of A&G expenses for the FY 2004-05 in its tariff order for the FY 2006-07 which is not permissible....

97)...It appears that the Commission is yet to true up the accounts for the year 2004-05 on the basis of the audited accounts and whenever such truing up is done the appellant's grievance of denial of administrative and general expenses of 2004-05 should disappear.."

- 3B.22 The above Judgement has attained finality as the Hon'ble Supreme Court vide its Order dated 01.12.2021 has inter-alia dismissed the Civil Appeals with a direction to implement the above mentioned APTEL Judgement dated 30.10.2009 within a period of 3 months.

- 3B.23 Further, The issue has been partially implemented by the Hon'ble Commission based on the report of CAG empanelled Auditor for independent verification of the

claims of the Petitioner in respect of R&M and A&G expenses for FY 2004-05 to FY 2006-07. It is pertinent to mention that the Auditor's report submitted with the Hon'ble Commission, a copy of which was also shared with the Petitioner infact allowed the expenses as per the Audited Books of Accounts. However, the hon'ble Commission omitted to implement the same in respect of FY 2004-05. Hence, the Petitioner requests the Hon'ble Commission to allow impact on account of R&M and A&G expenses for FY 2004-05.

3B.24 The impact of issues on account of the aforesaid issues before Hon'ble Commission including carrying cost is tabulated below:

Table 3B 1: Impact of issues under consideration by the Hon'ble Commission (₹ Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Write Back Miscellaneous Provisions considered as NTI- FY 08 to FY 19	222	681	903
2	Merit Order Dispatch	27	46	73
3	Increase in employee expenses corresponding to increase in consumer base	55	208	264
4	Syndication Fees and Bank Charges	100	149	249
5	Error in consideration of R&M and A&G Expense- FY 05	28	191	219
	Total	432	1276	1708

3B.25 The Petitioner requests the Hon'ble Commission to allow the above impact along with applicable carrying cost. In case the Hon'ble Commission requires any clarification / data, the Petitioner may assist the Hon'ble Commission with the same.

Category-2: Implementation of APTEL Judgements in the absence of any stay from Hon'ble Supreme Court

Category 2A: Impact of APTEL Judgements which have attained finality vide Supreme Court Order dated 01.12.2021

3B.26 This category deals with the issues which have been decided by the Hon'ble Supreme Court in favour of the Petitioner and needs to be implemented by the Hon'ble Commission in true letter and spirit.

3B.27 It is noteworthy that on 01.12.2021 final Order was passed by the Hon'ble Supreme Court in Civil Appeal Nos. 884 of 2010, 980 of 2010 and 9003-04 of 2011 filed by this Hon'ble Commission. The said Civil Appeals were respectively filed against

Judgments dated 06.10.2009, 30.10.2009 and 12.07.2011 passed by the Hon'ble Tribunal. The relevant extract of the Order dated 01.12.2021 is set out below:

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

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

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

Pending applications, if any, also stand disposed of."

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

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

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

Pending applications, if any, also stand disposed of." [Emphasis Supplied]

3B.28 It is submitted that the following issues of Petitioner remain partly or completely unaddressed which need to be given effect to by the Hon'ble Commission:

Issues in Civil Appeal No. 884 and 980 of 2010

1. Re-determination of AT&C loss Trajectory for FY 2007-08 to 2009-10



2. Capital Expenditure - Allowance of purchase from Related Party after benchmarking with NDPL
3. Allowance of capitalization pending Electrical Inspector Clearance.

Issues in Civil Appeal No. 9003 - 9004 of 2011

- 1a) Funding of Revenue Gap in the debt equity ratio of 70:30
- 1b) Funding of Working Capital funding in the D/E ratio 70:30

3B.29 The Petitioner is taking appropriate steps as regards the allowance of the aforesaid claims separately with the Hon'ble Commission. The Petitioner vide letter no. RA/BYPL/2021-22/259 and letter no. RA/BYPL/2021-22/260 dated 14.12.2021 (enclosed as Annexure - 3B.1) submitted the detailed representation on the aforesaid issues. The Petitioner shall provide any further details / information / clarifications required by the Hon'ble Commission, its staff or its consultants to implement the directions of the Hon'ble Supreme Court in terms of the Order dated 01.12.2021. The Petitioner therefore reserves its rights and contentions on the aforesaid claims in this Petition.

Category-2B: Impact of Other APTEL Judgements yet to be implemented by the Hon'ble Commission

Issue-2B.1: Efficiency Factor for FY 2010-11

Issue in Brief:

3B.30 This issue pertains to the non-implementation of the Judgments of the Hon'ble APTEL in Appeal No. 178 of 2012 and I.A. 956 of 2021 dated 09.08.2021, whereby the Hon'ble Commission was directed to reconsider the efficiency factor of 4% for FY 2010-11. A brief factual conspectus in the form of a list of dates and events, is as under:

List of Dates:

S.No	Date	Event
1.	02.03.2015	<p>This issue relates to the incorrect imposition of efficiency factor while determining the O&M expenses for true-up of FY 2010-11.</p> <p>The Hon'ble Tribunal in its judgment dated March 2, 2015 in Appeal No.178 of 2012 ("Appeal 178 Judgment"), in para 44 thereof has directed the Hon'ble Commission to reconsider the efficiency factor of 4% for FY 2010-11.</p>

S.No	Date	Event
2.	29.04.2015	The Petitioner vide its letter dated April 29, 2015 <i>inter alia</i> requested the Hon'ble Commission to implement the said Appeal 178 Judgment in the Tariff proceedings which culminated in the Tariff Order dated 29.09.2015. However, the said letter does not find mention in Table 1.1 of the said Tariff Order.
3.	31.08.2017	The Hon'ble Commission in the tariff order dated 31.08.2017 has observed that the issue does not merit consideration as the Petitioner has not challenged the issue of Efficiency Factor in its Appeal against MYT Order dated 23.02.2008 and even the Hon'ble Tribunal has upheld the methodology for Efficiency Factor in case of TPDDL in its judgment in Appeal No. 14 of 2012.
4.	28.03.2018	The Hon'ble Commission, in its tariff order dated 28.03.2018 stated that it has not reconsidered the issue as the same has already been clarified in the tariff order dated 31.08.2017.
5.	31.07.2019	At Para 3.131 and 3.132 of the Tariff Order, the Hon'ble Commission has reiterated its findings in the tariff order dated 28.03.2018.
6.	28.08.2020	The Hon'ble Commission noted that the matter is sub judice before high Courts and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order
7.	09.09.2021	Hon'ble APTEL passed the Judgment in Appeal No. 178 of 2012 and IA 956 of 2021 to implement this issue in favour of the Petitioner.
8.	30.09.2021	The Hon'ble Commission has not taken cognizance of the issue in the Tariff Order.

Detailed Submissions:

3B.31 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) has directed the Hon'ble Commission as under:

"44. The 36th issue is arbitrary imposition of efficiency factor for determination of O&M Expenses for true-up of FY 2010-11

44.1 This issue has been considered by this Tribunal in Appeal No. 61 of 2012 and decided in favour of the Appellant. The relevant extracts of the Judgment are referred below:

...

201 So, on strength of the Judgment in Appeal No. 14 of 2012 applies squarely into the facts of the present case. The issue is decided in favour of the Appellants.”

44.2 Accordingly, this issue is decided in favour of the Appellant.”

3B.32 The Hon’ble Commission in Tariff Order dated March 28, 2018 ruled as under:

“3.157 The Commission has already clarified this issue in tariff order dated 31/08/2017 as follows:

“3.144 The Commission has observed that the Hon’ble tribunal in its judgments in Appeal No. 52/2008 has not find any merit in the contention raised by the TPDDL regarding introduction efficiency factor of 2%, 3% and 4% for FY 2009, FY 2010 and FY 2011 respectively as follows: “67. (ix) The last issue is erroneous computation of the Efficiency Factor. Admittedly, the Appellant had not proposed any Efficiency Factor in its MYT Petition in accordance with the MYT Regulations. The State Commission has compared the O&M expenses of the Appellant with similar urban distribution companies in other states and found the expenses of the Appellant on higher side. Accordingly, the State Commission has decided to introduce efficiency factor of 2%, 3% and 4% for FY 2009, FY 2010 and FY 2011 respectively. Therefore, we do not find any merit in the contention raised by the Appellant. Therefore, the State Commission finding on this issue is justified.”

3.145 Further, the Petitioner has relied upon the judgment of Hon’ble APTEL in Appeal No. 177/2012 which has been pronounced on the basis of Appeal No. 14/2012. It is pertinent to state that TPDDL (Appellant in Appeal No. 14/2012) had prayed before Hon’ble APTEL against the Efficiency Factor for FY 2011-12 and not FY 2010-11 in issue no. 23. However, the Petitioner has misrepresented the facts before the Commission that Hon’ble APTEL has decided the issue for Efficiency Factor of FY 2010-11. The relevant extract of the said judgement is as follows: “198. On this issue, the learned Counsel for the Appellant submits as under: ... (c) However, in the impugned order the Delhi Commission has merely extended the efficiency factor of 4% that was applicable for O & M expenses of the Appellant for the period FY 2010-11 to apply to FY 2011-12 and has also extended the MYT Order while extending the operation of the MYT Regulations to the period FY 2011-12. This has resulted in gross under- allowance of O & M costs for FY 2011-12.”



3.146 It is clarified that the Efficiency Factor had been introduced by the Commission for 1st MYT Control Period (FY 08-FY11) in its MYT Order dated. 23/02/2008 for all the Distribution Licensees. The Petitioner has not challenged the issue of Efficiency Factor in its Appeal against MYT Order dated. 23/02/2008 and even Hon'ble APTEL has upheld the methodology for Efficiency Factor in case of other Distribution Licensee as indicated above. Therefore, this issue does not merit consideration."

3.158 In view of the above the Commission has not re-considered this issue. "

3B.33 It is submitted that the Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) has set aside the efficiency factor for FY 2010-11. Further, the Hon'ble APTEL in Judgment dated October 31, 2017 has dismissed the Clarificatory Application filed by the Hon'ble Commission. There is no stay on the implementation on Judgment dated March 2, 2015 (Appeal 178 of 2012).

3B.34 In addition to the above, the Hon'ble APTEL in Judgment dated August 9, 2021 (IA 956 of 2021) has directed the Hon'ble Commission as under:

"After hearing the counsel at length for both the sides ultimately what we gather is that a data is required to verify the claims which were allowed by this Tribunal can be granted based on the figures and data furnished by the Appellant Discom. In other words, we understand that the Respondent Commission has every intention to implement the directions of this Tribunal passed from time to time pertaining to the issues in question provided the material/detail/facts and figures/data furnished by the Appellant Discom is correction prudence check. Therefore, we understand that Respondent Commission has undertaken the tariff proceedings for 2020-2021, 2021-2022 and intends to comply with the directions subject to prudence check.

In the light of the above submissions, we are of the opinion that nothing needs to be directed by this Tribunal except directing the Respondent Commission to comply with the submission made with their advocate Mrs Suparna Srivastava today that subject to prudence check they will be implementing the directions. Accordingly, Application is disposed of."

3B.35 Based on the above submissions, the Petitioner requests the Hon'ble Commission to implement the direction of Hon'ble APTEL in its Judgment dated 02.03.2015 and allow the impact on account of efficiency factor for FY 2010-11 along with carrying cost as tabulated below:

Table 3B 2: Impact on account of efficiency factor for FY 2010-11 (₹ Cr.)

S. No	Particulars	FY 2010-11
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1	Employee Expenses	268.9
2	Eff. Fact. %	4%
3	Eff. Factor	10.8

3B.36 The Petitioner requests the Hon'ble Commission to allow the above impact along with applicable carrying cost.

Issue-2B.2: Computation of AT&C Losses for FY10 using actual kWh figures

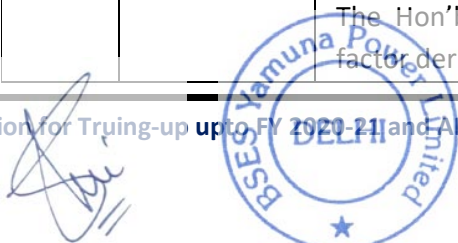
Issue in Brief:

3B.37 This issue pertains to the non-implementation of the Judgments of the Hon'ble APTEL wherein the Hon'ble Commission was directed to re-compute the AT&C losses for FY 2009-10 using actual kWh figures recorded in the meters, instead of computing kWh based on kVAh and power factor. A brief factual conspectus in the form of a list of dates and events, is as under:

List of Dates:

S.No	Date	Event
1.	26.08.2011	<p>In its Tariff Order, the Hon'ble Commission had, in para 4.8 thereof, trued-up the actual revenue on kWh basis, but nevertheless went ahead and disallowed sales by 22.81 MUs on the ground that the average power factor computed from kVAh and kWh figures shown by the Petitioner in Form 2.1(a) for industrial and commercial consumers, where kVAh billing is applicable, was abnormally high.</p> <p>The said disallowance was, in the submission of the Petitioner, incorrect, as the Hon'ble Commission used the actual power factor for FY 2010-11 to disallow the metered data in kWh for FY 2009-10. The energy meters directly record kWh figures and cannot be altered in the billing system. There is no manual intervention since the Petitioner does not read meters manually. The meter readings from all consumers of the Petitioner are directly downloaded from the hand-held devices and energy bills raised thereon. Both kVAh and kWh figures are recorded in the meters. Accordingly, the kWh figures do not change due to change in power factor or any other external factors. On the other hand, kVAh depends upon the power factor.</p>

S.No	Date	Event
2.	28.11.2014	The aforesaid findings in the above Order dated 26.08.2011 were set aside by the Hon'ble Tribunal in its Appeal 62 Judgment.
3.	29.09.2015	The Hon'ble Commission, in the Tariff Order dated 29.09.2015, stated as follows [Refer: para 3.104]: <i>"3.104 The Commission has indicated the power factor to be applied in the respective Tariff orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation. The power factor derived from the data provided by the Petitioner for FY 2009-10 was not in line with either the power factor considered by the Commission for projection of revenue or actual power factor for the past period. It is observed that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or kWh together with power factor is required. In view of this, the Commission has filed Clarificatory Application before Hon'ble APTEL and the view on impact of AT&C Loss for FY 2009-10 will be taken, as deemed fit and appropriate, after receipt of the judgment of Hon'ble APTEL in the said Clarificatory Application."</i>
4.	21.07.2017	A meeting was held with the officials of the Hon'ble Commission regarding prudence check for claim on account of the Hon'ble Tribunal's Judgments.
5.	31.08.2017	In its Tariff Order dated 31.08.2017, the Hon'ble Commission simply placed reliance on the Tariff Order dated 29.09.2015 wherein it had held that it has indicated the power factor to be applied in the respective Tariff Orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation. The Hon'ble Commission has also held that the power factor derived from the data provided by the Petitioner for



S.No	Date	Event
		<p>FY 2009-10 was not in line with either the power factor considered by the Hon'ble Commission for projection of revenue or actual power factor for the past period. The Hon'ble Commission appears to have misunderstood application of the power factor. In fact, the power factor for consumers differs and varies according to the consumption profile and the profile of the equipments used by the consumers. The Hon'ble Commission failed to understand the fact that the power factor cannot be the same as considered by the Hon'ble Commission for projection of revenue for the past period. Thus, in the submission of the Petitioner, the dispensation provided by the Hon'ble Commission was incorrect.</p> <p>The Hon'ble Commission has also held that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or kWh together with power factor is required. This finding is on the face of it, not in line with the Judgment of the Hon'ble Tribunal in Appeal No.62 of 2012 where it was held that the Hon'ble Commission has erred in computing kWh based on kVAh and power factor.</p>
6.	31.10.2017	The Hon'ble Tribunal vide its judgment dated 31.10.2017 has dismissed the said Clarificatory Application of the Hon'ble Commission.
7.	28.03.2018	However, in its Tariff Order dated 28.03.2018 (after the Clarificatory petition was dismissed), at Para No. 3.162-3.163, the Hon'ble Commission changed its stance and stated that the issue does not merit consideration at that point in time as the issue is <i>sub-judice</i> before Hon'ble Supreme Court of India.
8.	31.07.2019	In the Tariff Order at Para 3.103 – 3.105, the Hon'ble Commission has merely reiterated its findings in the earlier tariff order dated 28.03.2018.
9.	28.08.2020 & 30.09.2021	The Hon'ble Commission has once again reiterated that the matter is sub judiced before higher Courts and hence the Hon'ble Commission has not taken cognizance of the issue

S.No	Date	Event
		in the Tariff Order. This is despite the fact that there is no stay from the said higher Courts.

Detailed Submissions:

3B.38 The Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) has directed the Hon'ble Commission as under:

"79. The perusal of the findings of the Commission in the Impugned Order would suggest that the Delhi Commission has failed to understand the working of the tri-vector meters installed at the consumers' premises by the Appellant. Basic electricity meters record only active power i.e. kWh consumed by the consumer. Tri-vector meters records all three vectors i.e. Active Power (kWh), Reactive Power (kVARh) and Apparent Power (kVAh). The principle parameter recorded by these meters is kWh. Other parameters are determined from this basic parameter based on instantaneous values of the current and voltage and their phaser angle. Therefore, the Commission has erred in computing kWh based on kVAh and power factor. It is interesting to note that the Commission has computed the average power factor for FY 2010-11 on the basis of kWh and kVAh recordings and computed kWh figures by reverse calculations using the kVAh figures for 2009-10 and average power factor for FY 2010-11.

80. In the light of above discussions we direct the Commission to recomputed the AT&C losses for FY 2009-10 using actual kWh figures as recorded in para 4.8 of the Impugned order. The issue is decided in favour of the Appellants."

3B.39 The Hon'ble Commission in Tariff Order dated September 29, 2015 ruled as under:

"3.104 The Commission has indicated the power factor to be applied in the respective Tariff orders for projection of revenue and accordingly the revenue has been estimated and considered in the respective tariff orders for the purpose of tariff fixation. The power factor derived from the data provided by the Petitioner for FY 2009-10 was not in line with either the power factor considered by the Commission for projection of revenue or actual power factor for the past period. It is observed that the Petitioner had submitted only one actual data i.e. kWh, whereas, for computation of billed amount in respect of the consumers where kVAh billing is approved in the Tariff Schedule, either actual kVAh or kWh together with power factor is required. In view of this, the Commission has filed Clarificatory Application before Hon'ble APTEL and the view on impact of AT&C Loss for FY 2009-10 will be taken, as deemed fit and appropriate, after receipt of the judgment of Hon'ble APTEL in the said

Clarificatory Application.”

3B.40 The Hon’ble Commission in Tariff Order dated August 31, 2017 ruled as under:

“3.167 The Commission will consider the issue after the final Judgment of Hon’ble APTEL as the matter is still sub-judice in the Clarificatory Application filed by the Commission.”[This seems to be at odds with what is the description of TO 31.08.2017 in the List of Dates above].

3B.41 The Hon’ble Tribunal vide Judgment dated October 31, 2017 dismissed the clarificatory application filed by the Hon’ble Commission.

3B.42 However, the Hon’ble Commission in Tariff Order dated March 28, 2018 stated as under:

“3.166 The Commission has analysed the petitioner submission as well as the direction of Hon’ble APTEL in appeal no 61 & 62 of 2012. Hon’ble APTEL has also clarified this issue in its judgment dated 31/10/2017 for Clarificatory application that the issue is sub judice before Hon’ble Supreme Court of India as follows:

“v) Disallowance due to wrong valuation of sales in kWh figures for FY 2009-10. (Pending in Civil Appeal Nos. 8660-61 of 2015 filed against Judgement dated 28/11/2014 in Appeal Nos. 61 and 62 of 2012)”

3.167 In view of the above, the Commission is of the view that this issue does not merit consideration at this point of time. “

In Tariff Order dated July 31, 2019, the Hon’ble Commission has simply reiterated the statement given in Tariff Order dated March 28, 2018.

3B.43 The Petitioner respectfully submits that there is no stay on the operation of the Judgment of the Hon’ble APTEL in Appeal No. 61/62 of 2012 and therefore, there is no legal embargo upon the Hon’ble Commission to implement the same.

3B.44 It is further submitted that the Hon’ble Tribunal in Judgment dated November 28, 2014 (Appeal 62 of 2012) has clearly held that kWh is the basic parameter based on which the other factors are derived in the meters irrespective of the billing of the consumer. The Hon’ble Commission in the Tariff Order has stated that the energy sales in kWh was verified by the Hon’ble Commission during prudence check exercise.

3B.45 In addition to the above, the Hon’ble APTEL in Judgment dated August 9, 2021 (I.A. 956 of 2021) has once again directed the Hon’ble Commission as under:

“After hearing the counsel at length for both the sides ultimately what we gather is that a data is required to verify the claims which were allowed by

this Tribunal can be granted based on the figures and data furnished by the Appellant Discom. In other words, we understand that the Respondent Commission has every intention to implement the directions of this Tribunal passed from time to time pertaining to the issues in question provided the material/detail/facts and figures/data furnished by the Appellant Discom is correction prudence check. Therefore, we understand that Respondent Commission has undertaken the tariff proceedings for 2020-2021, 2021-2022 and intends to comply with the directions subject to prudence check.

In the light of the above submissions, we are of the opinion that nothing needs to be directed by this Tribunal except directing the Respondent Commission to comply with the submission made with their advocate Mrs Suparna Srivastava today that subject to prudence check they will be implementing the directions. Accordingly, Application is disposed of."

3B.46 The computation of AT&C Loss for FY 2009-10 is tabulated below:

Table 3B 3: AT&C Loss for FY 2009-10

S. No	Particulars	Units	FY 2009-10
A	Units consumed at BYPL Periphery	MU	5708
B	Units billed	MU	4343
C	Amount billed	Rs. Cr.	1944
D	Distribution Loss	%	24.50%
E	Amount collected	Rs. Cr.	1959
F	Collection efficiency	%	100.76%
G	Units realised	MU	4343
H	AT&C Loss level	%	23.92%

3B.47 The Hon'ble Commission determined the AT&C Loss Target for FY 2009-10 as 20.23%. Since the actual AT&C Loss during FY 2009-10 is 20.08%, the Petitioner is entitled for an incentive as per DERC MYT Regulations, 2007. The over-achievement on account of AT&C Loss for FY 2009-10 is tabulated below:

Table 3B 4: Over-achievement of AT&C Loss during FY 2009-10

Particulars	UoM	MYT Order	Actuals	Reference
AT&C Loss	%	26.26%	23.92%	A
Over achievement/ (Under achievement)	%		2.34%	B
Energy Input	MU	5708	5708	C
Units realised	MU	4209	4343	D=C*(1-A)
Average Billing Rate	Rs./ kWh	4.51	4.51	E
Amount realised	Rs. Cr.	1899	1959	

Particulars	UoM	MYT Order	Actuals	Reference
Over-achievement	Rs. Cr.		60	
Proposed to be transferred to consumers	Rs. Cr.		30	
Proposed to be retained	Rs. Cr.		30	
Less: E. Tax	Rs. Cr.		82	
Less: LPSC	Rs. Cr.		21	
Total revenue	Rs. Cr.		1796	

3B.48 The impact on account of re-computation of AT&C Loss of FY 2009-10 is as under:

Table 3B 5: Re-computation of AT&C Loss during FY 2009-10

(₹. Cr.)

S. No	Particulars	FY 2009-10
1	Revenue submitted by Petitioner	1796
2	Revenue considered in Tariff Order	1817
3	Net Impact	21

3B.49 Therefore, the Petitioner requests the Hon'ble Commission to implement the direction of Hon'ble APTEL as per Judgment dated November 28, 2014 along with carrying cost.

Issue-2B.3: Financing cost of LPSC based on SBI PLR

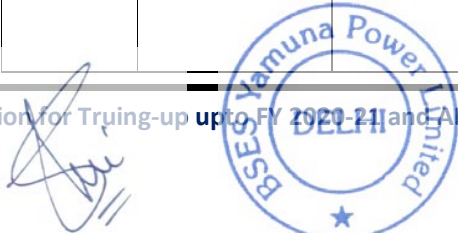
Issue in brief:

3B.50 This issue pertains to the implementation of two principles laid down by the Hon'ble Tribunal for the funding of Late Payment Surcharge ("LPSC"), being that (A) the funding of LPSC must be in the ratio of 70:30 (Judgment in Appeal No. 153 of 2009, Para 51, referred to in para 10 of its Judgment in Appeal No. 147 of 2009 in case of the Petitioner); and (B) the funding of LPSC has to be on the prevailing market lending rates (Judgment in Appeal No. 178 of 2012, para 4.8). A brief factual conspectus in the form of a list of dates and events, is as under:

List of Dates:

S.No	Date	Particulars
1.	30.07.2010	The claim of the Petitioner was for the funding of LPSC for the period 2007-08 to 2011-12 and 2012-13 in the ratio of 70:30 as if such funding were through working capital. This was based entirely on the judgment of the Hon'ble APTEL in Appeal No.153/2009 at Para 23-25.

S.No	Date	Particulars
2.	12.07.2011	The Hon'ble APTEL held in favour of the Petitioner in the Petitioner's own case in Appeal No.147/2009 (" Appeal 147 Judgment "), in para 10 thereof, referring to the Appeal 153 Judgment.
3.	02.03.2015	In the Judgment dated March 2, 2015 in Appeal No. 178 of 2012, in para 39 thereof (" Appeal 178 Judgment ") the Hon'ble Tribunal directed the Hon'ble Commission to determine the interest rate and amount of financing cost after verifying the cost of debt taken by the Appellant and the market rate of debt.
4.	29.09.2015	In the Tariff Order of even date, the Hon'ble Commission appears to have done the following:- a. It has rejected any revision in the interest rate for funding of LPSC on the ground that (a) the funding of LPSC is akin to the funding of working capital and (b) since the interest rate for working capital is to be trued-up only when the variation in the SBI PLR is more than +/-1%, and as the actual variation has not been more than 1%, there is no need to revise the rate of interest for funding of LPSC; b. It seemingly has computed the interest rate not on 70:30 basis, but by computing the rate of interest as equal to the interest rate computed in the WACC. This is derived from Table 3.30, Sr. No. 1.c of the Tariff Order and by comparing the said figures with the figures of interest on funding of LPSC taken into account in the previous Tariff Orders.
5.	31.08.2017	In its Tariff Order dated 31.08.2017, (Para Nos. 3.160 – 3.161), the Hon'ble Commission has held as under: <i>"3.160 The Commission has already dealt this issue in its Tariff Order dated. 29/09/2015 as follows:</i> <i>"3.42 Further, in view of the Hon'ble APTEL's direction in Appeal No. 36 of 2008 and Appeal No. 61 & 62 of 2012, the Commission has filed a Clarificatory Application before Hon'ble APTEL therefore</i>



S.No	Date	Particulars
		<p><i>a view in the matter will be taken, as deemed fit and appropriate, after receipt of the direction of the Hon'ble APTEL in the said application."</i></p> <p><i>3.161 In view of the above the Commission has not reconsidered this issue in this Tariff Order as the issue is sub judice before Hon'ble APTEL."</i></p> <p>The Hon'ble Commission has effectively rejected any revision in the interest rate for funding of LPSC on the ground that (a) the funding of LPSC is akin to the funding of working capital and (b) since the interest rate for working capital is to be trued-up only when the variation in the SBI PLR is more than +/-1%, and as the actual variation has not been more than 1%, there is no need to revise the rate of interest for funding of LPSC. The Hon'ble Commission, insofar as it relies upon the Tariff Order has computed the interest rate not on the 70:30 basis, but by computing the rate of interest as equal to the interest rate computed in the WACC.</p>
6.	31.10.2017	<p>The Hon'ble Commission filed a Clarificatory Application in Appeal 178 of 2012 seeking clarification/ review of ten tariff issues including the present one.</p> <p>On 31.10.2017, the Hon'ble Tribunal has dismissed the said Clarificatory Application.</p>
7.	28.03.2018	<p>The Hon'ble Commission vide its Tariff Order dated 28.03.2018 has stated that the matter is sub-judice before Hon'ble Supreme Court of India and any view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court in the pending Appeal.</p>
8.	31.07.2019	<p>In the Tariff Order at Para 3.161 and 3.162, the Hon'ble Commission stated that it has deliberated the issue in the Tariff order dated 28.03.2018 and reiterated its findings.</p>
9.	28.08.2020 & 30.09.2021	<p>The Hon'ble Commission has once again reiterated in the Tariff Order dated 28.08.2020 that the matter is sub judice</p>

S.No	Date	Particulars
		before the higher Courts and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order

Detailed Submissions:

- 3B.51 The issue of financing cost of LPSC arose for the first time in Appeal 147 of 2009 which was filed with respect to Tariff Order dated May 28, 2009. The relevant extracts from Judgment dated July 12, 2011 (Appeal 147 of 2009) are reproduced below:

"10. The fifth issue is regarding the Late Payment Surcharge.

10.1. The above issue had been covered in this Tribunal's Judgment dated 30.7.2010 reported in 2010 ELR (APTEL) 0891 titled as NDPL vs. DERC. The relevant extracts of the Judgment are reproduced below:

*"The normative working capital compensates the distribution company in delay for the 2 months credit period which is given to the consumers. The late payment surcharge is only if the delay is more than the normative credit period. For the period of delay beyond normative period, the distribution company has to be compensated with the cost of such additional financing. It is not the case of the Appellant that the late payment surcharge should not be treated as a non-tariff income. The Appellant is only praying that the financing cost is involved due to late payment and as such the Appellant is entitled to the compensation to incur such additional financing cost. Therefore, the financing cost of outstanding dues, i.e. the entire principal amount, should be allowed and it should not be limited to late payment surcharge amount alone. **Further, the interest rate which is fixed as 9% is not the prevalent market Lending Rate due to increase in Prime Lending Rate since 2004-05. Therefore, the State Commission is directed to rectify its computation of the financing cost relating to the late payment surcharge for the FY 2007-08 at the prevalent market lending rate during that period keeping in view the prevailing Prime Lending Rate**".*

This issue is decided accordingly in terms of the above Judgment."

(Emphasis supplied)

- 3B.52 The above Judgement has attained finality as the Hon'ble Supreme Court vide its Order dated 01.12.2021 has inter-alia dismissed the Civil Appeals with a direction to implement the above mentioned APTEL Judgement dated 30.10.2009 within a period of 3 months



- 3B.53 Further, the Hon'ble APTEL in Judgment dated March 2, 2015 (Appeal 178 of 2012) has directed the Hon'ble Commission as under:

"4.8 We find that the State Commission has *mechanically allowed interest rate of 9.5% as allowed while passing the MYT order on funding of working capital without verifying the prevailing cost of debt contracted by the licensee and other relevant factors.* As directed in the judgment in appeal no. 153 of 2009, the financing cost for Late Payment amount has to be allowed at the prevalent market lending rates as per the Tariff Regulations. *According, the State Commission is directed to redetermine the interest rate and the amount of financing cost.*"

(Emphasis supplied)

- 3B.54 The Petitioner raised the issue of lower financing cost of LPSC allowed in various Tariff Orders in its Petition for truing-up of FY 2017-18 and ARR and Tariff for FY 2019-20. However, the Hon'ble Commission did not deal with the submissions of the Petitioner and simply stated that the Judgment of Hon'ble APTEL does not specify SBI PLR. In this regard, the relevant direction given by Hon'ble APTEL in Judgment dated July 12, 2011 (Appeal 147 of 2009) is once again reproduced as under:

"...Further, the interest rate which is fixed as 9% is not the prevalent market Lending Rate due to increase in *Prime Lending Rates since 2004-05*....Therefore, the State Commission is directed to rectify its computation of the financing cost relating to the late payment surcharge for the FY 2007-08 at the prevalent market lending rate during that period keeping in view the prevailing *Prime Lending Rate*"

(Emphasis supplied)

- 3B.55 As regards aforesaid, a comparison of Prime Lending Rate rates allowed by the Hon'ble Commission and actual rate of borrowing from FY 2007-08 to FY 2016-17 is tabulated below:

Table 3B 6: Borrowing rate comparison

S. No	Financial Year	Rates considered in Tariff Order	SBI PLR rates	Actual rates
1	FY 2007-08	9.30%	12.69%	11.63%
2	FY 2008-09	9.57%	12.79%	11.66%
3	FY 2009-10	9.89%	11.87%	11.02%
4	FY 2010-11	10.34%	12.26%	11.62%
5	FY 2011-12	12.72%	14.40%	13.31%
6	FY 2012-13	9.99%	14.61%	15.39%
7	FY 2013-14	9.89%	14.58%	15.41%
8	FY 2014-05	10.44%	14.75%	15.53%

S. No	Financial Year	Rates considered in Tariff Order	SBI PLR rates	Actual rates
9	FY 2015-16	10.47%	14.28%	14.57%
10	FY 2016-17	10.47%	14.05%	14.25%

3B.56 As evident from the above table, the rates considered by the Hon'ble Commission are far lower than SBI PLR rates and actual rates and thus, Hon'ble APTEL's direction in Appeal No. 147 of 2009 read with Hon'ble Supreme Court Order dated 01.12.2021 has to be implemented along with carrying cost.

3B.57 Further, the Hon'ble APTEL in Judgment dated August 9, 2021 (I.A. 956 of 2021) has directed the Hon'ble Commission stated as under:

"After hearing the counsel at length for both the sides ultimately what we gather is that a data is required to verify the claims which were allowed by this Tribunal can be granted based on the figures and data furnished by the Appellant Discom. In other words, we understand that the Respondent Commission has every intention to implement the directions of this Tribunal passed from time to time pertaining to the issues in question provided the material/detail/facts and figures/data furnished by the Appellant Discom is correct on prudence check. Therefore, we understand that Respondent Commission has undertaken the tariff proceedings for 2020-2021, 2021-2022 and intends to comply with the directions subject to prudence check.

In the light of the above submissions, we are of the opinion that nothing needs to be directed by this Tribunal except directing the Respondent Commission to comply with the submission made with their advocate Mrs Suparna Srivastava today that subject to prudence check they will be implementing the directions. Accordingly, Application is disposed of."

3B.58 Accordingly the Petitioner has computed the financing cost of LPSC based on SBI PLR as under:

Table 3B 7: Difference in financing cost of LPSC due to rate of interest (₹ Cr.)

S. No	Particulars	UoM	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
1	Delayed Payment Surcharge	Rs. Cr.	27	21	21	17	28	24
2	Rate of LPSC per month	%	1.50%	1.50%	1.50%	1.50%	1.50%	1.50%
3	Rate of LPSC for 12 Months	%	18%	18%	18%	18%	18%	18%
4	Principal Amount	Rs. Cr.	148	115	116	96	158	134
5	SBI PLR	%	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%
6	Financing Cost of LPSC	Rs. Cr.	19	15	14	12	23	20

S. No	Particulars	UoM	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
7	Allowed by DERC	Rs. Cr.	14	11	11	10	20	13
8	Difference	Rs. Cr.	5	4	2	2	3	7

Issue-2B.4: Repayment of loans to be considered while computing WACC:

Issue in brief:

3B.59 This issue involves the computation of the Debt/Equity Ratio for the purpose of funding of capitalisation and the return to the Petitioner. The Debt /Equity Ratio is one of the components of the WACC. The Hon’ble APTEL vide its Judgment in Appeal No. 62 of 2012 remanded the matter back to the Hon’ble Commission on a very limited issue (as elaborated subsequently). However, in the Tariff Order that ensued, the Hon’ble Commission travelled beyond the said limited remand and instead of re-evaluating the WACC by considering the actual debt repayment, reduced the WACC by not taking into account the actual debt repayment and by embarking upon a methodology whereby the Hon’ble Commission erred in computing the actual available equity.

3B.60 The Hon’ble APTEL vide its Judgement dated 09.08.2021 in Appeal No. 290 of 2015 again directed the Hon’ble Commission to implement the issues pertaining to directions of the Hon’ble APTEL passed from time to time subject to prudence check. However, the Hon’ble Commission in its Tariff Order dated 30.09.2021 didn’t implement the direction of the Hon’ble APTEL and remained silent on this issue. A brief factual conspectus in the form of a list of dates and events is as under:

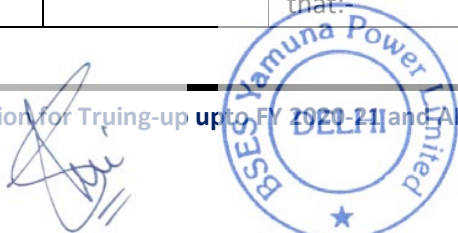
List of dates:

S.No	Date	Event																
1.	20.11.2001	<p>As per the Transfer Scheme Rules notified on November 20, 2001 by the GoNCTD, which are binding in terms of Sections 15 and 16 of the Delhi Electricity Reforms Act, 2000, the assets were transferred to the three DISCOMs in the debt equity ratio as under:</p> <p style="text-align: center;">TABLE – 1</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>S. No</th> <th>Particulars</th> <th>Amount (Rs. Cr.)</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Net Fixed Assets</td> <td>290</td> <td></td> </tr> <tr> <td>2</td> <td>Equity</td> <td>116</td> <td>40%</td> </tr> <tr> <td>3</td> <td>Debt</td> <td>174</td> <td>60%</td> </tr> </tbody> </table>	S. No	Particulars	Amount (Rs. Cr.)	%	1	Net Fixed Assets	290		2	Equity	116	40%	3	Debt	174	60%
S. No	Particulars	Amount (Rs. Cr.)	%															
1	Net Fixed Assets	290																
2	Equity	116	40%															
3	Debt	174	60%															



S.No	Date	Event
		<p>As can be seen from the above table, the Hon'ble Commission has used the opening mix of debt equity as provided in the Transfer Scheme, which was binding on all the stakeholders including the Petitioner (as upheld by the Hon'ble Supreme Court in its judgment dated 15.02.2007 in Civil Appeal No. 2733/2006), for computation of debt equity ratio for the future years.</p> <p>The Petitioner has accordingly followed the same opening debt equity mix as specified in the statutory Transfer Scheme while filing its tariff entitlements and has at no point post privatization, from the Policy Direction period, claimed as equity an amount greater than 30% as a part of means of finance for capitalisation undertaken post the policy direction period.</p>
2.	15.02.2007	Judgment of the Supreme Court of India in DERC v. BSES Yamuna Power Limited Civil Appeal No. 2733 of 2006.
3.	30.05.2007	The MYT Regulations, 2007 at Regulation 5.10 set out the principles for determination of debt-equity in the ratio of 70:30.
4.	23.02.2008	<p>The Hon'ble Commission, in its MYT Order (Para 3.64 thereof) explained the priority order for means of finance for funding of capital expenditure.</p> <p>Further, the Hon'ble Commission in this Tariff Order considered the working capital funding entirely through debt (in paras 4.221- 4.223 thereof). This was challenged before the Hon'ble Tribunal in Appeal No. 52 of 2008, as the Hon'ble Commission did not consider the amount in accordance with the Regulations and the factual/ commercial realities applicable to a regulated business, thereby denying the Petitioner its legal entitlements/ return.</p>
5.	31.05.2011	In its Judgment in Appeal No. 52 of 2008, paras 40-45 thereof, the Hon'ble Tribunal directed the Hon'ble Commission to recompute the WACC for each year of the control period, along with carrying cost, and apply the respective year's RRB for

S.No	Date	Event																														
		allowance of RoCE in terms of its Regulations (i.e. debt: equity ratio of 70:30 has to be accounted for computation of WACC).																														
6.	31.07.2013	<p>As stated above, the MYT Regulations, 2007 set out the principles for determination of debt-equity in the ratio of 70:30.</p> <p>Pending the physical verification of assets, the Hon'ble Commission vide its Order dated 31.07.2013, in para 3.162, Table 53 thereof allowed the debt-equity mix towards capitalisation which was carried out during the 2nd MYT control period in the ratio of 70:30 as under:</p> <p style="text-align: center;">TABLE – 2</p> <p style="text-align: right;">(Rs. Cr.)</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>FY 08</th> <th>FY 09</th> <th>FY 10</th> <th>FY 11</th> <th>FY 12</th> </tr> </thead> <tbody> <tr> <td>Internal Accruals</td> <td>39.91</td> <td>44.19</td> <td>22.95</td> <td>12.81</td> <td>13.65</td> </tr> <tr> <td>Internal Accruals (%)</td> <td>30%</td> <td>30%</td> <td>30%</td> <td>30%</td> <td>30%</td> </tr> <tr> <td>Loan</td> <td>93.31</td> <td>103.11</td> <td>53.54</td> <td>29.89</td> <td>31.84</td> </tr> <tr> <td>Loan (%)</td> <td>70%</td> <td>70%</td> <td>70%</td> <td>70%</td> <td>70%</td> </tr> </tbody> </table>	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	Internal Accruals	39.91	44.19	22.95	12.81	13.65	Internal Accruals (%)	30%	30%	30%	30%	30%	Loan	93.31	103.11	53.54	29.89	31.84	Loan (%)	70%	70%	70%	70%	70%
Particulars	FY 08	FY 09	FY 10	FY 11	FY 12																											
Internal Accruals	39.91	44.19	22.95	12.81	13.65																											
Internal Accruals (%)	30%	30%	30%	30%	30%																											
Loan	93.31	103.11	53.54	29.89	31.84																											
Loan (%)	70%	70%	70%	70%	70%																											
7.	28.11.2014	<p>In Appeal No. 61/62 of 2012 before the Hon'ble Tribunal, the grievance raised by the Petitioner was that whilst computing the debt (loan balance) of the Petitioner (in the D/E Ratio) the Hon'ble Commission was not taking into account the loans repaid by the Petitioner. Hence, by not taking into account the loans repaid by the Petitioner, the Hon'ble Commission was artificially increasing the debt component thereby reducing the WACC and hence reducing the return on equity allowable to the Petitioner.</p> <p>By its judgment in the said appeal ("Appeal 62 Judgment") the Hon'ble Tribunal after a detailed analysis, <i>inter alia</i> concluded that:</p>																														



S.No	Date	Event
		<p><i>"102. In the light of above discussions we find force in the contentions of the Appellant and direct the Commission to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant. The issue is decided in favour of the Appellant."</i></p> <p>Hence, the Appeal 62 Judgment contained a limited remand to the Hon'ble Commission – <i>".. to re-evaluate the WACC considering the repayment of loans during the period and recomputed RoCE payable to the Appellant..."</i></p>
8.	22.06.2015	<p>In point of fact, the Petitioner had opposed the proposed formulation of net-worth by the Hon'ble Commission vide its letter No. RA/BYPL/2015-16/88 dated 22.06.2015.</p> <p>This letter was not acknowledged by the Hon'ble Commission in Table 1.1 of its Tariff Order, which gives the list of letters supposedly sent to the Hon'ble Commission.</p>
9.	29.09.2015	<p>The Tariff Order dated 29.09.2015, (paras 3.31-3.35) purports to reopen the calculation of the so-called "actual equity" invested by the Petitioner in capitalisation by a method of "net worth" which is alien to the Regulations framed by the Hon'ble Commission itself and also contrary to the established practice of the Hon'ble Commission in the previous year's Orders.</p> <p>By the said Tariff Order, the Hon'ble Commission not only refused to take into account the repayment of loans, despite the clear direction of the Hon'ble Tribunal but went ahead and completely changed the entire basis of the computation of WACC. Not only has this new computation been done for the future years but, it has been reopened for not only the 1st MYT control period (2007-08 to 2011-12), but also the 2nd MYT Control period (2012-12 to 2015-16) and even for the Policy direction period (2002-03 to 2006-07).</p>
10.	31.08.2017	<p>The Hon'ble Commission vide its tariff order dated 31.08.2017 (paras 3.31) held that it had already clarified the said issue in the Tariff Order dated 29.09.2015 (Para Nos. 3.32 to 3.35) and the matter was therefore not deliberated as it is <i>sub-judice</i></p>

S.No	Date	Event
		before the Hon'ble APTEL in Appeal No. 290/2015. The relevant extract of the said order is set out below: <i>"The Commission has already clarified this issue Tariff Order dated. 29/09/2015 in para nos. 3.32 to 3.35 and needs no further deliberation in this Tariff Order as the matter is sub-judice before Hon'ble APTEL in Appeal No. 290/2015"</i> .
11.	31.10.2017	The Hon'ble Commission filed a Clarificatory Application in Appeal 178 of 2012 seeking clarification/ review of ten tariff issues including the present one. The Hon'ble Tribunal vide its judgment dated 31.10.2017 dismissed the said Clarificatory Application.
12.	28.03.2018& 31.07.2019	The Hon'ble Commission vide its tariff order dated 28.03.2018 and 31.07.2019 has stated that the matter is sub-judice before Hon'ble Supreme Court of India and any view on this issue will be considered, as deemed fit and appropriate, after receipt of the judgment of Hon'ble Supreme Court in the pending Appeal.
13.	28.08.2020	The Hon'ble Commission has once again reiterated that the matter is sub judice before higher Courts and hence the Hon'ble Commission has not taken cognizance of the issue in the Tariff Order
14.	22.06.2021	The Petitioner filed IA 956 of 2021 in Tariff Appeal 290 of 2015 seeking seeking directions to the Hon'ble Commission for implementing and give effect to the previous judgments.
15.	09.08.2021	Hon'ble APTEL disposed of abovementioned Appeal directing Hon'ble Commission to implement the directions of Hon'ble APTEL in BYPL previous appeals, subject to Prudence check.
16.	30.09.2021	The Hon'ble Commission has not taken cognizance of the issue in the Tariff Order for FY 2021-22.

Detailed Submissions:

3B.61 As per DERC Tariff Regulations, 2007 and DERC Tariff Regulations, 2011, depreciation shall be considered towards repayment of loans.

3B.62 However, the Hon'ble Commission in Tariff Order dated August 26, 2011 did not consider the repayment of loan while computing average balance of loan for respective years.

3B.63 The issue was challenged before Hon'ble APTEL in Appeal 61 and 62 of 2012. The Hon'ble APTEL in Judgment dated November 28, 2014 (Appeal 61 and 62 of 2012) has ruled as under:

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

3B.64 The Petitioner has considered one-tenth of the outstanding balance of loan as repayment during the year. The same has been deducted from the loan balance for calculation of average debt during the year.

3B.65 The Petitioner in its Petition for True-up of FY 2017-18 and ARR and Tariff of FY 2019-20 requested the Hon'ble Commission to allow the impact on account of the aforesaid issue. However, the Hon'ble Commission in Tariff Order dated July 31, 2019 ruled as under:

"3.49 This issue had already been discussed and clarified in Tariff Order dated 29.09.2015 and requires no further deliberation at this juncture, as the matter is sub judice before Hon'ble Supreme Court of India. Further, the Petitioner has also agitated this issue in the Appeal No. 290 of 2015 filed before Hon'ble APTEL."

3.50 Further, the Commission in its Tariff Order dated March 28, 2018 deliberated as under:

3.39 This matter is sub judice before Hon'ble Supreme Court of India and the same has also been clarified by Hon'ble APTEL vide its Order dated 31/10/2017 in the clarificatory appeal. Therefore, the view on this issue will be considered, as deemed fit and appropriate, after receipt of the Judgment of Hon'ble Supreme Court of India in the pending Appeal."

3B.66 As regards aforesaid, it is respectfully submitted that there is no bar on the Hon'ble Commission to implement the directions of Hon'ble APTEL in Judgment dated November 28, 2014 (Appeal 62 of 2012) pending adjudication of Civil Appeal filed before Hon'ble Supreme Court as it is settled law that in the absence of any interim Order(s)/ stay, mere pendency of an Appeal is not a ground to refuse implementation of Orders passed by an Appellate Court. It is respectfully submitted that the Hon'ble Tribunal has already clarified the issue in the Judgment dated

November 28, 2014 (Appeal 62 of 2012) wherein it remanded the matter to the Hon'ble Commission on a limited issue and therefore there was no warrant or justification for the Hon'ble Commission to have not implemented the same.

3B.67 It is respectfully submitted that the remand in terms of Judgment dated November 28, 2014 (Appeal 62 of 2012), was a "limited remand" and not an open remand. It is well settled law that when an Appellate Court remits a matter to the lower authority in a limited compass, the authority of the lower court to address the issue is limited by the four corners of the remand. Reference in this regard may be had to:

- i. The Hon'ble Tribunal's judgment dated 10.08.2010 in Appeal No. 37 of 2010, para 17-31;
- ii. The Hon'ble Tribunal's Judgment in MIAL vs MERC Appeal No. 195 of 2009 Judgment dated 31.05.2011 paras 53-55;
- iii. The judgments of the Hon'ble Supreme Court in :-
 - *Mohan Lal vs. Anandibat* (1971) 1 SCC 813;
 - *Paper Products Ltd. vs. CCE* (2007) 7 SCC 352;
 - *Smt. Bidya Devi vs. Commissioner of Income Tax, Allahabad* AIR 2004 Calcutta 63;
 - *K.P. Dwivedi vs. State of U.P.* (2003) 12 SCC 572;
 - *Mr. Muneswar and Ors. vs. Smt. JagatMohini Des*, AIR (1952) Calcutta 368;
 - *Amrik Singh vs. Union of India* (2001) 10 SCC 424;
 - *Union of India & Anr. Vs. Major Bhadur Singh* (2006) 1 SCC 3670; and
 - *Prakash Singh Badal & Anr. Vs. State of Punjab and Ors.* (2007) SCC 1.

3B.68 It is submitted that the remand in this case was only to "re-evaluate the WACC considering the repayment of loans". The clear and categorical direction was to recompute the RoCE after taking into consideration only one aspect, and no more, i.e. the repayment of loans. However, the Hon'ble Commission has not done the same till date.

3B.69 It is further submitted that the Petitioner in its True-up and ARR Petitions filed after Tariff Order dated 29.09.2015 has been regularly pointing out the incorrect approach adopted for computation of equity and balance leading to mismatch between the capitalisation and funds allowed for respective years. However the Hon'ble Commission without dealing with the same has been relying on its Tariff Order dated 29.09.2015.

3B.70 The Petitioner once again requests the Hon'ble Commission to implement the directions of Hon'ble Tribunal given in Judgment dated August 9, 2021 (IA 956 in Appeal 290 of 2015) and November 28, 2014 (Appeal 62 of 2012) in true letter and

spirit. The implementation of the aforesaid direction shall translate into increase in WACC which in turn will increase RoCE from FY 2007-08 to FY 2019-20. However, there are other issues also which are pending to be implemented and will have impact on the aforesaid parameters.

- 3B.71 All the above submissions with respect to the issues raised therein have already been submitted before the Hon'ble Commission and are not reiterated in this Petition for the sake of brevity.
- 3B.72 Accordingly, the Petitioner requests the Hon'ble Commission to allow the above impact along with carrying cost as tabulated below:

Table 3B 8: Impact of APTEL Judgments yet to be implemented by Hon'ble Commission(₹ Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Efficiency Factor for FY 11	11	33	44
2	Computation of AT&C Losses for FY10 using actual kWh figures	21	77	98
3	Financing cost of LPSC	22	76	99
4	Rate of interest for working capital to be allowed on SBI PLR for calculation of WACC	252	230	384
5	Non-consideration of repayment of loan in D/E ratio			
6	True-up of Interest rates of debt			
	Total	306	417	624

Category-3: Impact of Review Petition filed before the Hon'ble Commission against Tariff Order dated 30.09.2021

- 3B.73 The Petitioner has filed a Review Petition on 02.12.2021 under section 94 and section 62(4) of the Electricity Act 2003 read with clauses 57, 58 and 59 of the DERC (Conduct of Business) Regulations 2001, seeking review / revision/ clarification of the Tariff Order dated 30.09.2021.
- 3B.74 All submissions with respect to the issues raised therein have already been submitted before the Hon'ble Commission and are not reiterated in this Petition for the sake of brevity.
- 3B.75 The financial impact on account of the issues related to Review Petitions (including carrying cost upto FY 2020-21) is tabulated below:

Table 3B 9: Impact of Review Petition filed before the Hon'ble Commission (₹ Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
-------	-------------	-----------	---------------	-------

1	Inadvertent error in considering Net Metering units in Energy input for FY 2019-20.	0.5	0.1	0.6
2	Inadvertent computational error in considering rate of carrying cost for FY 2019-20.	9.3	1.2	10.5
3	Inadvertent omission to allow capitalisation of Rs.0.06 Cr. for FY 2017-18 on account of EIC	0.02	0.01	0.03
4	Inadvertent computational error in considering rate of Carrying cost for FY 21-22.	Cash Flow Issue (No impact on RA as on 31.03.2021)		
5	Erroneous application of the principles of banking transaction.	69	14	83
	Total	79	16	94

Category-4: Impact of Appeals pending adjudication before APTEL

3B.76 The Petitioner has preferred appeals against respective Tariff Orders issued by the Hon'ble Commission which are pending adjudication before Hon'ble APTEL. The details of the Appeals are tabulated below:

Table 3B 10: Appeals pending before Hon'ble APTEL

S. No	Years in subject	Date of Tariff Order	Appeal Number
1	Truing-up of FY 12 and ARR and Tariff of FY 14	31.07.2013	265 of 2013
2	Truing-up of FY 13 and ARR and Tariff of FY 15	23.07.2014	236 of 2014
3	Truing-up of FY 14 and ARR and Tariff of FY 16	29.09.2015	290 of 2015
4	Truing-up of FY 15 and FY 16 and ARR and Tariff of FY 18	31.08.2017	70& 71 of 2018
5	Truing-up of FY 17 and ARR and Tariff of FY 19	28.03.2018	214 of 2018
6	Truing-up of FY 18 and ARR and Tariff of FY 20	31.07.2019	105 of 2020
7	Truing-up of FY 19 and ARR and Tariff of FY 21	28.08.2020	247 of 2021

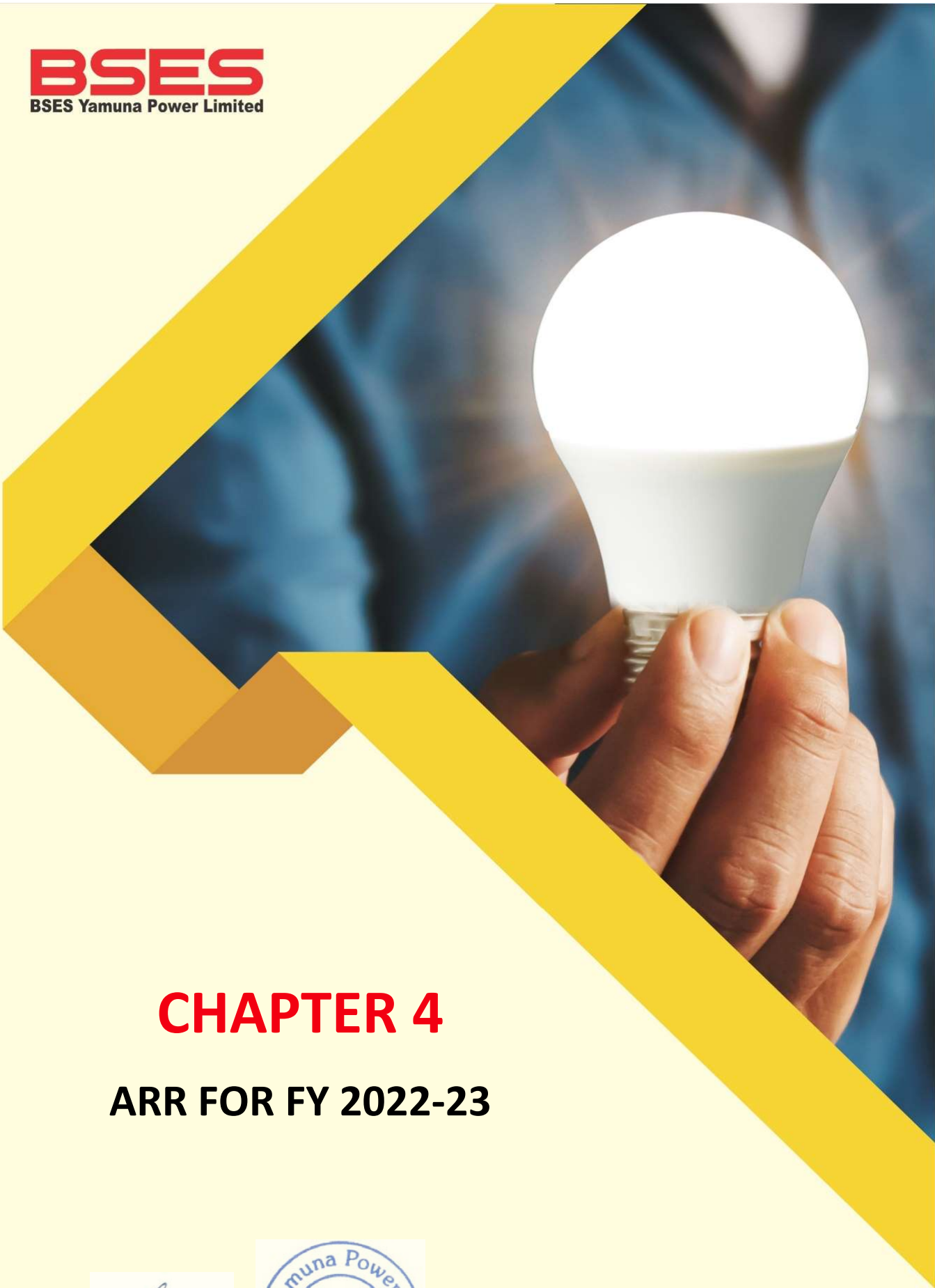
3B.77 The impact of issues on account of the aforesaid appeals pending before Hon'ble APTEL (including carrying cost upto FY 2020-21) is tabulated below:

Table 3B 11: Impact of Appeals pending adjudication before APTEL (₹ Cr.)

S. No	Particulars	Principal	Carrying Cost	Total
1	Power Purchase Cost			
1.1	Carrying Cost on Anta, Auraiya, Dadri Gas FY 13-17	69	32	100
1.2	Disallowance of Fixed charges for regulated power	298	447	745
1.3	Consideration of normative rebate during truing-up	404	451	856
1.4	Disallowance of Power Purchase cost on account of Overlapping in banking transactions	4	5	8
1.5	Additional UI Charges above 49.5Hz	0	0	0
1.6	RPO Penalty upto FY 19-20	46	31	76
1.7	Disallowance of Power Purchase Cost on account of disposal of surplus power in UI for FY 14 and FY 15	19	28	47
1.8	Disallowance of Power Purchase Cost on account of Sustained Deviation Charges	4	1	5
1.9	Disallowance of Trading Margin	3	7	10
	Sub-total	845	1001	1847
2	O&M Expenses			
2.1	Disallowance of R&M Expenses during 1st and 2nd control period	37	88	125
2.2	Disallowance of expenses pertaining to monthly billing	0	0	0
2.3	Benchmarking of O&M Expenses	0	0	0
	Disallowance of GST contrary to regulations	35	16	51
2.6	Minimum wages Disallowance	31	17	48
2.7	Legal Fees Disallowance	24	11	35
2.8	Non-Allowance of KYC Expenses for FY 2018-19 on actuals	3	1	4
	Sub-total	129	133	263
3	Truing-up of Income-tax	207	350	558
4	Others			
4.1	Loss due to Retirement of Asset	79	98	177
4.2	Connection/ Reconnection Charges	0	0	0
4.3	Disallowance of License Fee paid for Assets	0	0	0
4.4	Erroneous method of calculation of carrying cost	133	95	228
4.5	Interest on funding of carrying cost	0	55	55
4.6	Impact of Truing up of 11 Months	164	614	778
4.7	Penalty due to non-implementation of GIS mapping	0	0	0
4.8	Approach for Truing up of FY 17	87	69	155

S. No	Particulars	Principal	Carrying Cost	Total
4.9	Incorrect levy of penalty on account of alleged delay in depositing deficit in the Pension Trust amounts	1	0	2
	Sub-total	464	930	1394
5	Non Tariff Income			
5.1	Consideration of Commission on ED	41	34	75
5.2	Income from street light maintenance charges	122	252	374
5.3	Consideration of revenue from Sale of scrap as NTI	25	31	56
5.4	Financing cost of LPSC considered in NTI	47	48	95
5.5	Income from Advance from Consumers	16	6	21
	Sub-total	250	371	621
6	Revenue			
6.1	Bad debts written off not considered	23	50	73
6.2	Disallowance of Monthly billing rebate in ARR	34	41	75
6.3	True up AT&C loss for FY 11	0	0	0
6.4	Erroneous treatment of the sales on zero billing	58	180	238
	Sub-Total	115	271	387
7	Total Unrecognised RA at ATE	2012	3057	5069

- 3B.78 The Petitioner has elaborated all the above issues in detail in corresponding Appeals and thus is not reproducing the contentions/ arguments for the sake of brevity and prolixity.
- 3B.79 The Petitioner, therefore requests the Hon'ble Commission to allow the impact of directions/ findings/ observations of Hon'ble APTEL in case Judgment is pronounced in case of any of the appeals during the course of tariff determination exercise in subject.
- 3B.80 The Petitioner requests the Hon'ble Commission to allow the impact of unrecognised Regulatory Assets (Category – 1 to 4) along with carrying cost.
- 3B.81 As per National Tariff Policy, uncontrollable cost should be recovered speedily to ensure that future consumers are not burdened with past cost. Further, the recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period of not exceeding 7 years. This has also been upheld by the Hon'ble APTEL in its Judgment OP 1 of 2011 dated 11.11.2011. We request the Hon'ble Commission to recognise the Regulatory Assets as prayed above in terms of the National Tariff Policy. The Petitioner would like to clarify/ explain in case any assistance as desired by the Hon'ble Commission while implementing impact on account of any of the issues/ Judgment.



CHAPTER 4

ARR FOR FY 2022-23



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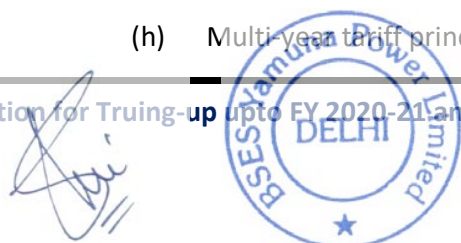
4. ARR for FY 2022-23

4.1 Background

- 4.1.1 This chapter presents the Aggregate Revenue Requirement (ARR) projected for the ensuing FY 2022-23 with respect to the Distribution Business of the Petitioner.
- 4.1.2 In terms of Regulation 11 of the Tariff Regulations 2017, the Distribution Licensee is required to file the Tariff Petition comprising of Aggregate Revenue Requirement (ARR) for each year of the Control Period.
- 4.1.3 Accordingly, the Petitioner is filing the present Aggregate Revenue Requirement (ARR) Petition to seek the Hon'ble Commission's approval of the same and for determination of Retail Supply Tariff for the ensuing Financial Year 2022-23 based on the projected revenue from existing tariffs and expenses.
- 4.1.4 The present petition is founded on the following principles:

4.2 Principles of Tariff Fixation

- 4.2.1 The principles of Tariff Fixation are stated as follows:
1. Section 61(1) of the Electricity Act, 2003 Act lays down the principles for tariff fixation which inter-alia, are as follows:
 - (a) Tariff to reflect the cost of supply of electricity
 - (b) Recovery of cost of electricity in a reasonable manner
 - (c) Tariff to reduce cross subsidies
 - (d) Generation, Transmission, Distribution and supply to be conducted on commercial principles.
 - (e) Promotion of renewable sources of energy
 - (f) Encourage competition, efficiency, economical use of resources, good performance and optimum investments
 - (g) Safeguarding of consumer's interest
 - (h) Multi-year tariff principles



2. Section 61(4) mandates revision of tariffs under fuel surcharge formula
3. Section 64(3) mandates ERCs to issue tariff order within 120 days from receipt of application
4. Section 65 mandates the State Government to pay the subsidy in advance to the distribution licensees.
5. Tariff policy notified under Section 3 of the Electricity Act 2003, inter-alia, provides as follows:

(a) Regulatory assets can be created only as an exception subject to the following guidelines:

- i. Only natural causes or force majeure conditions can be circumstances for creation of regulatory asset;
- ii. Under business as usual conditions, the opening balances of unrecovered gaps must be covered through financing arrangement or capital restructuring;
- iii. Carrying cost of regulatory asset should be allowed to the utilities;
- iv. Recovery of regulatory asset should be time bound and within a period not exceeding three years, at the most and preferably within the control period;
- v. Use of regulatory asset should not be repetitive;
- vi. While creating regulatory asset it should be ensured that Return on Equity (ROE) should not become unreasonably low in any year so that the capability of the licensee to borrow is not adversely affected.

4.2.2 In accordance with Section-62 of Electricity Act 2003 and Revised Tariff Policy 2016, the Hon'ble Commission has notified DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 which is required to be followed by the Licensees for filing the Petition for determination of ARR and Tariff for any particular year.

4.2.3 In Delhi, the DISCOMs are required to follow DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 issued on 31st January, 2017, while filing ARR and Tariff Petitions.

4.2.4 In terms of Regulation 11 of the DERC (Terms and Conditions for Determination of Tariff) Regulations 2017, the Petition for determination of ARR for any financial year



is required to be filed atleast 150 days prior to the end of relevant financial year. The various legal provisions behind filing of ARR as are below:

- i. Section 62 of the Electricity Act, 2003 provides for determination of supply of electricity by a generating company to distribution licensee; retail supply and wheeling tariff etc.
- ii. The provisions laid down in Regulation 11 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 of tariff filing by the distribution licensees inter-alia as follows –

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

(1) Sales Forecast for the ensuing year and audited Sales for previous Year on monthly basis as prescribed in the Appendix-2;

(2) Expected Revenue to be billed for the ensuing year and audited Revenue Billed and Realised for previous Year as prescribed in the Appendix-2;

(3) Power Procurement Quantum & Cost for ensuing Year and audited Power Purchase Quantum & Cost for previous Year on monthly basis indicating Long Term and Short Term, Renewable Energy Purchase and other applicable Charges as prescribed in the Appendix -2:

Provided that the Distribution Licensee shall propose the indicative cost of power procurement taking into account revenues from Short term sale of Surplus Power and maximum normative rebate available from each entity;

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

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



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

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

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

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

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

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

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

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

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

4.2.5 It is, therefore, respectfully submitted that while deciding the present ARR Petition, the Hon’ble Commission will need to be guided by inter alia the following mandates of the Electricity Act, 2003 Act and Revised Tariff Policy, 2016:

Electricity Act, 2003:

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

(a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;

(b) the generation, transmission, distribution and supply of electricity are

- conducted on commercial principles;
- (c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;
- (d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;
- (e) the principles rewarding efficiency in performance;
- (f) multiyear tariff principles;
- (g) that the tariff progressively reflects the cost of supply of electricity and also, reduces and eliminates cross-subsidies within the period to be specified by the Appropriate Commission;
- (h) the promotion of co-generation and generation of electricity from renewable sources of energy;
- (i) the National Electricity Policy and tariff policy:"

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

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

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

"a) Return on Investment

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

..

Making the distribution segment of the industry efficient and solvent is the key to success of power sector reforms and provision of services of specified standards. Therefore, the Regulatory Commissions need to strike the right balance between the requirements of the commercial viability of distribution licenses and consumer interests. Loss making utilities need to be transformed



into profitable ventures which can raise necessary resources from the capital markets to provide services of international standards to enable India to achieve its full growth potential. Efficiency in operations should be encouraged. Gains of efficient operations with reference to normative parameters should be appropriately shared between consumers and licensees.

....

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

....

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

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

....

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

Under business as usual conditions, no creation of Regulatory Assets shall be allowed;

Recovery of outstanding Regulatory Asset along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding seven years. The State Commission may specify the trajectory for the same.”

(Emphasis supplied)

- 4.2.6 Section 11 read with Section 28 of the Delhi Electricity Reforms Act, 2000 provides for the licensee to observe methodologies and procedures specified by the Commission from time to time in calculating the expected revenue.
- 4.2.7 Regulation 24 of the License Conditions of Petitioner issued by DERC also provides for the provision of revenue calculation and tariffs.



4.2.8 Regulation-3 and 4 of Tariff Regulations, 2017, states as under:

"3. The Commission shall notify Business Plan Regulations for each Control Period based on the Business Plan submitted by the Utility which shall be read as part of these Regulations.

4. The Business Plan Regulations shall contain the following parameters applicable for a Control Period:

- (1) Rate of Return on Equity,*
- (2) Margin for rate of interest on loan,*
- (3) Operation and Maintenance Expenses,*
- (4) Capital Investment Plan,*
- (5) Mechanism for sharing of incentive-disincentive mechanism,*
- (6) Allocation of overhead expenses incurred on account of Administrative expenditure out of Operation and Maintenance Expenses for creation of Capital Assets,*
- (7) Generating Norms:*
 - (a) Gross Station Heat Rate,*
 - (b) Plant Availability Factor,*
 - (c) Secondary Fuel Oil Consumption,*
 - (d) Auxiliary Consumption and*
 - (e) Plant Load Factor,*
- (8) Transmission Norms:*
 - (a) Annual Transmission System Availability,*
 - (b) Annual Voltage-wise Availability*
- (9) Distribution Norms:*
 - (a) Distribution Loss Target,*
 - (b) Collection Efficiency Target,*
 - (c) Targets for Solar and Non Solar RPO,*
 - (d) Contingency Limit for Sale through Deviation Settlement Mechanism (Unscheduled Interchange) Transactions,*
 - (e) The ratio of various ARR Components for segregation of ARR into Retail Supply and Wheeling Business."*



- 4.2.9 The Petitioner has submitted the Petition for approval of the Business Plan for the Control Period from FY 2020-21 to FY 2024-25 before the Hon'ble Commission on October 21, 2019.
- 4.2.10 On December 27, 2019, the Hon'ble Commission uploaded DERC (Business Plan) Regulations, 2019 (hereinafter "Business Plan Regulations, 2019") in the website of the Hon'ble Commission which are applicable for a period of 3 years, i.e., FY 2020-21, FY 2021-22 and FY 2022-23. Business Plan Regulations, 2019 specified the trajectory for various controllable parameters to be followed during FY 2020-21 to FY 2022-23.
- 4.2.11 Projections for ensuing year (FY 2022-23) are done on the basis of certain assumptions which are outlined below:
- (a) Energy Sales to various consumer categories is projected on the basis of Past Year Compounded Annual Growth Rate (CAGR).
 - (b) Distribution Loss and Collection Efficiency are projected in accordance with the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 and the targets specified in Regulation 25 and 26 of the Business Plan Regulations, 2019 respectively.
 - (c) Power Purchase Quantum to be purchased is projected on the basis of energy Sales and T&D Loss projected for the ensuing year. Various Power Purchase Agreements/ Contracts are taken into consideration while projecting power purchase quantum.
 - (d) Power Purchase Cost is projected on the basis of Tariff Petitions filed by various Generating companies before Hon'ble CERC. Further, Power Purchase cost for State Generating companies is projected based on DERC Tariff Order for FY 2021-22.
 - (e) Operation and Maintenance Expenses are projected based on the methodology specified by the Hon'ble Commission in Regulation 23 of the DERC Business Plan Regulations, 2019.
 - (f) Capital expenditure related expenses are projected on the basis of capital expenditure approved by the Hon'ble Commission for ensuing year in Regulation 24 of the DERC Business Plan Regulations, 2019. The various



expenses linked to Capital expenditure are accordingly projected based on the methodology specified by the Hon'ble Commission in the Tariff Regulations 2017 and Business Plan Regulations 2019.

4.2.12 Accordingly, the Petitioner is filing the present Petition to ensure prompt determination of Tariff for FY 2022-23 to come into effect from 1-4-2022.

4.3 Energy Sales

4.3.1 For projection of Sales for FY 2022-23, following approach is adopted by the Petitioner:

- a) Step 1 - Firstly, Compounded Annual Growth Rate (CAGR) is compared for First Half (H1) and Second Half (H2) of the Financial Year. The approach for considering the CAGR for H1 and H2 separately would appropriately address the seasonal variation in energy sales i.e. H1 being peak season and H2 being off peak season of the financial year.
- b) Step 2 – The category wise sales for FY 2022-23 is projected considering the base year as FY 2019-20 (FY 2020-21 and FY 2021-22 being exceptionally abnormal years due to COVID-19 lockdown conditions in peak consumption period).
- c) Step 3 – The appropriate growth rate for H1 and H2 for respective categories are applied on the actual sales of H1 and H2 of FY 2019-20 for projecting the notional sales for FY 2020-21 and FY 2021-22 (assuming no impact of COVID-19 and lockdown). Accordingly, projected Sales for FY 2022-23 is arrived at 6,960 MU.

4.3.2 The Adjusted Trend Analysis Method makes use of a statistical tool, namely the Compound Annual Growth Rate (CAGR) and, accordingly, Compound Annual Growth Rates (CAGRs) have been calculated from the past figures for each category, corresponding to different lengths of time in the past six years, along with the year on year growth rates from FY 2014-15 to FY 2019-20. The category-wise actual sales for the period FY 2014-15 to FY 2019-20 is tabulated below in Table 4.1 and 4.2 for H1 and H2 respectively:

Table 4.1: Sales from FY 2014-15 to FY 2019-20 (H1) (MU)

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	1,806	1,926	2,200	2,347	2,475	2,556

A.1	Domestic (other than A2 to A4)	1,742	1,860	2,134	2,279	2,408	2,488
A.2	CGHS	9	9	10	10	12	13
A.3	11 KV Worship/Hospital	40	42	44	45	43	45
A.4	DVB Staff	15	15	12	13	12	11
B	Non Domestic	930	966	1,032	1,072	1,058	1,027
B.1	Non Domestic LT	728	764	822	860	875	837
B.2	Non Domestic HT	203	203	210	212	183	191
C	Industrial	148	147	151	158	184	202
C.1	Industrial LT	129	127	131	136	138	154
C.2	Industrial HT	19	20	20	22	46	48
D	Agriculture	0	0	0	0	0	0
E	Public Utilities	214	208	224	230	194	214
E.1	Public Lighting	51	47	50	50	52	49
E.2	DJB LT	5	5	5	6	6	7
E.3	DJB HT	65	69	66	68	65	69
E.4	DMRC	93	87	103	107	71	89
F	Temporary Supply	21	22	26	24	25	29
G	Advertisement & Hoardings	0	0	0	0	0	0
H	E Vehicle	-	-	-	-	2	7
I	Self-consumption	6	6	5	7	6	6
J	Enforcement	10	12	10	8	6	7
K	Others	-	-	-	-	-	-
Total		3,137	3,287	3,648	3,846	3,950	4,049

Table 4.2: Sales from FY 2014-15 to FY 2019-20 (H2) (MU)

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	1,198	1,254	1,317	1,410	1,364	1,501
A.1	Domestic (other than A2 to A4)	1,146	1,208	1,271	1,361	1,315	1,458
A.2	CGHS	7	7	7	9	10	8
A.3	11 KV Worship/Hospital	33	32	31	33	32	29
A.4	DVB Staff	11	8	8	8	7	5
B	Non Domestic	709	741	740	810	734	709
B.1	Non Domestic LT	549	581	583	641	592	576
B.2	Non Domestic HT	160	161	157	169	141	134
C	Industrial	134	138	125	152	191	170
C.1	Industrial LT	118	121	110	131	151	135

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
C.2	Industrial HT	16	16	16	21	39	36
D	Agriculture	0	0	0	0	0	0
E	Public Utilities	188	217	240	242	231	179
E.1	Public Lighting	50	67	96	69	52	44
E.2	DJB LT	5	5	5	6	6	6
E.3	DJB HT	66	67	65	67	72	68
E.4	DMRC	68	77	74	100	101	61
F	Temporary Supply	18	20	20	21	20	23
G	Advertisement & Hoardings	0	0	0	0	0	0
H	E Vehicle	-	-	-	0	5	9
I	Self-consumption	10	7	10	9	9	7
J	Enforcement	11	12	13	12	8	7
K	Others	-	0	0	1	2	3
Total		2,268	2,390	2,467	2,658	2,563	2,608

4.3.3 The category-wise CAGR for various consumer categories for H1 and H2 is tabulated below in Table 4.3 and Table 4.4 respectively:

Table 4.1:5 Years CAGR for H1 (%)

S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
A	Domestic						
A.1	Domestic (other than A2 to A4)	7.39%	7.55%	5.25%	4.48%	3.33%	4.48%
A.2	CGHS	7.44%	8.77%	9.69%	11.35%	11.73%	11.35%
A.3	11 KV Worship/Hospital	2.01%	1.56%	0.62%	-0.05%	3.11%	-0.05%
A.4	DVB Staff	-6.24%	-7.93%	-3.60%	-6.31%	-9.43%	0.00%
B	Non Domestic						
B.1	Non Domestic LT	2.83%	2.31%	0.60%	-1.37%	-4.32%	-1.37%
B.2	Non Domestic HT	-1.20%	-1.52%	-3.21%	-5.12%	4.00%	-5.12%
C	Industrial						
C.1	Industrial LT	3.60%	5.00%	5.48%	6.67%	11.87%	6.67%
C.2	Industrial HT	20.44%	25.05%	34.96%	46.90%	5.08%	5.08%
D	Agriculture	2.44%	-3.83%	-0.76%	-6.18%	-7.85%	0.00%
E	Public Utilities						
E.1	Public Lighting	1.04%	1.04%	-0.68%	-1.18%	-7.03%	-1.18%

S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
E.2	DJB LT	4.40%	5.26%	6.20%	6.31%	4.05%	6.31%
E.3	DJB HT	1.38%	-0.07%	1.59%	0.74%	6.81%	0.74%
E.4	DMRC	-0.78%	0.83%	-4.49%	-8.44%	26.87%	-8.44%
F	Temporary Supply	6.47%	7.74%	4.55%	10.20%	15.43%	10.20%
G	Advertisement & Hoardings	-	-	-	-	-	0.00%
H	E Vehicle	NA	NA	NA	NA	232.81%	25.00%
I	Self-consumption	-0.44%	1.65%	5.41%	-2.35%	-0.64%	.25% of sales

Table 4.4:5 Years CAGR for H2 (%)

S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
A	Domestic						
A.1	Domestic (other than A2 to A4)	4.93%	4.82%	4.67%	3.51%	10.84%	3.51%
A.2	CGHS	1.43%	2.76%	3.09%	-4.99%	-	-4.99%
A.3	11 KV Worship/Hospital	-2.45%	-1.73%	-2.05%	-5.05%	-7.33%	-5.05%
A.4	DVB Staff	-	-9.18%	-	-	-	0.00%
		12.58%		10.18%	14.52%	20.39%	
B	Non Domestic						
B.1	Non Domestic LT	0.96%	-0.23%	-0.42%	-5.21%	-2.80%	-5.21%
B.2	Non Domestic HT	-3.50%	-4.44%	-5.16%	-	-5.41%	-11.03%
					11.03%		
C	Industrial						
C.1	Industrial LT	2.69%	2.63%	7.09%	1.37%	-	1.37%
C.2	Industrial HT	17.13%	22.00%	31.44%	29.68%	-9.56%	-9.56%
D	Agriculture	-2.70%	-4.88%	-5.83%	-	-2.70%	0.00%
					13.63%		
E	Public Utilities						
E.1	Public Lighting	-2.40%	-	-	-	-	-20.10%
			10.13%	22.82%	20.10%	14.71%	
E.2	DJB LT	4.84%	4.21%	5.39%	2.10%	-0.01%	2.10%
E.3	DJB HT	0.54%	0.06%	1.18%	0.33%	-6.23%	0.33%
E.4	DMRC	-2.19%	-5.76%	-6.24%	-	-	-21.89%
					21.89%	39.69%	
F	Temporary Supply	5.49%	3.85%	4.18%	4.22%	13.11%	4.22%

S.No	Category	5 yrs	4 yrs	3 yrs	2 yrs	1 yr	Growth Considered
G	Advertisement & Hoardings	- 38.45%	- 49.42%	- 60.51%	- 73.86%	14.66%	0.00%
H	E Vehicle	NA	NA	NA	408.99%	81.64%	25.00%
I	Self-consumption	-6.78%	0.93%	- 11.88%	- 13.38%	- 23.82%	.25% of sales

4.3.4 The category wise number of consumers and total connected load for FY 2014-15 to FY 2019-20 are as follows:

Table 4.5: Number of consumers from FY 2014-15 to FY 2019-20

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	10,84,188	11,44,581	11,94,989	12,49,570	12,88,536	13,31,796
A.1	Domestic (other than A2 to A4)	10,77,264	11,39,603	11,89,946	12,44,638	12,83,735	13,28,152
A.2	CGHS	17	17	17	18	18	17
A.3	11 KV Worship/Hospital	29	31	33	33	31	30
A.4	DVB Staff	6,878	4,930	4,993	4,881	4,752	3,597
B	Non Domestic	3,50,820	3,62,433	3,73,450	3,86,590	3,83,911	3,85,348
B.1	Non Domestic LT	3,50,542	3,62,141	3,73,164	3,86,302	3,83,633	3,85,069
B.2	Non Domestic HT	278	292	286	288	278	279
C	Industrial	8,021	7,836	7,730	7,648	7,555	7,568
C.1	Industrial LT	8,001	7,817	7,713	7,628	7,520	7,532
C.2	Industrial HT	20	19	17	20	35	36
D	Agriculture	52	51	47	45	43	42
E	Public Utilities	4,302	4,405	4,477	4,579	4,790	5,052
E.1	Public Lighting	3,482	3,598	3,638	3,689	3,835	3,896
E.2	DJB LT	750	737	770	819	883	1,084
E.3	DJB HT	69	69	68	69	69	69
E.4	DMRC	1	1	1	2	3	3
F	Temporary Supply	-	-	-	-	-	-
G	Advertisement & Hoardings	286	357	339	285	344	348
H	E Vehicle				119	552	790
I	Self-consumption	3	10	12	14	3	192
J	Enforcement	-					
K	Others						
Total		14,47,672	15,19,673	15,81,044	16,48,850	16,85,734	17,31,136

Table 4.6: Total connected load (MW/MVA) for FY 2014-15 to FY 2019-20

S.No	Category	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
A	Domestic	3,359	3,720	3,746	2,678	2,799	2,927
A.1	Domestic (other than A2 to A4)	3,279	3,645	3,669	2,601	2,728	2,863
A.2	CGHS	16	16	16	17	11	10
A.3	11 KV Worship/Hospital	40	41	44	44	44	43
A.4	DVB Staff	24	17	17	17	15	12
B	Non Domestic	1,621	1,708	1,683	1,700	1,647	1,626
B.1	Non Domestic LT	1,381	1,470	1,469	1,488	1,448	1,430
B.2	Non Domestic HT	240	237	214	212	199	197
C	Industrial	184	183	179	179	215	215
C.1	Industrial LT	164	163	160	159	180	180
C.2	Industrial HT	20	20	19	20	35	35
D	Agriculture	0	0	0	0	0	0
E	Public Utilities	133	137	140	146	164	193
E.1	Public Lighting	31	33	33	33	46	43
E.2	DJB LT	11	11	11	12	13	14
E.3	DJB HT	69	71	71	72	74	74
E.4	DMRC	21	21	25	28	31	62
F	Temporary Supply	-	-	-	-	-	-
G	Advertisement & Hoardings	1	1	1	1	1	1
H	E Vehicle				0	3	6
I	Self-consumption	0	0	0	0	0	6
J	Enforcement	-					
K	Others						
Total		5,299	5,748	5,749	4,705	4,828	4,974

4.3.5 During the exercise for forecasting of Energy Sales for the FY 2022-23, the Petitioner has considered the actual Sales till FY 2019-20. However, in order to forecast energy sales for FY 2022-23, the CAGR of various years is computed, considering FY 2019-20 as base year (as the sales in FY 2020-21 and FY 2021-22 is exceptionally low due to the lockdown and COVID-19). The CAGR of various year is then analysed for further projections. However, solely relying on annual CAGR is not sufficient. Certain categories show abnormal growth rates due to various reasons such as:

- New category introduced like E-Rickshaws for which data for past years is not available.

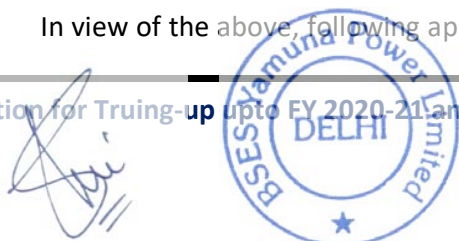
- Certain consumers / categories show no or very less consumption due to opting of Open Access, sealing drive conducted by Civic agencies, opting for net metering connections etc.
- Cross-migration of consumers from one category to another, etc.
- Tendency of consumers to opt for multiple connections for deriving benefits of subsidy.

4.3.6 Such outliers have been manually identified and appropriate growth rates have been applied to these categories so that the overall trend may align with the actual growth.

4.3.7 It is pertinent to highlight the following constraints faced by the Petitioner in recent past which has adversely affected the consumer's sales growth:

- **Saturation of electrification in BYPL area:** The average consumer density in BYPL area is as high as 8950 connections/sq. km. In some areas, the consumer density is more than 28000 connections/ sq. km. The scope of sales growth on account of addition in number of consumers is very limited in the Petitioner's Area.
- **Sealing drive conducted by Civic Authorities:** Several sealing drives are being conducted by the civic authorities leading to disconnections of existing non-domestic/ industrial category.
- **Demand Side Management (DSM) activities:** Due to the DSM activities undertaken by BYPL such as distribution of Energy Efficient LED lights, energy efficient Air Conditioners etc., under the DSM scheme, the sales under Domestic category have not shown a significant growth.
- **Open access & Net metering:** Many Consumers from categories like DMRC, Non Domestic and Industrial are opting for open access. Further, Net Metering is also opted by the consumers which constitute to capacity of 27.4 MWp as on 31.03.2021. This has also adversely impacted the sales growth in Petitioner's area.
- **Clearance required from Delhi Pollution Control Committee (DPCC):** Hon'ble commission had mandated the clearance from DPCC for availing new industrial and some Non-Domestic connections which has adversely affected the consumer growth under industrial and Non-Domestic category.

4.3.8 In view of the above, following approach is adopted for projection of category wise



sales for FY 2020-23:

- **Domestic other than CGHS, 11 KV Worship/Hospital and DVB Staff:** Domestic category is the most predominant category of the Petitioner, representing about 61% of total energy sales. However, during FY 2020-21, Domestic category constitutes to around 68% of total energy sales. It is observed that the percentage increase in sales is less in last 2 years when compared to 5-year CAGR. Due to various constraints in Petitioner's area as explained in Para 4.3.7 coupled with various DSM initiatives undertaken by the Petitioner, the Sales under this category is not likely to increase substantially and hence, sales for domestic category for FY 2022-23 has been projected considering 2 years CAGR i.e., 4.48% for H1 and 3.51% for H2.
- **CGHS:** This category is billed under Domestic category, however during the last 5 years there is no consumer growth in this category only specific consumption of existing consumer is increased. Considering the same, the Petitioner has considered 2 years CAGR of 11.35% for H1 and (-) 4.99% for H2.
- **11 KV Worship/Hospital:** The consumption in this category shows negative trend during last 3 years. 2 years CAGR of (-) 0.05% for H1 and (-)5.05% for H2 is considered for projection of energy sales for 11 KV Worship/Hospital.
- **DVB Staff:** Nil Growth is considered in this category in view of Continuous negative trend in Growth.
- **Non Domestic low tension:** The sales under this category is continuously declining since FY 2017-18 onwards. The annual growth in H1 and H2 during FY 2019-20 as compared to previous year was (-) 4.32% and (-)2.80% respectively as compared to the 5 year's CAGR of 2.83% and 0.96% for H1 and H2 respectively. The sales under this category is not likely to increase substantially in FY 2022-23 the reasons of which are already explained in para 4.3.7. Hence, 2 years CAGR of (-)1.37% for H1 and (-)5.21% for H2 is considered while projecting the sales for FY 2022-23.
- **Non Domestic High tension:** The sales under this category are continuously declining since FY 2017-18 onwards. The sales are not likely to increase substantially in FY 2022-23. The reasons of which are already explained in para 4.3.7. Accordingly, 2 years CAGR of (-)5.12% for H1 and (-)11.03% for H2 is considered for projection of sales for FY 2022-23.
- **Industrial Low Tension:** 2 years CAGR of 6.67% for H1 and 1.37% for H2 is considered for projection of sales for FY 2022-23.
- **Industrial High Tension:** The comparison of 5 years CAGR to 2 years CAGR under this category is showing exceptionally abnormal growth 20% to 47% in H1 and



17% to 31% in H2. Such high growth is not anticipated in FY 2022-23. Accordingly, Year on year growth of 5.08% for H1 and (-)9.56% for H2 is considered in this category.

- **Agriculture & Mushroom:** Nil growth is considered in this category.
- **Public utility Category:** For projecting the sales under Public Utilities category, the following assumptions have been considered:
 - 2 years CAGR of (-)1.18% for H1 and (-)20.10% for H2 is considered in Public Lighting category considering initiative of replacement of old lamps with energy efficient LED lamps by the road owning agencies.
 - The consumption of Delhi Jal Board (DJB) Low tension is expected to increase on the basis of 2 years CAGR of 6.31% for H1 and 2.10% for H2. Similarly, DJB high tension category is also projected to increase on the basis of 2 years CAGR of 0.74% for H1 and 0.37% for H2.
 - 2 years CAGR of (-)8.44% for H1 and (-)21.89% for H2 is considered in Delhi Metro Rail Corporation (DMRC) due to availing of Open Access procurement by DMRC.
- Nil Growth is considered in the sales under Advertisement & Hoardings category as the same is showing negative growth throughout the 5-year period.
- 2 years CAGR of 10.20% for H1 and 4.22% for H2 is considered under Temporary category.
- The sales under Charging Stations for E-Vehicles have been projected to increase at the rate of 25% annually mainly due to expected increase in number of E-Vehicles and charging stations.

4.3.9 The self-consumption has been projected considering 0.25% of the total projected sales for FY 2022-23 as per Regulation 23(2) of DERC (Business Plan) Regulations, 2019.

4.3.10 The Petitioner has applied the above growth rates on the actual category wise sales of FY 2019-20 to estimate energy sales during FY 2022-23 as tabulated below:

Table 4.2: Projected Sales (MU) for FY 2022-23

S.No	Category	FY 2019-20 (Actual)			Growth Rate			FY 2022-23 (Projections)		
		H1	H2	Total	H1	H2	Basis	H1	H2	Total
A	Domestic	2,556	1,501	4,057				2,911	1,654	4,565
A.1	Domestic (other than A2 to A4)	2,488	1,458	3,946	4.48%	3.51%	2 yrs CAGR	2,838	1,617	4,454

S.No	Category	FY 2019-20 (Actual)			Growth Rate			FY 2022-23 (Projections)		
		H1	H2	Total	H1	H2	Basis	H1	H2	Total
A.2	CGHS	13	8	21	11.35%	-4.99%	2 yrs CAGR	18	7	25
A.3	11 KV Worship/Hospital	45	29	74	-0.05%	-5.05%	2 yrs CAGR	44	25	70
A.4	DVB Staff	11	5	16	0.00%	0.00%	NIL Growth	11	5	16
B	Non Domestic	1,027	709	1,737				966	584	1,550
B.1	Non Domestic LT	837	576	1,412	-1.37%	-5.21%	2 yrs CAGR	803	490	1,293
B.2	Non Domestic HT	191	134	324	-5.12%	-11.03%	2 yrs CAGR	163	94	257
C	Industrial	202	170	373				243	167	410
C.1	Industrial LT	154	135	289	6.67%	1.37%	2 yrs CAGR	187	140	328
C.2	Industrial HT	48	36	84	5.08%	-9.56%	YOY Growth	56	26	82
D	Agriculture	0	0	0	0.00%	0.00%	NIL Growth	0	0	0
E	Public Utilities	213	179	392				194	126	321
E.1	Public Lighting	49	44	93	-1.18%	-20.10%	2 yrs CAGR	47	22	69
E.2	DJB LT	6	6	12	6.31%	2.10%	2 yrs CAGR	8	7	14
E.3	DJB HT	69	68	137	0.74%	0.33%	2 yrs CAGR	71	68	139
E.4	DMRC	89	61	150	-8.44%	-21.89%	2 yrs CAGR	69	29	98
F	Temporary Supply	29	23	52	10.20%	4.22%	2 yrs CAGR	39	26	65
G	Advertisement & Hoardings	0	0	0	0.00%	0.00%	NIL Growth	0	0	0
H	E Vehicle	7	9	16	25.00%	25.00%	25.00%	13	18	32
I	Others	13	17	30				11	6	17
Total		4,049	2,608	6,657				4,377	2,583	6,960

4.3.11 The Petitioner requests the Hon'ble Commission to kindly consider the projected Sales of FY 2022-23 as submitted in aforesaid table.

Projection of Number of Consumers:

4.3.12 The category wise number of consumers are projected considering the month on month growth in number of consumer during FY 2019-20. The same growth is applied on the closing category wise number of consumers for September 2021 on monthly basis.

Projection of Sanctioned Load:

4.3.13 The category wise Sanctioned load are projected considering the month on month growth in Sanctioned load during FY 2019-20. The same growth is applied on the closing category wise Sanctioned load for the month of September 2021 on monthly basis.

4.3.14 The Projected number of consumers and connected load and energy sales during FY 2022-23 is tabulated below:

Table 4.3: Projected number of consumers, sanctioned load and sales for FY 2022-23

S.No	Category	No of consumer	Sanctioned Load (MW)	Sales (MU)
A	Domestic	14,64,022	3,135	4,565
A.1	Domestic (other than A2 to A4)	14,61,072	3,067	4,454
A.2	CGHS	15	7	25
A.3	11 KV Worship/Hospital	30	51	70
A.4	DVB Staff	2,905	10	16
B	Non Domestic	3,90,118	1,541	1,550
B.1	Non Domestic LT	3,89,821	1,347	1,293
B.2	Non Domestic HT	297	194	257
C	Industrial	7,609	212	410
C.1	Industrial LT	7,574	178	328
C.2	Industrial HT	35	34	82
D	Agriculture	40	0	0
E	Public Utilities	5,206	205	321
E.1	Public Lighting	3,534	34	69
E.2	DJB LT	1,593	16	14
E.3	DJB HT	76	84	139
E.4	DMRC	3	71	98
F	Temporary Supply	0	0	65
G	Advertisement & Hoardings	303	1	0
H	E Vehicle	913	10	32

S.No	Category	No of consumer	Sanctioned Load (MW)	Sales (MU)
I	Others	203	6	17
Total		18,68,414	5,110	6,960

4.3.15 The Petitioner requests the Hon'ble Commission to consider the above submissions for estimation of sales, connected load and number of consumers during FY 2022-23.

4.4 Revenue in FY 2022-23 at Existing Tariff

4.4.1 Methodology adopted for projection of Revenue from existing Tariff is as follows

- Energy Sales have been divided among sub-categories on monthly basis based on Form-2.1a (actual) of FY 2019-20.
- Number of Consumers and Connected Load (MW) for various sub-categories has been divided in the ratio of actual sanctioned load and actual number of consumers during FY 2019-20.
- The fixed charges and energy charges as approved by the Hon'ble Commission in Tariff Schedule dated 30th September 2021 has been considered for calculation of revenue from existing tariff. However, the Petitioner in the present petition would be, inter alia, praying for higher fixed charges than that which was allowed in FY 2021-22 which is explained in greater detail in the relevant section.
- For the sub-categories where the energy charges have been specified in Rs/kVAh, the Petitioner has considered actual monthly power factor as per Form 2.1a of FY 2019-20.
- The above methodology in general has been utilised for estimation of revenue from existing tariff for various consumer categories.

4.5 Revenue estimated for FY 2022-23

4.5.1 The revenue estimated on account of sales to various consumer categories during FY 2022-23 is tabulated below:

Table 4.4: Revenue estimated during FY 2022-23 (₹ Cr.)



S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue Billed
A	Domestic	197	1,861	-2	2,056
A.1	Domestic (other than A2 to A4)	180	1,791	0	1,971
A.2	CGHS	1	11	0	12
A.3	11 KV Worship/Hospital	15	56	-2	69
A.4	DVB Staff	0	3	0	4
B	Non Domestic	469	1,308	-7	1,769
B.1	Non Domestic LT	409	1,079	0	1,488
B.2	Non Domestic HT	59	229	-7	281
C	Industrial	64	332	-2	394
C.1	Industrial LT	54	266	0	320
C.2	Industrial HT	10	66	-2	74
D	Agriculture	0	0	0	0
E	Public Utilities	63	214	-5	272
E.1	Public Lighting	10	47	0	57
E.2	DJB LT	5	10	0	15
E.3	DJB HT	26	94	-3	117
E.4	DMRC	22	64	-2	84
F	Temporary Supply	0	59	0	59
G	Advertisement & Hoardings	0	0	0	0
H	E Vehicle	0	14	0	14
I	Others	0	0	0	0
Total		793	3,788	-16	4,565
Total Collection @ 99.50%					4,542

Note: Impact of TOD included in Energy charge.

4.6 Distribution Loss and Collection Efficiency Target

4.6.1 Regulation-25 (1) of DERC (Business Plan) Regulations, 2019 specifies the Distribution Loss Target from FY 2020-21 to FY 2022-23 as under:

"25. TARGET FOR DISTRIBUTION LOSS

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

Table 15.7 Target for Distribution Loss for the Control Period

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

“

4.6.2 Regulation-26 (1) of DERC (Business Plan) Regulations, 2019 specifies targets for Collection Efficiency from FY 2020-21 to FY 2022-23 @ 99.50%.

4.6.3 Based on the sales projected for FY 2022-23 and Distribution loss as specified for FY 2022-23 in DERC Business Plan Regulations, 2019, the energy requirement has been estimated as tabulated below:

Table 4.5: Energy Requirement for FY 2022-23

S. No	Particulars	Unit	Quantity	Remarks
A	Energy sales	MU	6,960	Table-1.5
B	Distribution Loss	%	8.50%	Table-15 of DERC Business Plan Regulations, 2019
C	Energy Requirement	MU	7,607	A/(1-B)
D	Distribution Loss	MU	647	C-A

4.7 Power Purchase

4.7.1 The Petitioner sources the power through mix of long term and short term sources to meet the demand in its licensed area. The power procured under long term PPAs from thermal and hydro power plants forms the bulk of the power purchase by the Petitioner.

4.7.2 The power procurement through Long term sources include Central Generating Stations which are owned by Central Government, State Generating Stations which are owned by State Government, IPP and JVs. The deficit in power against the demand is arranged by means of short term power procurement through various sources like Banking, Power Exchange and other sources. The Petitioner has been assigned the share based on the PPAs which have been inherited from Delhi Transco Limited. The allocation of power within Delhi is being done by the Hon'ble

Commission.

4.7.3 The forecast of Power Availability has been done based on existing long-term sources and from new sources for which the Petitioner has executed the PPAs and are expected to be operational during FY 2022-23. The Petitioner has also considered solar energy available from the existing Rooftop sources as well as forecasted to be installed in BYPL licensed Area.

4.7.4 The energy from various existing and upcoming generating stations has been estimated by applying Merit Order Dispatch Scheduling principle in the following manner:

i. NCTPS (Dadri – I)

- Since 30.11.2020, the Petitioner is not considering the Dadri-I Station of NTPC, as part of its power purchase costs. However, NTPC took a contrary stand and continued to raise bills for fixed charges towards Dadri-I. The Petitioner approached CERC against the actions of NTPC and NRLDC. The Hon'ble CERC vide Order dated 01.07.2021 allowed all issues but directed the Petitioner to approach the MoP and seek de-allocation for Regulation 17(2) to come into effect.
- The direction of the Hon'ble CERC has been challenged by the Petitioner before the Hon'ble APTEL. Hon'ble APTEL vide its Order dated 26.08.2021 has stayed the recovery of the capacity charges towards Dadri-I. Contrary to the same, NTPC has stated that PPA is still continuing and interpretation of Regulation 17 by CERC and Petitioner is incorrect. NTPC has challenged the Order dated 01.07.2021 and Regulation 17 before the Hon'ble High Court of Delhi and the APTEL's Interim Order dated 26.08.2021 before Hon'ble Supreme Court.
- Subject to the outcome of the aforesaid proceedings pending before various fora, the Petitioner reserves its rights to make further submissions and file appropriate intimation/information/ pleadings in this regard if there are any developments on this issue in the near future, which may have bearing on the power purchase costs of the Petitioner for FY 22-23.



ii. BTPS:

- No procurement has been considered due to phasing out of plant.

iii. All other NTPC Stations, Sasan, NPCIL, DVC and SGS stations.

- The power availability has been estimated based upon the apportionment as per Hon'ble Commission's last Tariff Order dated September 30, 2021 for FY 2021-22.
- For SGS stations, power availability has been considered by applying Merit Order Dispatch (MOD) Scheduling principle
- Further, PPCL-III quantum has been estimated after taking into account the Hon'ble Supreme Court direction with respect to Natural Gas availability for unit-1 of Bawana station.
- The quantum from all other NTPC stations, Sasan, NPCIL and DVC have been considered based upon Merit Order Dispatch (MOD) scheduling principles and as specified by the Hon'ble Commission.

iv. NHPC & other Hydro Stations:

- The power availability has been estimated based on the allocation as per Hon'ble Commission's last Tariff Order dated September 30, 2021 for FY 2021-22 and design energy for the must run hydro power stations.
- Further Design energy is considered for must run SJVNL & Tala stations.

v. RE Sources:

- For existing RE sources, availability is projected based on the average of actual availability of the plants during past years.

vi. New Generating Stations:

- The expected COD has been taken from various sources including upcoming Generating stations;
- Power availability after COD has been projected taking into account norms



of auxiliary consumption, terms agreed in the PPA, expected PLF and Petitioners share in power generated as per the normative operational parameters specified by CERC.

4.7.5 Based on the above, the energy estimated to be available during FY 2022-23 is tabulated below:

Table 4.6: Energy Purchase during FY 2022-23

S. No.	Stations	Installed Capacity (MW)	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share (MU)
			(%)	(MW)	(%)	(MW)	
A	NTPC						
1	Anta-Gas	419	11%	44	2.67%	11	3
2	Auraiya-Gas	663	11%	72	2.76%	18	9
3	Dadri - Gas	830	11%	91	2.78%	23	26
4	Feroze Gandhi Unchahar TPS 1	420	6%	24	1.45%	6	31
5	Feroze Gandhi Unchahar TPS 2	420	11%	47	2.84%	12	62
6	Feroze Gandhi Unchahar TPS 3	210	14%	29	3.51%	7	36
7	Farakka	1600	1%	22	0.35%	6	24
8	Kahalgaon-1	840	6%	51	1.54%	13	70
9	Kahalgaon-II	1500	6%	90	2.66%	40	232
10	Dadri-I	840					
11	Dadri-II	980	75%	735	17.84%	175	854
12	Rihand-I	1000	10%	100	0.00%	0	0
13	Rihand-II	1000	13%	126	3.20%	32	202
14	Rihand-III	1000	13%	132	5.40%	54	349
15	Singrauli	2000	8%	150	3.72%	74	429
16	Aravali Power Corporation Ltd - Jhajjar	1500	0%	0	4.61%	69	332
B	NHPC						
1	Bairasiul	180	11%	20	2.79%	5	22
2	Salal	690	12%	80	2.95%	20	91
3	Tanakpur	94	13%	12	3.27%	3	15

S. No.	Stations	Installed Capacity (MW)	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share (MU)
			(%)	(MW)	(%)	(MW)	
4	Chamera-I	540	8%	43	2.01%	11	33
5	Uri	480	11%	53	2.80%	13	73
6	Chamera-II	300	13%	40	3.39%	10	51
7	Chamera-III	231	13%	29	3.23%	7	35
8	Dhauri Ganga	280	13%	37	3.36%	9	38
9	Dulhasti	390	13%	50	3.26%	13	62
10	Sewa-II	120	13%	16	3.39%	4	18
11	Uri-II	240	13%	32	3.42%	8	38
12	Parbati-III	520	13%	66	3.23%	17	63
13	Parbati-II						20
C	THDC						
1	Tehri-Hydro	1000	6%	63	0.00%	0	
2	Koteshwar	400	10%	39	0.00%	0	
D	Satluj Jal Vidyut Nigam Ltd.- Nathpa Jhakri	1500	9%	142	2.41%	36	159
E	NAPP	440	11%	47	0.00%	0	
	RAPP C#5 &6	440	13%	56	3.22%	14	119
F	Tala through PTC	1020	3%	30	0.75%	8	36
G	SGS						
1	GT	90	100%	90	23.33%	21	69
2	PPCL-I	330	100%	330	16.16%	53	231
3	PPCL-III(Bawana)	1371	80%	1097	As per FY 21-22 TO		444
H	DVC						
1	CTPS-7 & 8	500	60%	300	15.24%	76	413
2	Mejia-6	250	40%	100	10.16%	25	129
3	Mejia-7	500	88%	438	22.23%	111	705
I	Sasan	3960	11%	446	As per FY 21-22 TO		2525
J	Renewable (Existing & Future)						
1	MSW	24				6	30
2	SDMC	25				6	21
3	Solar-SECI_20 MW	20				20	42
4	Solar Badla	50			100%	50	105

S. No.	Stations	Installed Capacity (MW)	Firm & un-allocated share of Delhi		Share Allocation to Petitioner		Petitioner Share (MU)
			(%)	(MW)	(%)	(MW)	
5	Solar Eden	300			16.67%	50	105
6	Solar SBSR	300			33.33%	100	210
7	Solar Acme	300				100	210
8	Solar Avikiran	300				90	
9	Wind Alfanar	300				50	149
10	Wind Sitac	300				100	298
11	Self-Generation	0.3					0.2
K	THDC (PSP)						63
	Total						9280

4.8 Power Purchase Cost

4.8.1 The Petitioner has estimated the power purchase cost corresponding to the quantum from power plants as listed above in the following manner:

i. Central Generating Stations:

- Annual fixed Charges (AFC) have been considered as per the Petition filed by respective Central Generating station before the Hon'ble CERC (enclosed as Annexure – 4.1).
- Variable Costs considered as per actuals of FY 2020-21 along with impact of emission control system and escalation on variable cost considered as per latest market report.

ii. State Generating Stations:

- Annual fixed Charges (AFC) have been considered as per latest Tariff Order of Hon'ble DERC.
- Variable Costs considered as per actuals of FY 2020-21 along with impact of emission control system and escalation on variable cost considered as per latest market reports,

iii. RE Sources:

- The cost of procurement from, SECI Solar, SECI Wind and Non Solar Generating plants have been considered as per the PPAs/ PSA's signed and/or billed, as the case may be.

iv. New Generating Stations:

- The Cost of power from new stations has been considered as indicated by various generating stations in respective PSA and/or as per cost of similar stations.

v. Arrears

- Majority of Central Generating station have filed their respective True up petitions for FY 2014-19 and ARR of FY 2019-24 before the Hon'ble CERC. The orders of the same are expected to be pronounced shortly. Accordingly, a conservative amount of ₹558 Cr. has been considered as part of Power purchase cost for FY 2022-23 on account of arrears. The same will have huge bearing on the overall power purchase cost of the Petitioner. The plant wise details of expected arrears are shown below in the chart:

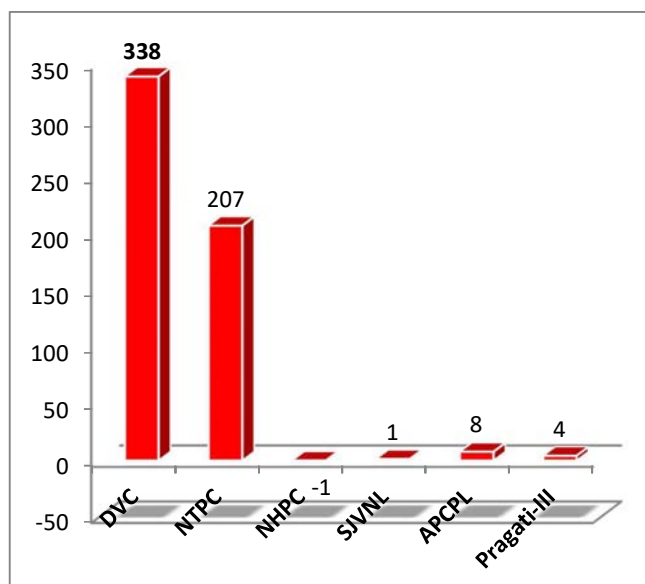


Figure 3: Expected Impact of Arrears of Central Generating Stations on account of latest Tariff petitions filed in Hon'ble CERC

- Since the amount of estimated arrear is huge, hence same cannot be timely recovered through Quarterly PPAC. Hence, in view of the above and the cash flow crisis being faced by the Petitioner, the Petitioner requests Hon'ble Commission to allow the recovery of Suo-moto PPAC on monthly



basis as against quarterly basis for speedier recovery and payment of power cost to respective Genco's and Transco's. The Petitioner also requests Hon'ble commission to kindly consider the estimated arrears in power purchase cost of FY 2022-23 while finalizing the Tariff for the year.

4.8.2 Accordingly, the power purchase cost as proposed for various stations during FY 2022-23 is tabulated below:

Table 4.7: Power Purchase Cost proposed for FY 2022-23

S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	(₹ Cr.)	(₹ Cr.)	(₹ Cr.)	₹/unit
A	NTPC					
1	Anta Gas Power Project	3	6	1	7	28.08
2	Auraiya Gas Power Station	9	11	6	16	18.45
3	Badarpur Thermal Power Station					
4	Dadri Gas Power Station	26	9	11	20	7.49
5	Feroze Gandhi Unchahar TPS 1	31	5	11	16	5.22
6	Feroze Gandhi Unchahar TPS 2	62	11	22	33	5.33
7	Feroze Gandhi Unchahar TPS 3	36	7	13	21	5.80
8	Farakka Stps	24	4	7	12	4.90
9	Kahalgaon Thermal Power Station 1	70	12	18	29	4.24
10	Kahalgaon Thermal Power Station 2	232	31	55	86	3.71
11	National Capital Thermal Power	0	0	0	0	
12	Dadri TPS-II	854	198	326	524	6.14
13	Rihand Thermal Power Station 1	0	0	0	0	
14	Rihand Thermal Power Station 2	202	20	33	53	2.64
15	Rihand Thermal Power Station 3	349	61	57	118	3.38
16	Singrauli STPS	429	48	68	116	2.70

S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	(₹ Cr.)	(₹ Cr.)	(₹ Cr.)	₹/unit
	Arrears		207		207	
	Sub Total	2327	631	628	1259	5.41
B.	NHPC Ltd.					
1	Bairasiul	22	2	4	6	2.79
2	Salal	91	9	15	24	2.67
3	Tanakpur	15	4	2	6	4.32
4	Chamera I	33	4	4	8	2.37
5	Uri	73	8	9	17	2.32
6	Chamera - II	51	7	5	12	2.29
7	Chamera - III	35	8	7	15	4.30
8	Dhauliganga	38	4	5	9	2.25
9	Dulhasti	62	14	19	33	5.34
10	Sewa-II	18	5	5	11	5.85
11	Uri II	38	11	10	21	5.62
12	Parbati-III	63	6	10	16	2.52
13	Parbati-II	20	6	3	9	4.31
	Arrears		-1	0	-1	
	Sub Total	559	88	98	186	3.32
C.	NPCL Ltd.					
1	Nuclear Power Corp. of India Ltd. Narora	0	0	0	0	0.00
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	119	0	46	46	3.85
	Sub Total	119	0.00	46	46	3.85
D.	SJVNL					
1	Satluj Jal Vidyut Nigam Ltd.- Nathpa Jhakri	159	23	18	41	2.58
	Arrears	0	1	0	1	
	Sub Total	159	24.19	18	42	2.66
E	Tala	36	0	8	8	2.16
F	Damodar Valley Corporation					
1	Mejia Units 6	129	29	43	71	5.55
2	CTPS 7 & 8	413	117	120	237	5.74
3	MTPS 7	705	134	213	347	4.93
	Arrears		338		338	
	Sub Total	1246	618	376	994	7.98

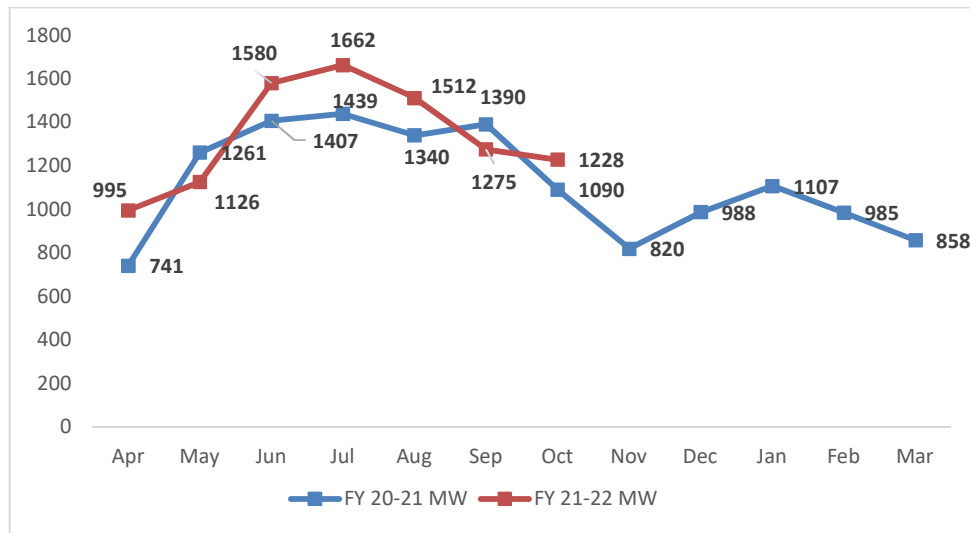
S. No.	Stations	Petitioner Share	Fixed Charges	Variable Charge	Total Charges	Average Rate
		(MU)	(₹ Cr.)	(₹ Cr.)	(₹ Cr.)	₹/unit
G	Power stations in Delhi					
1	Indraprastha Power Generation Co.Ltd. RPH					
2	Indraprastha Power Generation Co.Ltd. GT	69	12	29	41	6.00
3	Pragati Power Corp.Ltd. Pragati I	231	25	127	152	6.57
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	444	210	148	358	8.07
	Arrears Pragati-III		4		4	
	Sub Total	744	251	305	556	7.47
H	Aravali Power Corporation Ltd - Jhajjar	332	90	224	313	9.43
	Arrears- Jhajjar		7.76		8	
I	Sasan	2525	43	387	430	1.70
J	Renewable (Existing & Future)					
1	MSW	30	0	21	21	7.03
2	SDMC	21	0	9	9	
3	Solar-SECI_20 Mw	42	0	25	25	5.93
4	Solar Badla	105	0	27	27	2.61
5	Solar Eden	105	0	28	28	2.67
6	Solar SBSR	210	0	56	56	2.68
7	Solar Acme/	210		53	53	2.51
8	Solar Avikiran					2.44
9	Wind Alfancar	149	0	38	38	2.52
10	Wind Sitac**	298	0	85	85	2.84
11	Self-Generation	0	0	0	0	
K	THDC (PSP)	63	32	26	58	9.24
TOTAL QUANTUM FROM FIRM SOURCES		9280	1784	2456	4241	4.57

4.9 Cost of power from other sources (Short Term Sources/GDAM)

4.9.1 The Hon’ble Commission in its previous Tariff Orders has noted that the load curve in Delhi is peculiar in nature with high morning and evening peaks and very low load demand during night hours. It is due to the fact that a majority of the load in Delhi is of commercial establishments, office buildings, which have requirement primarily during day time. Further, as per the Hon’ble Commission’s directive the Licensee has to ensure that electricity which could not be served due to any reason what-so-ever (including maintenance schedule, break-downs, load shedding etc.) shall not exceed 1% of the total energy supplied by them in any particular month, except in cases of force majeure events which are beyond the control of the Licensee. Accordingly, during peak hours, the Licensee is required to procure power from short term sources to meet the demand.

4.9.2 The peculiar load curve of Delhi for a day_is evident from below pictorial representations:

Figure 1: Load Curve for FY 20-21 and FY 21-22 (till Oct’21)



4.9.3 The Hon’ble Commission in its Tariff Order dated July 23, 2014 itself observed that the Petitioner is meeting more than 50% of its short-term power purchase through banking. Despite the same, the Hon’ble Commission while estimating the power purchase cost for FY 2021-22 had considered net cost on account of short-term power purchase/sale which is expected to result in under-recovery of power



purchase cost. At the same time, the Petitioner is expected to comply with the Hon'ble Commission's direction of load shedding upto 1% of total demand and also to avail maximum normative rebate by clearing all the dues in time.

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

Projection of Short-term power purchase quantum:

4.9.5 The Petitioner has projected the energy requirement and energy availability. The deficit thus observed has been considered to be met through short term purchases as under:

Table 4.8: Month wise energy requirement and availability during FY 2022-23

Station	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	March	Total
	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)	(MU)
Energy (A)	687	809	912	884	840	821	732	709	733	732	662	759	9,280
Energy requirement (B)	636	803	910	891	832	813	569	418	459	490	405	380	7,607
SHORT TERM*													
Short Term Purchase/GDAM	0	27	35	43	26	26	0	0	0	0	0	0	156
Transmission Loss	28	33	37	36	34	33	30	29	30	30	27	31	379
Short Term Sale	23	0	0	0	0	0	133	261	244	212	230	348	1,451

* Load curve of Delhi is peculiar in nature, with high morning and evening peaks and very low load demand during night hours. Therefore, Short term Purchase/GDAM are assumed to meet the monthly demand & supply scenarios, Further, it is also assumed that power will also require to be purchased in few slots of winter seasons for meeting the demand and accordingly the same is considered in monthly energy balance.

4.9.6 The Petitioner has considered the aforesaid shortfall to be met through short - term procurement in FY 2022-23. The Petitioner also propose to procure short term renewable power through GDAM. For the purpose of short term purchase cost, the average rate of ₹4.42/kWh has been considered in accordance with the prevailing rates.

4.9.7 Accordingly, the estimated power purchase cost through Short term sources for FY 2022-23 is tabulated below:

Table 4.9: Short term power purchase for FY 2022-23

S.No	Source	Energy Purchased	Cost per Unit	Total Cost
		(MU)	(₹/unit)	(₹ Cr.)
1	2	3	4	5=3*4
1	Short Term Purchase	156	4.42	69.1

4.9.8 The Petitioner requests the Hon'ble Commission to allow the aforesaid cost in the ARR for FY 2022-23 of the Petitioner.

4.10 Renewable Purchase Obligation (RPO)

4.10.1 Regulation-27 of DERC Business Plan Regulations, 2019 specifies the target for Renewable Purchase Obligation from FY 2020-21 to FY 2022-23 as under:

"27. TARGET FOR RENEWABLE PURCHASE OBLIGATION

(1) *The targets for Renewable Purchase Obligation (RPO) in terms of Regulation 124 of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 of a Distribution Licensee from FY 2020-21 to FY 2022-23 shall be computed as a percentage of total sale of power to its retail consumers in its area of supply excluding procurement of hydro power. The target for RPO shall be met through purchase of power. 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%

Sr. No.	Distribution Licensee	2020-21	2021-22	2022-23
3	Total	17.50%	19.00%	21.00%

....”

4.10.2 Further, the Hon’ble Commission on 13.04.2021 issued the Delhi Electricity Regulatory Commission (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2021 wherein the RPO targets are revised stated as under:

“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	FY 20-21	FY 21-22	FY 22-23
1	Other Non-Solar RPO	10.25%	10.25%	10.50%
	HPO (applicable only for Distribution Licensees)		0.18%	0.35%
2	Solar	7.25%	8.75%	10.50%
Total		17.50%	19.18%	21.35%

....”

Solar and Non Solar:

4.10.3 The Petitioner had proposed that the RPO targets be set in such a way that the Petitioner may meet its targets with the help of tied up sources. Further, any excess energy procured from Renewable Energy Sources during these years can be utilised to meet the previous year’s shortfall of achieving RPO target. In addition, the low RE Potential of Delhi and unavailability of real estate within and around New Delhi has led to very little development of RE Generation near the State.

4.10.4 Further, the Petitioner has arrangements for purchasing Non-solar power from Delhi based plants such as DMSW, SDMC. In addition to the existing sources the Petitioner has executed PPAs with Renewable Energy Developer through SECI, for Wind Power.

4.10.5 However, there are various external factors which might affect the Petitioner to



comply with RPO Targets like COVID-19, delay in Scheduled Commercial Date of Operation (SCOD) by RE developers, halt in REC trading and other factors, which are beyond the control of the Petitioner. Also, the Petitioner has filed Petition No. 23 of 2021 dated 01 March, 2021 before the Hon'ble Commission wherein the Petitioner elaborated various circumstances that led to delay from Scheduled Commercial Date of Operation (SCOD) of Renewable Energy Generation plants.

- 4.10.6 Despite the above mentioned factors which are beyond the control of the Petitioner, the Petitioner will endeavour to meet the RPO targets. Further, in case of shortfall in RPO target, the same will be fulfilled by purchase through GDAM.
- 4.10.7 In view of above submissions, the Petitioner requests the Hon'ble Commission to allow the cost of GDAM purchase in the ARR of FY 2022-23 as tabulated below:

Table 4.10: GDAM Power Purchase for FY 2022-23

Sl.No.	Particulars	UoM	FY 2021-22
1	2	3	4
A	Energy sales (excluding Hydro)	MU	6225
B	RPO target - Non-Solar	%	10.50%
C	RPO target - Non-Solar	MU	654
D	Availability from Non Solar	MU	498
E	Required to be met through GDAM	MU	156
F	GDAM rates	₹/kWh	4.42
G	Cost for GDAM purchase	₹ Crore	69

4.11 Transmission Loss and Charges

Intra-State Transmission:

- 4.11.1 The intra-state Transmission Loss during FY 2022-23 has been considered @0.92% based on previous Tariff Order of the Hon'ble Commission.
- 4.11.2 The Petitioner has considered the Intra-State Transmission Charges during FY 2022-

23 as per Tariff Order of the Hon'ble Commission for FY 2021-22.

Inter-State Transmission:

- 4.11.3 The Petitioner has considered Inter-State Transmission Losses as 3.5% based on past and present trend and recent available orders.
- 4.11.4 The Inter-State Transmission charges during FY 2022-23 is projected same as allowed for FY 2021-22 in Tariff Order.
- 4.11.5 Accordingly, the Intra-State and Inter-State Transmission losses and Charges projected for FY 2022-23 is tabulated below:

Table 4.11: Transmission loss, charges for FY 2022-23

S.No.	Particulars	FY 2022-23
1	2	3
A	Transmission losses (MU)	
i	Inter-State Transmission	297
ii	Intra-State Transmission	82
iii	Total Transmission losses (MU)	379
B	Transmission Charges (₹Crore)	
i	Inter-State Transmission	437
ii	Intra-State Transmission (including SLDC)	243
iii	Others	10
iv	Total Transmission Charges (₹ Crore)	690

- 4.11.6 The Petitioner requests the Hon'ble Commission to allow the transmission charges as projected in the aforesaid table in the ARR of FY 2022-23.

4.12 Energy Balance

- 4.12.1 Based on the above submissions, the energy balance during FY 2022-23 is tabulated below:

Table 4.12: Energy Balance during FY 2022-23

S.No.	Particulars	Quantity (MU)
1	Power Purchase @Exbus-FIRM	9280
2	Inter-State Losses	297
3	Power Available at Delhi Periphery	8983
4	Intra-state Loss & Charges (Including SLDC charges)	82
5	Power Available to DISCOM	8901
6	Short term GDAM	156
7	Total Available	9058
8	Sales	6960
9	Distribution Loss	647
10	Energy Requirement at Distribution Periphery	7607
11	Total Sale of Surplus	1451

4.13 Sale of surplus power

4.13.1 The Petitioner has considered the aforesaid excess energy to be sold through short term sale during FY 2022-23. For the purpose of short term sale, the average short term rate as approved by Hon'ble Commission for FY 21-22 has been considered. Accordingly, the estimated revenue from short term sale for FY 2022-23 is tabulated below:

Table 4.13: Revenue from sale of surplus power during FY 2022-23

S.No.	Source	Energy Sale	Cost per Unit	Total Cost
		(MU)	(₹/unit)	(₹ Cr.)
1	2	3	4	5=3*4
1	Short Term Sale	1,451	2.8	409

4.14 Rebate on Power Purchase and Transmission Charges:

4.14.1 The Petitioner submits that the actual rebate to be availed in FY 2022-23 depends on the Tariff determined by the Hon'ble Commission, RA recovery allowed and consequent available cash with the Petitioner.

4.14.2 The concept of normative rebate is based on assumptions that the system is perfect and business as usual as under:

- There is no creation of Regulatory Asset;

- ii. Various APTEL's judgments are yet to be given effect to by the Hon'ble Commission entitling cash flow to the Petitioner;
- iii. There is no major variation in power purchase cost.

In fact, to the best of the knowledge of the Petitioner, in no other State any DISCOM has been able to avail maximum normative rebate when aforesaid conditions are not met.

- 4.14.3 As set out herein above, the Petitioner could not make payment of bills to any generating company and transmission licensee through letter of credit on presentation.
- 4.14.4 Additionally, the Petitioner also has to pay LPSC to the generators which is not allowed by the Hon'ble Commission.
- 4.14.5 Without prejudice to the above, the Petitioner has estimated normative rebate on power purchase and Transmission Charges during FY 2022-23.

4.15 Total Power Purchase Cost

- 4.15.1 The total long term power purchase cost during FY 2022-23 is tabulated below:

Table 4.14: Total Power Purchase Cost for FY 2022-23

S. No	Stations	Gross Power Purchase	Total Cost	Average Rate
		(MU)	(₹ Cr.)	(₹/ kWh)
A	NTPC			
1	Anta Gas Power Project	3	7	28.08
2	Auraiya Gas Power Station	9	16	18.45
3	Badarpur Thermal Power Station	-	-	
4	Dadri Gas Power Station	26	20	7.49
5	Feroze Gandhi Unchahar TPS 1	31	16	5.22
6	Feroze Gandhi Unchahar TPS 2	62	33	5.33
7	Feroze Gandhi Unchahar TPS 3	36	21	5.80
8	Farakka Stps	24	12	4.90

S. No	Stations	Gross Power Purchase	Total Cost	Average Rate
		(MU)	(₹ Cr.)	(₹/ kWh)
9	Kahalgaon Thermal Power Station 1	70	29	4.24
10	Kahalgaon Thermal Power Station 2	232	86	3.71
11	National Capital Thermal Power	-	-	
12	Dadri TPS-II	854	524	6.14
13	Rihand Thermal Power Station 1	-	-	
14	Rihand Thermal Power Station 2	202	53	2.64
15	Rihand Thermal Power Station 3	349	118	3.38
16	Singrauli STPS	429	116	2.70
	Arrears	-	207	
	Sub Total	2,327	1,259	5.41
B.	NHPC Ltd.	-	-	
1	Bairasiul	22	6	2.79
2	Salal	91	24	2.67
3	Tanakpur	15	6	4.32
4	Chamera I	33	8	2.37
5	Uri	73	17	2.32
6	Chamera – II	51	12	2.29
7	Chamera - III	35	15	4.30
8	Dhauliganga	38	9	2.25
9	Dulhasti	62	33	5.34
10	Sewa-II	18	11	5.85
11	Uri II	38	21	5.62
12	Parbati-III	63	16	2.52
13	Parbati-II	20	9	4.31
	Arrears	-	-1	
	Sub Total	559	186	3.32
C.	NPCL Ltd.	-	-	
1	Nuclear Power Corp. of India Ltd. Narora	-	-	
2	Nuclear Power Corp. of India Ltd. Kota UNIT - 5&6 RAPP	119	46	3.85
	Sub Total	119	46	3.85

S. No	Stations	Gross Power Purchase	Total Cost	Average Rate
		(MU)	(₹ Cr.)	(₹/ kWh)
D.		-	-	
1	Satluj Jal Vidyut Nigam Ltd.- Nathpa Jhakri	159	41	2.58
	Arrears	-	1	
	Sub Total	159	42	2.66
E	Tala	36	8	2.16
F	Damodar Valley Corporation	-	-	
1	Mejia Units 6	129	71	5.55
2	CTPS 7 & 8	413	237	5.74
3	MTPS 7	705	347	4.93
	Arrears	-	338	
	Sub Total	1,246	994	7.98
G	Power stations in Delhi			
1	Indraprastha Power Generation Co.Ltd. RPH	-	-	
2	Indraprastha Power Generation Co.Ltd. GT	69	41	6.00
3	Pragati Power Corp.Ltd. Pragati I	231	152	6.57
4	Pragati Power Corp.Ltd. Pragati III (Bawana)	444	358	8.07
	Arrears Pragati-III	-	4	
	Sub Total	744	556	7.47
H	Aravali Power Corporation Ltd – Jhajjar	332	313	9.43
	Arrears- Jhajjar	-	8	
		-	-	
I	Sasan	2,525	430	1.70
		-	-	
J	Renewable (Existing & Future)	-	-	
1	MSW	30	21	7.03
2	SDMC	21	9	4.30
3	Solar-SECI_20 Mw	42	25	5.93
4	Solar Badla	105	27	2.61
5	Solar Eden	105	28	2.67
6	Solar SBSR	210	56	2.68

S. No	Stations	Gross Power Purchase	Total Cost	Average Rate
		(MU)	(₹ Cr.)	(₹/ kWh)
7	Solar Acme	210	53	2.51
8	Solar Avikiran			2.44
9	Wind Alfanar	149	38	2.52
10	Wind Sitac**	298	85	2.84
11	Self-Generation	-	-	
		-	-	
	THDC (PSP)	63	58	9.24
TOTAL QUANTUM FROM FIRM SOURCES		9280	4,241	4.57

4.15.2 Accordingly, based on the above assumptions, the power purchase cost net of rebate for FY 2022-23 works out to ₹ 4,509 Cr. and the same is tabulated below –

Table 4.15: Quantum of Power and Net Power Purchase Cost for FY 2022-23 (₹ Cr.)

S. No	Source	Quantity	Amount	Average Cost
		(MU)	(₹Crore)	(₹/ kWh)
A	Power Purchase from CSGS	8,485	3,655	4.31
B	Inter-State Loss & Charges	297	437	
D	Power Available at Delhi Periphery	8,188	4,092	5.00
E	Power Purchase from SGS	795	586	7.37
F	Intra-State Losses & Charges including SLDC Charges etc.	82	253	
G	Shortfall to be met at DISCOM Periphery	156	69	4.42
H	Total Power available to DISCOM	9,058	4,999	5.52
I	Sales	6,960		
J	Distribution Loss	647		
K	Less: Normative Rebate		81	

S. No	Source	Quantity	Amount	Average Cost
		(MU)	(₹Crore)	(₹/ kWh)
L	Required power for the DISCOM	7,607	4,509	5.93
M	Total Sale of Surplus Power	1,451	409	2.8

* includes SGS and State Renewable etc.

4.16 Re-allocation of Power Stations

4.16.1 The Hon'ble Commission has specified in its Regulation 121 (4) of Tariff Regulations, 2017 regarding re-allocation of power as follows:

"4) The gap between average Power Purchase Cost of the power portfolio allocated and average revenue due to different consumer mix of all the distribution licensee: Provided that the Commission may adjust the gap in power purchase cost by reassigning the allocation of power amongst the distribution licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi by Ministry of Power, Government of India."

4.16.2 In order to balance the gap and to make level playing field across the DISCOMs, the Petitioner requests the Hon'ble Commission to continue allocation of higher quantum from cheap stations to the Petitioner and decrease allocation from costly stations.

4.17 Operation and Maintenance (O&M) Expenses

4.17.1 For computing the normative O&M expenses for FY 2022-23, the Petitioner has considered the actual network capacity till 31.03.2021 and added the projected capacity addition for FY 2021-22 and FY 2022-23 based on the projected capitalisation during the year as submitted in the Business Plan filed on November 11, 2019.

4.17.2 The Petitioner has applied the approved per unit rates specified for FY 2022-23 in DERC Business Plan Regulations, 2019 on the average capacity of line length and power transformation capacity during FY 2022-23 as per Regulation – 23 of Business Plan Regulation, 2019 which provides as under:

"23. Operation and Maintenance Expenses



(1) Normative Operation and Maintenance Expenses in terms of Regulation 4(3) and Regulation 92 of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2019 for the Distribution Licensees shall be follows:

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

Particulars	Unit	2020-21	2021-22	2022-23
66 kV Line	Rs. Lakh/ Ckt. Km	4.857	5.043	5.236
33 kV Line	Rs. Lakh/ Ckt. Km	4.857	5.043	5.236
11 kV Line	Rs. Lakh/ Ckt. Km	2.036	2.114	2.195
LT lines system	Rs. Lakh/ Ckt. Km	9.173	9.524	9.89
66/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	1.157	1.201	1.247
33/11 kV Grid S/s	Rs. Lakh/ Ckt. Km	1.157	1.201	1.247
11/0.415 kV DT	Rs. Lakh/ Ckt. Km	2.534	2.631	2.732

The Distribution Licensee shall be allowed O&M expenses for a particular financial year of the control period by multiplying the norms for O&M expenses of that particular year with the respective average network capacity during the financial year i.e. (average of network capacity at start of Financial year and network capacity at the end of Financial year)

..."

4.17.3 Accordingly, the Petitioner has computed the normative O&M expenses for FY 2022-23 as below:

Table 4.16: O&M Expenses during FY 2022-23 (₹ Cr.)

Particulars	Average Capacity for FY 2022-23	O&M expenses per unit	O&M expenses
66 kV Line 33 KV Line (ckt km)	705	₹ Lakh/ckt. km	5.236
11kV Line (ckt km)	3099	₹ Lakh/ckt. km	2.195
LT Line system (ckt km)	5859	₹ Lakh/ckt. km	9.890
66/11 kV 33/11 kV Grid S/s(MVA)	4171	₹ Lakh/MVA	1.247
11/0.415 kV DT (MVA)	3686	₹ Lakh/MVA	2.732
Total O&M Expenses			837

4.17.4 The Petitioner requests the Hon'ble Commission to allow the normative O&M Expenses as computed above while approving the ARR for FY 2022-23.

4.18 Additional Expenses on account of O&M

4.18.1 In terms of Regulation 11(9) of the Tariff Regulations, 2017 the Distribution Licensee shall submit the ARR which shall contain additional expenses on account of O&M

- beyond the control of Licensee for the ensuing year and previous year respectively.
- 4.18.2 Accordingly, the Petitioner is claiming additional O&M expenses of ₹120 Cr. considering the escalation factor of 3.83% on the actual expenses of FY 2020-21.
- 4.18.3 Further, the Petitioner vide its letter no. RA/BYPL/2021-22/148 dated 27.08.2021 and RA/BYPL/2021-22/160 dated 09.09.2021 has highlighted before the Hon'ble Commission that in view of the financial constraints coupled with the then impediments created by COVID-19 pandemic, the Petitioner is yet to pay an amount of ₹175 Cr. up to FY 2021-22 on account of 7th Pay Commission (₹123 Cr. pertaining to previous years deferred payment towards Leave Salary Contribution (LSC) & Pension Contribution (PC)) to its GPA Employees and is currently not in a position to discharge its liabilities to make such payments in the absence of sufficient cash flows.
- 4.18.4 Hence, the Petitioner requests the Hon'ble Commission to take cognizance of the practical difficulties and consider to allow ₹123 Cr. pertaining to LSC and PC in the Tariff of FY 2022-23 in order to enable BYPL to discharge its liabilities towards the same without further delay.
- 4.18.5 Accordingly, the Petitioner requests the Hon'ble Commission to allow the additional expenses of ₹243 Cr. on account of O&M beyond the control of the Petitioner.

4.19 Other Expense

- 4.19.1 On 31.08.2021, Hon'ble APTEL pronounced the Judgement in Appeal no. 05 & 06 of 2019 and Appeal no. 34 of 2020 directing the Hon'ble Commission to allow the unspent Consumer Contribution to be refunded by the DISCOMs as expenditure in the subsequent Tariff Order, which will be recovered through Tariff first and thereafter be refunded to the identified consumers by DISCOMs within the same Financial Year. Relevant extracts of the judgment are reproduced as under:

"134. We note that DERC has considered the submissions of the Appellants that the unspent consumer's contribution has been utilized as 'means of finance' in the previous year and as such they are left with no money to refund the unspent consumer's contribution and DERC has accordingly submitted a 'Note on procedure for refund of consumer contribution' on 04.05.2021.

135. As per this procedure, the Commission will call upon the DISCOMs to furnish data in a specified format within one week of the passing of the order by this Tribunal. The data, inter alia, would consist of an Auditor Certificate



*clearly stating the Consumer wise Consumer Contribution received every year, spent during every year on Capital Investment activities (showing the break-up of assets capitalised and amount lying in WIP), balance at the end of every year and total for all consumers matching with Balance Sheet, Relevant Schedules and Tariff Orders. The DISCOMs shall submit this data within a period of two week thereafter. The Commission, thereafter, in compliance with the judgment dated 23.02.2015 will consider the information submitted by the DISCOMs and will provide the unspent Consumer Contribution to be refunded by the DISCOMs as an expenditure in the subsequent Tariff Order as directed by the Tribunal, which will be recovered through Tariff and **will thereafter be refunded to the identified consumers by DISCOMs within the same Financial Year.**"*

[Emphasis added]

- 4.19.2 Accordingly, the Hon'ble Commission vide letter dated 06.09.2021 shared the format seeking information related to consumer contribution towards capital works received since FY 2002-03.
- 4.19.3 The desired information was duly submitted by the Petitioner vide letter dated 21.09.2021 for suitable consideration in the Tariff.
- 4.19.4 The Hon'ble Commission at Para 3.46 of Tariff Order dated 30.09.2021 decided to consider the aforesaid issue in the next Tariff Order so as to comply with the direction of the Hon'ble APTEL.
- 4.19.5 Without prejudice to its rights and contentions, the Petitioner requests the Hon'ble Commission to allow the estimated refundable amount ₹96 Cr. in the Tariff for FY 2022-23.

4.20 Capitalization

- 4.20.1 Regulation-24 (1) of DERC Business Plan Regulations, 2019 states as under:

"24. Capital Investment Plan

- (1) *The tentative Capital Investment Plan in terms of Regulation 4 (4) of the DERC (terms and conditions for determination of tariff) Regulations, 2017 for the Distribution Licensee shall be as follows:*

Table 13: Capitalisation for BYPL for the Control Period (in Rs. Cr.)

Particulars	2020-21	2021-22	2022-23	Total
Capitalization	375	397	428	1200
Smart Meter	33	33	35	101
Less: Deposit Work	36	48	69	153
Total	372	382	394	1148

..”

4.20.2 Accordingly, the Petitioner has considered the gross capitalisation of ₹463 Crore during FY 2022-23 as approved by the Hon'ble Commission in the Business Plan Regulations, 2019.

Table 4.17: Capitalisation for FY 2022-23 (₹ Cr.)

S.No.	Particulars	Approved in Business Plan Regulations	Submission
A	Capitalization	463*	463*

* Gross amount including consumer contribution for deposit works

4.21 Consumer Contribution & Grants

4.21.1 The Petitioner has considered actual Consumer contribution capitalized upto FY 2020-21 and for FY 2021-22 & FY 2022-23 as approved by the Hon'ble Commission in the Business Plan Regulations, 2019 as tabulated below –

Table 4.18: Consumer Contribution & Grants Capitalized for FY 2022-23 (₹ Cr.)

S. No	Particulars	Amount	Remarks/Ref.
A	Consumer Contribution & Grants capitalized up to FY 2020-21	357	Table 3A 48 of True up Petition for FY 2020-21
B	Consumer Contribution Capitalized for FY 2021-22	48	B.P Regulations, 2019
C	Opening Balance of Consumer Contribution capitalized for FY 2022-23	405	A+B
D	Consumer Contribution Capitalized for FY 2022-23	69	B.P Regulations, 2019
E	Closing Consumer Contribution and Grants for FY 2022-23	474	C+D
F	Average Consumer Contribution and Grants	439	(C+E)/2

4.22 Depreciation

4.22.1 The Petitioner has considered the same rate of depreciation as for FY 2020-21.

Accordingly, the depreciation for FY 2022-23 is calculated as below:

Table 4.19: Depreciation for FY 2022-23 (₹ Cr.)

S.No.	Particulars	Amount	Remarks/Ref.
A	Opening GFA for FY 2021-22	4181	Table 3 A.46

S.No.	Particulars	Amount	Remarks/Ref.
B	Addition during FY 2021-22	430	Business Plan Regulation, 2019
C	Opening GFA for FY 2022-23	4611	A+B
D	Additions during the year	463	Business Plan Regulation, 2019
E	Closing GFA for FY 2022-23	5074	C+E
F	Average GFA	4842	Average(C,F)
G	Less: Average Consumer Contribution	439	Table 4.19
H	Average GFA net of CC	4403	G-H
I	Average rate of depreciation	4.90%	
J	Depreciation for FY 2022-23	216	I*J
K	Opening Accumulated Depreciation for FY 2022-23	1708	
L	Closing Accumulated Depreciation for FY 2022-23	1924	K+L

4.22.2 The Petitioner requests the Hon'ble Commission to allow the depreciation as computed above in the ARR.

4.23 Working Capital

4.23.1 The Petitioner has computed the working capital requirement for FY 2022-23 as per Regulation 84 (4) of Tariff Regulations, 2017 as below:

Table 4.20: Working Capital for FY 2022-23 (₹ Cr.)

S.No	Particulars	Amount	Remarks/Ref.
A	Annual Revenue Requirement	6,292	
B	Receivables equivalent to 2 months average billing	1,049	A/6
C	Net Power Purchase expenses	4,509	
D	Power purchase expenses for 1 Month	376	C/12
E	Total Working Capital	673	B-D
F	Opening Working Capital	467	As per T.O. dated 30.09.2021
G	Change in WC	206	E-F

4.23.2 The Petitioner requests the Hon'ble Commission to consider the working capital as stated above while computation of ARR.

4.24 Regulated Rate Base (RRB)

4.24.1 Based on the above discussions the RRB for FY 2022-23 has been computed as below:

Table 4.21: Regulated Rate Base for FY 2022-23 (₹ Cr.)

Sr. No.	Particulars	Amount	Remarks
A	Opening GFA	4,611	
B	Opening Accumulated Depreciation incl. AAD	2,315	
C	Opening Consumer Contribution	405	
D	Opening Working Capital	467	
E	Accumulated Depreciation on De-capitalised Assets	218	
F	Opening RRB	2,577	(A-B-C+D+E)
G	Change in Capital Investment during the year	178	(H-I-J)/2
H	Net Capitalisation	463	
I	Depreciation	216	
J	Consumer Contribution	69	
K	Change in Working Capital	206	
L	Regulated Rate Base - Closing	2,960	(F+H-I-J+K)
M	RRB (i)	2,871	(F+G+K)

4.25 Equity and Debt

4.25.1 Equity and Debt up to FY 2022-23 has been considered based on the closing equity and debt up to FY 2020-21 and addition during FY 2021-22 and FY 2022-23 based on capitalization net of consumer contribution in the ratio of 30:70 respectively.

4.25.2 Working capital has been considered entirely debt financed in accordance with Regulation 70 of Tariff Regulations, 2017.

4.25.3 Debt repayment during the year has been considered as 1/10th of the opening balance.

4.25.4 Accordingly, the average equity and average debt for FY 2022-23 is tabulated below:

Table 4.22: Equity and Debt for FY 2022-23 (₹ Crore)

S.No.	Particulars	Amount	Remarks/Ref
Equity			
A	Closing Balance upto FY 2020-21	1104	
B	Addition during FY 2021-22	115	30% of net capitalisation
C	Opening Balance for FY 2022-23	1219	A+B
D	Addition during FY 2022-23	118	30% of net capitalisation
E	Closing Balance for FY 2022-23	1337	C+D

S.No.	Particulars	Amount	Remarks/Ref
Debt			
F	Closing Balance upto FY 2020-21	1427	
G	Addition during FY 2021-22	257	i+ii
i	Capex	267	70% of net capitalisation
ii	Working Capital	-10	
H	Repayment	143	1/10 * F
I	Opening Balance for FY 2022-23	1541	F+G-H
J	Addition during FY 2022-23	481	i+ii
i	Capex	276	70% of net capitalisation
ii	Working Capital	206	
K	Repayment	154	1/10 * I
L	Closing Balance for FY 2022-23	1869	I+J-K

4.26 Weighted Average Cost of Capital

- 4.26.1 In terms of Regulation 77 of DERC Tariff Regulations, 2017, interest on loan shall be based on weighted average rate of interest for actual loan portfolio subject to maximum of bank rate as on 1st April of the year plus margin as approved by the Hon'ble Commission in Business Plan Regulations for the Control Period.
- 4.26.2 It is pertinent to note that there though has been a drastic change in the MCLR rates during the last 2 years on account of adverse situation due to COVID-19, the Petitioner is binded to the terms and conditions of the Loan agreement with its lender Power Finance Corporation (PFC).
- 4.26.3 We would also like to apprise the Hon'ble Commission that the interest rate applicable by PFC is based on various parameters and not on the SBI MCLR rate. Hence, even if there has been a reduction in SBI MCLR rates, the actual cost of debt of the Petitioner remained unaffected.
- 4.26.4 Further, the margin approved in the Business Plan Regulations 2019 did not anticipated the unprecedented situation on account of COVID-19 pandemic. Hence, in current situation which is a force majeure situation, as recognised by the Hon'ble Commission also in its letter dated 07.04.2020, it would not be practical to cap the margin to determine rate of interest on loan as per said Regulations.
- 4.26.5 In view of the above, the Petitioner requests the Hon'ble Commission to approve the rate of interest on loan (r_d) based on actual weighted average rate of interest on loan for FY 2021-22 i.e. 12.35%

4.26.6 Rate of return on equity has been considered as 16%. Further, the effective income tax rate for FY 2020-21 has been considered for FY 2022-23.

4.26.7 Accordingly, the Weighted Average Cost of Capital (WACC) during FY 2022-23 has been computed as below:

Table 4.23: Weighted Average Cost of Capital (WACC) for FY 2022-23 (₹ Cr.)

Sr. No.	Particulars	FY 2022-23
A	Equity	1,278
B	Debt	1,705
C	Return on Equity	16%
D	Income Tax Rate	25.17%
E	Grossed up Return on Equity	21.38%
F	Rate of Interest	12.35%
G	Weighted average cost of Capital	16.22%

4.26.8 The Petitioner requests the Hon'ble Commission to consider the WACC for FY2022-23 as above while determining the ARR for the year.

4.27 Return on Capital Employed (RoCE)

4.27.1 The Petitioner has computed RoCE for FY 2022-23 as under:

Table 4.24: RoCE for FY 2022-23 (₹ Cr.)

S. No.	Particulars	FY 2022-23	Remarks
A	WACC	16.22%	
B	RRB (i)	2,871	
C	RoCE	466	A*B

4.28 Non-Tariff Income

4.28.1 The Non-Tariff Income during FY 2022-23 has been considered same as submitted for FY 2020-21 i.e. ₹ 74 Cr.

4.29 Aggregate Revenue Requirement

4.29.1 Based on the above discussions, the Petitioner has sought the ARR of ₹6,268 Crore for FY 2022-23 as below:

Table 4.25: Aggregate Revenue Requirement for FY 2022-23 (₹ Cr.)

S.No.	Particulars	Amount
A	Power Purchase Cost including Transmission Charges	4,509

S.No.	Particulars	Amount
B	O&M Expenses	837
C	Additional O&M Expenses	243
D	Depreciation	216
E	Return on Capital Employed (RoCE)	466
F	Other Expense*	96
G	Less: Non-Tariff income	74
H	Aggregate Revenue Requirement excl. Carrying Cost on RA	6,292

* in terms of APTEL Judgment dated 31.08.2021

4.30 Revenue (Gap)/ Surplus for FY 2022-23

4.30.1 Based on the above submissions, the Petitioner has computed the Revenue Gap of ₹1,756 Crore for FY 2022-23 as below:

Table 4.26: Revenue (Gap) for FY 2022-23(₹ Cr.)

S. No	Particulars	Submission	Reference
A	Aggregate Revenue requirement for the year	6,292	Table 4.27
B	Revenue available for the year	4,542	Table 4.4 *99.5%
C	Revenue (Gap)/ Surplus for the year	(1750)	B-A

4.30.2 Further, the revised Tariff Policy notified by the Central Government under Section 3 of the 2003 Act provides that:

"8.1....

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

4.31 Allocation for Wheeling and Retail Business

4.31.1 Regulation 32 of Business Plan Regulations, 2019 states as under:

"32. RATIO OF ALLOCATION OF ARR INTO WHEELING & RETAIL SUPPLY

The ratio of allocation of ARR into Wheeling & Retail Supply Business in terms of the Regulation 4(9)(e) of the DERC (Terms and Conditions for Determination

of Tariff) Regulations, 2017 shall be as follows:

Table 17: Retail Business

Particulars	BRPL	TPDDL	BYPL	NDMC
Cost of Power Purchase	100%	100%	100%	100%
Inter-State Transmission charges	100%	100%	100%	100%
Intra-state Transmission charges	100%	100%	100%	100%
SLDC fees and charges	100%	100%	100%	100%
Operation & Maintenance Costs	40%	38%	38%	38%
Depreciation (including AAD)	21%	23%	19%	23%
Return on Capital Employed	26%	28%	28%	28%
Income Tax	26%	28%	28%	28%
Non-Tariff Income	85%	60%	85%	60%

Table 18: Wheeling Business

Particulars	BRPL	TPDDL	BYPL	NDMC
Operation & Maintenance Costs	60%	62%	62%	62%
Depreciation (including AAD)	79%	77%	81%	77%
Return on Capital Employed	74%	72%	72%	72%
Income Tax	74%	72%	72%	72%
Non-Tariff Income	15%	40%	15%	40%

....”

4.31.2 The Aggregate Revenue Requirement estimated for FY 2022-23 has been allocated into wheeling and retail business in the ratios approved by the Hon'ble Commission in Business Plan Regulations, 2019 as under:

Table 4.27: Allocation for wheeling and retail business- FY 2022-23 (₹ Cr.)

Particulars	Wheeling	Retail	Total
Cost of Power Procurement	0	4509	4509
Operation and Maintenance expenses	669	410	1080
Depreciation	175	41	216
Return on Capital Employed	335	130	466
Other Expenses	59	36	96
Less: Non-Tariff Income	11	63	74
Aggregate Revenue Requirement	1228	5064	6292

4.32 Carrying cost on Revenue Gap

4.32.1 The Hon'ble ATE in Judgment dated July 30, 2010 (Appeal 153 of 2009) ruled as under:

“47. The State Commission, instead of applying the principle of allowing

the prevalent market rate for debt for the carrying cost, has allowed the rate of 9% on the strength of the Tribunal judgment even though the present interest rate has increased significantly. **As pointed out by the Counsel for the Petitioner, the State Commission in the earlier case had decided tariff on 09.06.2004 and that on commercial borrowings an interest rate of 9% had been applied considering the then prevalent prime lending rates. Therefore, the State Commission before fixing the rate of carrying cost, has to find out the actual interest rate as per the prevailing lending rates. Admittedly, this has not been done.**

51.

Therefore, the State Commission should have allowed the carrying cost at the prevailing market lending rate for the carrying cost so that the efficiency of the distribution company is not affected.

.....

Therefore, the fixation of 9% carrying cost, in our view, is not appropriate. **Therefore, the State Commission is hereby directed to reconsider the rate of carrying cost at the prevailing market rate and the carrying cost also to be allowed in the debt/ equity of 70:30.**

58. ...

- (i) The next issue is relating to the inadequate lower rate of 9% for the allowance of the carrying cost. The carrying cost is allowed based on the financial principle that whenever the recovery of the cost is to be deferred, the financing of the gap in cash flow arranged by the distribution company from lenders and/or promoters and/or accrual and/or internal accrual has to be paid for by way of carrying cost. The carrying cost is a legitimate expense. Therefore, the recovery of such carrying cost is a legitimate expectation of the distribution company. **The State Commission instead of applying the principle of PLR for the carrying cost has wrongly allowed the rate of 9% which is not the prevalent market lending rate. Admittedly, the prevalent market lending rate was higher than the rate fixed by the State Commission in the tariff order. Therefore, the State Commission is directed to reconsider the rate of carrying cost at the prevalent market rate keeping in view the prevailing Prime Lending Rate."**

(Emphasis added)

4.32.2 As per the above ruling, the carrying cost ought to be allowed in debt equity ratio of 70:30 with SBI PLR as rate of interest and 16% as return on equity. Accordingly, the

Petitioner has recomputed the rate of carrying cost from FY 2007-08 to FY 2016-17 as under:

Table 4.28: Rate of carrying cost from FY 07-08 to FY 16-17

S. No	Particulars	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
1	Rate of Interest	12.69%	12.79%	11.87%	12.26%	14.40%	14.61%	14.58%	14.75%	14.29%	14.05%
2	Return on Equity	16%	16%	16%	16%	16%	16%	16%	16%	16%	16%
3	Carrying cost	13.68%	13.75%	13.11%	13.38%	14.88%	15.03%	15.01%	15.13%	14.80%	14.64%

4.32.3 The Hon'ble Commission has defined the Carrying Cost rate in Regulation 2(16) of Tariff Regulations 2017 which states as under:

"2...(16)"CarryingCostRate"meanstheweightedaverageofinterestforfundingofRegulatoryAsset/accumulatedRevenueGapthroughdebtandequityinan appropriateratio,asspecifiedbytheCommissionintherelevantOrders.."

4.32.4 Further, the Hon'ble Commission has approved Return on Equity as 14% for computation of Carrying Cost rate in terms of Regulation 20(3) of Business Plan Regulations, 2017 and Business Plan Regulations, 2019 for the control period from FY 2017-18 to FY 2019-20 and FY 2021-22 to FY 2022-23 respectively which states as under:

"20. Rate of Return on Equity

(3) Carrying Cost: Return on Equity in terms of Regulation 2(16) of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 for computation of weighted average rate of interest for funding of Regulatory Asset/accumulated Revenue Gap through debt and equity shall be considered at 14.00% on pre-tax basis."

4.32.5 Accordingly, the Petitioner has calculated the carrying cost for FY 2017-18 to FY 2020-21 based on weighted average rate of return of equity (14%) and interest rate on loan of respective year as per applicable Business Plan Regulations tabulated as under:



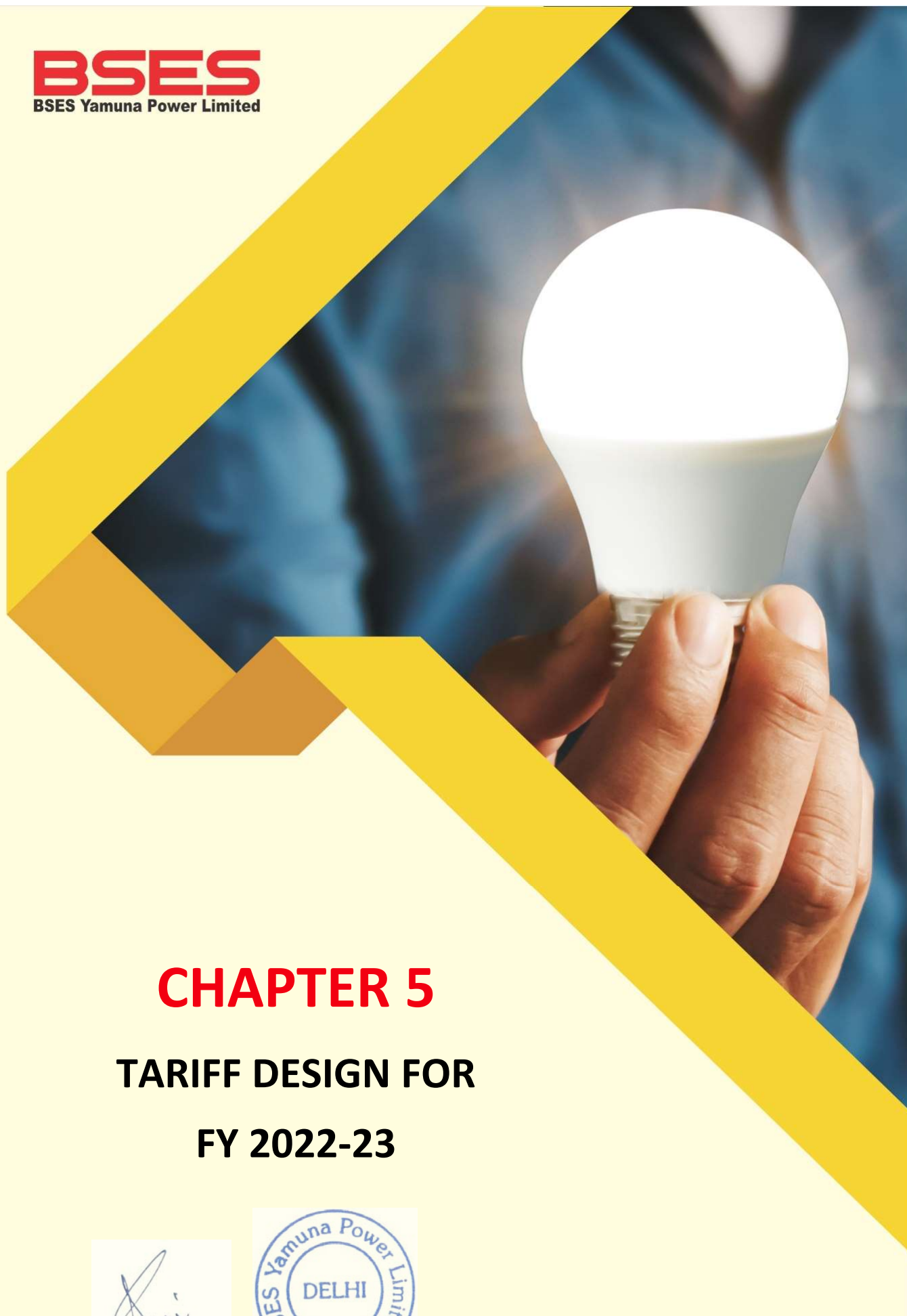
Table 4.29: Rate of carrying cost from FY 17-18 to FY 20-21

S. No	Particulars	FY 18	FY 19	FY 20	FY 21
1	Rate of Interest	14.00%	14.00%	14.00%	12.20%
2	Return on Equity	14.00%	14.00%	14.00%	14.00%
3	Carrying cost	14.00%	14.00%	14.00%	12.74%

4.32.6 The Petitioner requests the Hon'ble Commission to allow the recovery of carrying cost through separate surcharge instead of allowing the same in ARR. Further, the Petitioner is facing problems in accounting of revenue realized on account of carrying cost as the entire revenue is first utilized to offset the ARR during the year and in case anything is left then only the same will be routed to carrying cost. In such situation there is no carrying cost which is being realized through tariff.

4.32.7 Therefore, the carrying cost ought to be recovered through separate surcharge and ought not be clubbed with the tariffs which is actually meant to address the gap estimated for the ensuing year.





CHAPTER 5

TARIFF DESIGN FOR FY 2022-23



A handwritten signature in blue ink, appearing to be 'Sri', with a horizontal line underneath.

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Tariff Proposal for FY 2022-23

Background

- 5.1 Under Section 62 (1) of the 2003 Act, determination of tariff for Electricity Distribution Business/ Retail Tariff is the sole prerogative of the Hon'ble Commission. Therefore, in the treatment of Revenue Gap as proposed by the Petitioner, the Hon'ble Commission has the final say while finalizing tariff for Wheeling of Electricity and Retail Supply.
- 5.2 Despite continuous yearly tariff determination exercises undertaken by the Hon'ble Commission, there remains a huge unrecovered Regulatory Assets which is yet to be realized in terms of recovery through tariffs.
- 5.3 As it is evident from the Petitioner's own past experience, the increase in Regulatory Assets has been mainly on account of legacy issues including increase in power purchase expenses and other uncontrollable expenses. A simple comparison of Power purchase cost projected / allowed by the Hon'ble Commission on a year-to-year basis vis-à-vis the actual power purchase cost incurred by the Petitioner for respective financial years (as approved by this Hon'ble Commission during true-up exercise) shows a consistent trend wherein the projected power purchase cost always fell far short of the actual cost that was incurred by the Petitioner, as shown in the table below:

Table 5. 1: Power Purchase Cost-ARR versus Truing-up (₹ Cr.)

S. No	Particulars	Power Purchase Cost		
		ARR	True Up#	Deficit
2	FY 2008-09	1268	1282	-14
3	FY 2009-10	1471	1819	-348
4	FY 2010-11	1471	2606	-1135
5	FY 2011-12	2619	3286	-667
6	FY 2012-13	2786	3482	-696
7	FY 2013-14	3039	3634	-595
1	FY 2014-15	3070	3701	-631
2	FY 2015-16	3177	3083	94
3	FY 2016-17	3177	3225	-48
4	FY 2017-18	3191	3299	-108
5	FY 2018-19	3143	3283	-140
6	FY 2019-20	3271	3628	-357
7	FY 2020-21	2894	3086*	-192
Total		34577	39414	-4837

*. As claimed by the Petitioner for true up of FY 2020-21

#. Does not include recovery through PPAC/FPA.

- 5.4 The only exception being FY 2015-16 during which the Petitioner incurred significantly lower Power purchase cost due to late implementation of CERC's Regulations and entire credit being passed to the Petitioner for the interim period during this FY. The Hon'ble Commission in the recent past has taken serious efforts towards recovery of the power purchase cost through the PPAC surcharge. However, given the COVID-19 situation there has been a revenue gap in the previous year primarily due to the uncontrollable factors. The Petitioner has endeavoured to raise loans to fund the revenue gap on account of increase in power purchase cost in the past and to the extent of Regulatory Asset recognised. The Regulatory Assets are nothing but cost incurred (inter-alia on account of power purchase cost and other uncontrollable factors) in the previous years by the Petitioner as approved by Hon'ble Commission, which is yet to be recovered through tariff. The Petitioner is continuously requesting the Hon'ble Commission to amortise the Regulatory Assets.
- 5.5 Despite the Petitioner's best efforts in raising loans, lenders have been getting increasingly reluctant in extending credit to the Petitioner owing to substantial unamortized Regulatory assets which in turn has a bearing on the credit rating of the Petitioner.
- 5.6 In view of the aforesaid submissions, it becomes all the more necessary that the Revenue Gap is allowed to be amortised by the Hon'ble Commission.

Revenue (Gap)/ Surplus of DISCOM upto FY 2020-21

- 5.7 Revenue (Gap)/ Surplus till FY 2020-21 is tabulated below:

Table 5. 2: Revenue (Gap)/ Surplus (i.e. RA) till FY 2020-21 (₹ Crore)

S. No.	Particulars	FY 20-21
A	RA Creation	
1	Opening RA for FY 2020-21	3,110.9
2	Revenue Gap during FY 2020-21	375.8
3	Rate of carrying cost	12.74%
4	Carrying cost accrued during the year	420.3
5	Amortisation through 8% surcharge	315.4
6	Amortisation of Carrying cost	178.0
7	Closing RA for FY 2020-21 on stand-alone basis	3413.7
8	Add:	
a	Impact of APTEL Judgment and Review Petition (including Carrying Cost upto FY 2020-21)*	2524.1
9	Total Closing RA upto FY 2020-21	5,937.8
10	Impact of Issues pending adjudication before APTEL (including CC upto FY FY 2020-21)	5,068.7
11	Total RA upto FY 2020-21 including claims pending in APTEL	11,006.5

*excluding impact of Hon'ble Supreme Court Order dated 01.12.2021

- 5.8 Without prejudice to the Writ Petition (C) No. 105 of 2014 filed before Hon'ble Supreme Court of India, the Petitioner requests the Hon'ble Commission to review 8% surcharge so as to ensure recovery within the time-frame specified in the amortization plan submitted before Hon'ble Supreme Court of India.
- 5.9 Further, the Petitioner requests the Hon'ble Commission to allow the carrying cost on Regulatory Assets to be recognized till FY 2020-21 as per directions given by Hon'ble Tribunal in Appeal 153 of 2009 and O.P. 1 of 2011, through a separate surcharge.

Revenue at existing tariff for FY 2022-23

- 5.10 The methodology adopted for computation of revenue at existing tariffs for FY 2022-23 has been detailed in Chapter-4 of this Petition.
- 5.11 The revenue estimated on account of sales to various consumer categories during FY 2022-23 has been tabulated below:

Table 5. 3: Revenue estimated during FY 2022-23 (₹ Crore)

S.No	Category	Fixed charges	Energy Charges*	Other Charges	Total Revenue
1	Domestic	197.09	1,860.65	-2.00	2,055.73
1.1	Domestic	180.05	1,790.55	-	1,970.60
1.1.1	Upto 2 KW Connected Load	36.66	1,048.81	-	1,085.47
	0-200 Units	20.99	264.39	-	285.38
	201-400 Units	11.31	405.30	-	416.60
	401-800 Units	4.03	316.49	-	320.53
	801-1200 Units	0.29	47.01	-	47.30
	Above 1200 Units	0.04	15.62	-	15.66
1.1.2	> 2 KW to ≤ 5 KW Connected Load	44.40	423.79	-	468.20
	0-200 Units	12.11	25.34	-	37.45
	201-400 Units	16.09	96.99	-	113.08
	401-800 Units	12.25	179.92	-	192.17
	801-1200 Units	3.17	88.12	-	91.30
	Above 1200 Units	0.77	33.42	-	34.20
1.1.3	> 5 KW to ≤ 15 KW Connected Load	85.12	286.78	-	371.90
	0-200 Units	20.81	7.39	-	28.21
	201-400 Units	20.47	28.24	-	48.71
	401-800 Units	24.02	80.43	-	104.45
	801-1200 Units	11.17	72.55	-	83.72



S.No	Category	Fixed charges	Energy Charges*	Other Charges	Total Revenue
	Above 1200 Units	8.65	98.16	-	106.81
1.1.4	> 15 KW to ≤ 25 KW Connected Load	5.68	13.45	-	19.13
	0-200 Units	0.47	0.02	-	0.49
	201-400 Units	0.36	0.08	-	0.44
	401-800 Units	0.94	0.57	-	1.51
	801-1200 Units	0.85	1.03	-	1.87
	Above 1200 Units	3.06	11.75	-	14.81
1.1.6	> 25 KW Connected Load	8.18	17.72	-	25.90
	0-200 Units	0.34	-0.00	-	0.34
	201-400 Units	0.13	0.01	-	0.15
	401-800 Units	0.38	0.09	-	0.46
	801-1200 Units	0.39	0.19	-	0.58
	Above 1200 Units	6.93	17.43	-	24.37
1.2	Single Delivery Point on 11 KV for GHS	1.45	11.15	-0.33	12.27
1.3	Hospital / Worship (11KV)	15.34	55.65	-1.67	69.33
1.4	DVB Staff	0.24	3.30	-	3.54
2	Non Domestic	468.51	1,308.14	-7.19	1,769.47
2.1	Upto 3 KVA	139.17	210.00	-	349.17
2.2	Above 3 KVA	329.34	1,098.15	-7.19	1,420.30
3	Industrial	63.90	332.29	-1.97	394.21
4	Agriculture & Mushroom Cultivation	0.05	0.03	-	0.08
5	Public Utilities	63.23	214.38	-5.27	272.34
5.1	Public Lighting	10.46	46.85	-	57.31
5.2	Delhi Jal Board (DJB)	31.04	103.19	-2.82	131.40
5.3	Railway Traction	-	-	-	-
5.4	DMRC	21.73	64.35	-2.44	83.63
6	Delhi International Airport Limited (DIAL)	0	0	0	-
7	Temporary Supply	-	58.54	-	58.54



S.No	Category	Fixed charges	Energy Charges*	Other Charges	Total Revenue
8	Advertisement and Hoardings	0.17	0.03	-	0.20
9	Charging Stations for E-Vehicle	-	14.20	-	14.20
9.1	Supply at LT	-	14.20	-	14.20
9.2	Supply at HT				
10	Self-Consumption	-	-	-	-
TOTAL		792.94	3,788.27	-16.43	4,564.78

* Energy charge is inclusive of TOD Rebate and TOD Surcharge.

Revenue (Gap)/ Surplus for FY 2022-23 at Existing Tariffs

5.12 The Revenue (Gap)/ Surplus for FY 2022-23 at Existing Tariffs is tabulated below:

Table 5. 4: Revenue (Gap)/ Surplus at Existing Tariff for FY 2022-23 (₹ Crore)

S. No	Particulars	FY 2022-23	Remarks/ Reference
A	Revenue Requirement for the year (excluding carrying cost)	6,292	Table 4.25
B	Revenue at existing tariff	4,542	Table 5.3 (Total x 99.50%)
C	Revenue (Gap)/ Surplus for the year	(1,750)	B-A

Pension Trust Surcharge

5.13 The Hon'ble Commission revised the pension trust surcharge from 5.00% in its Tariff Order dated 28.08.2020 to 7.00% vide Tariff Order dated 30.09.2021 and directed the Petitioner to deposit the actual amount collected through the said surcharge directly in to a specified bank account, on a monthly basis. The relevant extract of the directive issued in this regard is extracted below:

"Tariff Schedule

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

- a) 8% towards recovery of accumulated deficit, and,
- b) 7% towards recovery of Pension Trust Charges of erstwhile DVB Employees/Pensioners as recommended by GoNCTD.

Directives:

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

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

..”

- 5.14 The Petitioner has been complying with the above directive of the Hon’ble Commission.

Tariff Proposal

- 5.15 The revenue deficit projected by the Petitioner for FY 2022-23 at existing tariff is ₹1750 Crore.

- 5.16 The reasons for such deficit are listed as under:

- a. Adverse consumer mix which has resulted in a lower distribution margin at the hands of the licensee as compared to its peers;
- b. High power purchase and transmission cost due to increased costs as anticipated by Gencos & Transcos in their respective petitions before CERC;
- c. Tariffs being not reflective of their cost of supply, which make big consumer susceptible to open access, adversely impacting remaining low end LT consumers;
- d. Increase in uncontrollable O&M Expenses due to statutory pay revision of employees.
- e. Impact of COVID-19 which leads to lockdown of commercial and industrial activities which cross subsidizes the other categories of consumers.

- 5.17 To address the revenue gap indicated above and to fully meet the tariff requirement of the Petitioner, the Hon'ble Commission is requested to determine a suitable cost reflective tariff.

Table 5. 5: Tariff Revision Proposed

S. No	Particulars	Amount (₹ Cr.)	Remarks/ Reference
A	Revenue (gap)/ surplus during FY 2022-23	(1,750)	
B	Reason for revenue gap		
I	Power Purchase Cost	4,509	1. High power purchase and transmission cost due to increased costs as anticipated by Gencos & Transcos in their respective petitions before CERC 2. Variable Costs considered as per FY 20-21 along with escalation factor.
II	O&M Expenses including Additional O&M Expenses.	1,080	1. Additional O&M expenses beyond the control of Petitioner considered. 2. With regard to the 7th Pay Commission, DERC vide its letter no F.17(283)/Engg./DERC/2020-21/6968/2317 dated 05.01.2021 has stated that actual payout, if any, shall be considered at the time of true up of ARR of relevant financial year.
	Other Expenses	96	Includes refund on account of consumer contribution for capital works in terms of Hon'ble APTEL Judgment dated 31.08.2021
III	RoCE/Finance Charge/ Income Tax	466	Implementation of APTEL Judgments sought
IV	Depreciation	216	

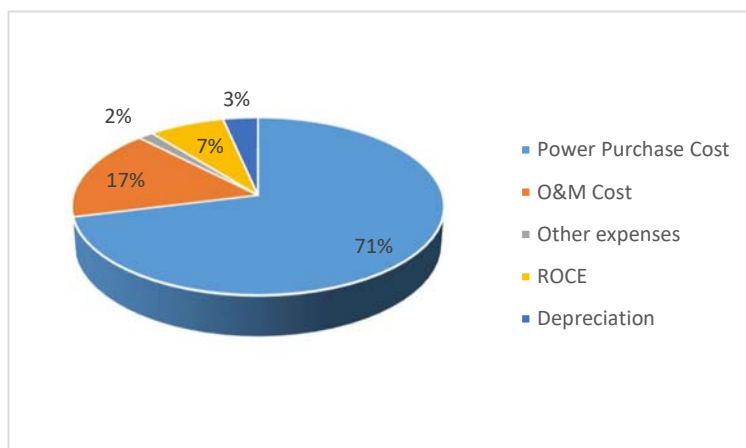


S. No	Particulars	Amount (₹ Cr.)	Remarks/ Reference
C	Earlier revenue gap proposed to be liquidated during FY 2022-23	Recovery of RA till FY 2020-21 and carrying cost estimated to be incurred during FY 2022-23	<p>1. Without <i>prejudice</i>, existing 8% surcharge to be suitably increased for principal recovery of RA within stipulated time as per plan proposed before Hon'ble SC.</p> <p>2. Carrying cost ought to be allowed as a separate surcharge on revenue instead of allowing in tariff as per requirements of Financial Institutions.</p> <p>3. Trajectory to recover the huge accumulated regulatory gap upto FY 2020-21.</p>
D	Tariff Hike Proposed (%)	Suitable cost reflective tariff.	<p>a. Suitable Surcharge for amortisation of existing Approved Regulatory Assets (RA)</p> <p>b. Suitable Surcharge for amortisation of RA accruing out of implementation of Hon'ble Supreme Court order dated 01.12.2021 as per National Tariff Policy 2006 i.e. within 3 years.</p> <p>c. Suitable surcharge for amortisation of balance RA in terms of APTEL judgment in OP 1 of 2011 read with National Tariff Policy 2016.</p>

5.18 The below pie-chart clearly shows that the revenue gap is primarily on account of Power Purchase Cost which is not within the control of the Licensee. The other contributing factors include (i) lower revenue on account of lower tariff recovery i.e. non cost reflective tariff and (ii) gap on account of financing of huge accumulated deficit.



Figure 5-1: Revenue gap bifurcation



Cost of Service Model

5.19 As regards ratio of allocation of ARR into Wheeling and Retail Supply, Regulation 32 of DERC Business Plan Regulations, 2019 states as under:

“32. Ratio of Allocation of ARR into Wheeling & Retail Supply

The ratio of allocation of ARR into Wheeling & Retail Supply Business in terms of the Regulation 4(9) (e) of the DERC (Terms and Conditions for determination of Tariff) Regulations, 2017 shall be as follows:

Table 17: Retail Business

Particulars	BRPL	TPDDL	BYPL	NDMC
Cost of Power Purchase	100%	100%	100%	100%
Inter-State Transmission Charges	100%	100%	100%	100%
Intra-State Transmission Charges	100%	100%	100%	100%
SLDC fees and charges	100%	100%	100%	100%
Operation & Maintenance Costs	40%	38%	38%	38%
Depreciation (including AAD)	21%	23%	19%	23%
Return on Capital Employed	26%	28%	28%	28%
Income Tax	26%	28%	28%	28%
Non Tariff Income	85%	60%	85%	60%

Table 18: Wheeling Business

Particulars	BRPL	TPDDL	BYPL	NDMC
Operation & Maintenance Costs	60%	62%	62%	62%
Depreciation (including AAD)	79%	77%	81%	77%
Return on Capital Employed	74%	72%	72%	72%
Income Tax	74%	72%	72%	72%
Non Tariff Income	15%	40%	15%	40%

- 5.20 Employing the aforesaid ratios, the Petitioner has bifurcated the ARR into Retail and Wheeling Business as per the Table given below:

Table 5. 6: Allocation of ARR into Retail and Wheeling Business

Amount in ₹ Crore

Particulars	Wheeling	Retail	Total
Cost of Power Procurement	0	4509	4509
Operation and Maintenance expenses	669	410	1080
Depreciation	175	41	216
Return on Capital Employed	335	130	466
Other Expenses	59	36	96
Less: Non-Tariff Income	11	63	74
Aggregate Revenue Requirement	1228	5064	6292

- 5.21 Accordingly, the Petitioner requests the Hon'ble Commission to consider the aforesaid bifurcation.

Proposal on Tariff Structure

Implementation of Regulation-130 and Regulation-131 of DERC Tariff Regulations, 2017:

- 5.22 Regulation-130 to 132 of DERC Tariff Regulations, 2017 states as under:

"130. The Fixed Charge of the Distribution Licensee shall consist of the following components:

(a) Capacity Charges of Generating Stations as approved/adopted by the appropriate Commission;

Capacity Charges of Transmission Licensee including Load Dispatch Charges Stations as approved/adopted by the appropriate Commission;

Fixed Cost of Distribution Licensee:

(i) Return on Capital Employed;

(ii) Depreciation; and

(iii) Operation and Maintenance expenses.

131. The Variable Charge of a Distribution Licensee shall consist of the following components:

(a) Energy Charges (Power Purchase Cost excluding Capacity Charges);

(b) Trading Margin, if any, ; and

(c) Open Access Charges, if any.



132. The Commission shall design the Tariff Schedule, indicating Tariff for various categories of consumers in the area of the Distribution Licensee, in the relevant Tariff Order in order to enable recovery of ARR.”

- 5.23 Hon’ble High Court of Delhi in its judgment in W.P.(C) 12260/2018 dated 17th September 2019 also held that the fixed charges are meant for varieties of infrastructure installations by the distribution licensee. The relevant extracts of judgment dated 17th September 2019 are reproduced below:

“11. By no stretch of imagination, can it be said that Section 45(3)(a) of the Electricity Act, 2003 is violative of any of the provisions of Constitution or of the Electricity Act, 2003, as contended by the petitioner in person. On the contrary, looking to the provisions of the Electricity Act, 2003 the fixed charges are to be levied for the purposes as stated hereinabove, i.e., for the infrastructure, which is to be provided by the respondents. In fact, huge infrastructure is required for the distribution of the electricity. It is also submitted by the counsel for respondent nos. 5 and 6 that fixed charges are meant for varieties of infrastructure installations by the distribution company, which includes the generator installation, transformer installation, grid sub-station, distribution, lines and wires etc. Moreover, the distribution company has to pay the similar type of fixed charges to the generating company. Thus, fixed charges are part and parcel of the composite tariff to be fixed by the Delhi Electricity Regulatory Commission. Thus, the philosophy behind the fixed charges to be levied, is scientific in nature. It is meant for compensating the fixed installation cost, to be incurred by generating company and distribution company; therefore, it is made part and parcel of the tariff to be fixed by the Delhi Electricity Regulatory Commission. Even otherwise, petitioner is at liberty to challenge the tariff order fixed by the Delhi Electricity Regulatory Commission in accordance with law before the appropriate forum.”

- 5.24 As evident from above, the fixed charges ought to include all fixed costs and variable charges ought to include all variable costs. However, there is a considerable difference between the ratio of fixed charges to variable charges based on approved ARR and fixed cost to variable cost based on approved revenue in the last four Tariff Orders is tabulated below:

Table 5. 7: Comparison of costs to revenue

S. No.	Particulars	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
		Tariff Order dated 28.03.2018	Tariff Order dated 31.07.2019	Tariff Order dated 28.08.2020	Tariff Order dated 30.09.2021
1	Fixed cost to variable cost ratio	67:33	61:39	64:36	69:31

3	Fixed to variable charges ratio(Revenue)	26:74	19:81	19:81	18:82
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Thus, the Petitioner requests the Hon'ble Commission to determine fixed and variable charges in accordance with Regulation-130 and 131 of DERC Tariff Regulations, 2017.

Time bound recovery of Regulatory Assets/ Revenue Gap:

5.25 The Hon'ble Commission in Tariff Order dated September 30, 2021 has maintained the Tariff at same level as was approved in Tariff Order dated August 28, 2020. Further the Hon'ble Commission has brought many measures viz. rebate to consumers, reduction in fixed charges for a specified period in view of COVID-19. However, the Petitioner's liability and duties to serve consumers during COVID-19 has remained as is and the Petitioner was in fact required to be more vigilant and ensure 24 x 7 uninterrupted power supply during such difficult times.

5.26 As regards recovery of Regulatory Assets, Clause-8.2.2 of Tariff Policy 2016 states as under:

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

a. Under business as usual conditions, no creation of Regulatory Assets shall be allowed;

b. Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding seven years. The State Commission may specify the trajectory for the same."

As evident from above, 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.

5.27 During 2014, the Hon'ble Commission submitted a liquidation plan for timely amortisation of Regulatory assets before Hon'ble Supreme Court. As per the amortisation plan, the Regulatory Assets recognised till 2014, i.e., ₹2855 Crore was to be amortised within a period of 7 years through 8% surcharge and carrying cost to be allowed as part of tariffs. However, the Hon'ble Commission in latest Tariff Order dated 30.09.2021 has itself recognised Regulatory Assets of ₹3111 Crore till FY 2019-20. Also the Regulatory Assets recognised in Tariff Order dated 30.09.2021 does not include the impact of various APTEL Judgments to be implemented by the Hon'ble Commission on which no stay has been granted by the Hon'ble Supreme Court. Such Regulatory Assets have accumulated despite the fact the Petitioner has



actively taken steps to bring down the uncontrollable power purchase costs through re-allocation/ surrender of costly PPAs and substantial loss reduction

- 5.28 Also the Petitioner vide its letter dated 30.11.2020 has communicated its stand on NTPC-Dadri-I to the Hon'ble Commission. It is relevant to point out that Dadri-I is an obsolete, commercially & economically unviable Plant having high tariff of more than ₹6.33 per unit and creates economic burden on account of higher tariff for the residents of NCT of Delhi. In fact, the National Electricity Plan (January 2018) issued by Central Electricity Authority ("CEA") under Section 3(4) of the Electricity Act, 2003 has considered retirement of various generating stations of NTPC during 2022-27 which shall complete the age of 25 years including Dadri-I. Accordingly, the Petitioner has not considered any procurement of power from Dadri-I in projections of FY 2022-23.
- 5.29 The Petitioner had invoked Regulation 17(1) of the CERC Tariff Regulations, 2019 on 23.11.2020 and sought an arrangement from NTPC for continuing supply of power from 01.12.2020 from Dadri – I plant of NTPC which was completing 25 years from COD on 30.11.2020. NTPC neither provided nor agreed upon an arrangement as per Regulation 17(1) of CERC Tariff Regulations, 2019. The petitioner vide communication dated 30.11.2020 exercised its right of first refusal under Regulation 17(2) of CERC Tariff Regulations, 2019 and discontinued scheduling of power from Dadri – I plant w.e.f. 01.12.2020 at 00:00 hrs, upon which NTPC was free to sell the electricity generated from Dadri – I plant in a manner as it deemed fit.
- 5.30 Despite the above, NTPC and NRLDC forced the Petitioner to make payment towards fixed charges from Dadri – I under threat of coercive action. NTPC claimed that till the subsistence of the allocation of power by the MOP, the PPA/SPPA shall continue to operate. These actions of the NTPC and NRLDC were challenged by the Petitioner in February 2021 before the Hon'ble CERC in Petition No 60/MP/2021.
- 5.31 On 01.07.2021, the Hon'ble CERC disposed of the aforementioned petition and decided all issues in favour of the petitioner. However, the Hon'ble CERC erroneously directed the petitioner to seek deallocation of power from relating to Dadri – I plant for implementation of Regulation 17(2) of CERC Tariff Regulations, 2019. The Petitioner has challenged this part of the order of the Hon'ble CERC before the Hon'ble Aptel in Appeal no 240 of 2021 wherein by order dated 26.08.2021, the Hon'ble APTEL was pleased to stay the recovery of the capacity charges towards Dadri – I plant. The interim order was later continued till further orders by further interim orders dated 17.09.2021, 24.09.2021 and 22.10.2021 in Appeal no 240 of 2021. The next date of hearing in the appeal before the Hon'ble APTEL is 04.02.2022. NTPC has also challenged the APTEL order before the Hon'ble



Supreme Court in Civil Appeal no. 5974 of 2021 and 6018 of 2021. The next date of hearing before Hon'ble Supreme Court is on 04.01.2022.

- 5.32 Petitioner vide its letter no RA/BYPL/2021-22/16 dated 16.04.2021 has already submitted to the Hon'ble Commission that The MoP while ensuring the timely payments to Gencos has also taken cognizance of the financial position of Discoms. In order to ensure viability of the financially stressed Discoms, the MoP by its communication dated 01 .04.2021 issued to CERC and SERCs has directed as under:

"6. It has been brought to the notice of the Government that despite above explicit legal provisions, there are significant delays in issuance of tariff orders by some {of} the State Commissions. Regulatory Assets are being created by some of the State Electricity Regulatory Commissions as a matter of routine. This is against the letter and spirit of the law and not only negatively impacts financials of the Distribution licensees and their business sustainability but is also prejudicial to the public interest as the DISCOMs do not have enough money to buy power or maintain the distribution system. As per the PRAAPTI portal, as on 28.02.2021, the overdue outstanding amounts to GENCOs payable by DISCOMs has crossed Rs.1,24,437 crore. The outstanding loans of distribution utilities is in the range of Rs.6,00,000 crore. The average gap of retail tariff vis-a-vis the annual revenue requirement is in the range of 72 paise per unit (2018-19). The regulatory assets is of the order of Rs. 77,939 crore.

7. In view of the legal provisions in the Electricity Act 2003, and the Tariff Policy 2016,

- i. All Tariff Orders of the licensees and the generating companies are issued before 1st April of the tariff year.*
- ii. No creation of Regulatory Assets under business as usual conditions. Recovery of outstanding Regulatory Assets along with its carrying cost should be time bound and as per the period defined in the Tariff Policy 2016.*

*8. The Central Commission and State Commissions are requested to send **the status of compliance of above provisions, as applicable, by 31st May every year.**"*

Copy of the Communication dated 01.04.2021 and 03.05.2021 is enclosed herewith as **Annexure-5.1.**

The aforesaid directions are in consonance with the APTEL's Judgment in O.P. 1 of 2011 dated 11 .11.2011, which requires determination of Tariff before 1st April of the Tariff year and Regulatory Asset should not be created as a matter of course except where it is justifiable, in accordance with Tariff Policy and Regulations. The recovery of the Regulatory Asset should be time bound and within a period not exceeding three years at the most and preferably within the Control Period. Carrying cost of the Regulatory Asset should be allowed to the



utilities in the ARR of the year in which the Regulatory Assets are created to avoid problem of cash flow to the distribution licensee.

- 5.33 In view of the above directions from MoP and in order to ensure adequate liquidity to meet the MoP direction, it is very critical that the following prayers are allowed by the Hon'ble Commission:
1. Timely issue of Tariff Order
 2. Cost reflective tariff with no creation of any regulatory assets
 3. Allow 100% adjustment of PPAC on self-true up on a monthly basis instead of a Quarterly basis along with removal of capping.
- 5.34 Therefore, the 8% Additional Surcharge towards recovery of past accumulated deficit is not sufficient to recover the Regulatory asset in a time bound manner, where the annual revenue realization of the petitioner is much less in comparison to the accumulated gap. The situation has further aggravated during COVID-19 times.
- 5.35 The creation and maintenance of the Regulatory asset for such a long period is against the principles of natural justice to both the petitioner and its consumers. The Petitioner is aggrieved due to the reason that the financial health of the petitioner is adversely affected and the banks are reluctant to disburse any further loans to the petitioner. The consumer of the petitioner is also adversely affected due to the fact that they would have to bear the impact of carrying cost on annual basis in the tariff.
- 5.36 The Hon'ble Commission is requested to kindly review the present 8% surcharge towards accumulated deficit and approve a revised Surcharge to ensure that the Regulatory asset of the petitioner in terms of Clause-8.2.2 of Tariff Policy and liquidation plan submitted before Hon'ble Supreme Court. Also the directions of Hon'ble APTEL are to be implemented and impact of past claims be recovered in a time bound manner along with the carrying cost.

Removal of capping and allow Monthly PPAC:

- 5.37 Clause-5.11 (h) (4) of Tariff Policy, 2016 states as under:

"Uncontrollable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. Uncontrollable costs would include (but not limited to) fuel costs, costs on account of inflation, taxes and cess, variations in power purchase unit costs including on account of adverse natural events."

As evident from above, the power purchase costs are required to be recovered speedily.

Also the Hon'ble APTEL in Judgment dated 11.11.2011 (OP1 of 2011) has directed the various State Electricity Regulatory Commissions as under:



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

...

*(vi) Fuel and Power Purchase cost is a major expense of the distribution Company which is uncontrollable. **Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably be on monthly basis on the lines of the Central Commission’s Regulations for the generating companies** but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/mechanism. **“(Emphasis added)***

- 5.38 In line with the Tariff Policy 2016 and the Hon’ble APTEL’s Judgment dated 11.11.2011, the Petitioner requests the Hon’ble Commission to allow the recovery of uncontrollable power purchase costs on monthly basis.
- 5.39 Petitioner vide its letter No RA/BYPL/2021-22/236 dated 17.11.2021 apprised the Hon’ble Commission to consider the automatic pass through of the fuel and power procurement cost in tariff as per the MOP communication dated 09.11.2021.
- 5.40 Currently the Petitioner is charging variations in power purchase costs through existing PPAC mechanism on quarterly basis. Recovery of unrecovered power purchase costs for entire quarter actually considerably increases the PPAC surcharge percentage and is levied in bills of consumers during entire next quarter. Recovery of PPAC on monthly basis will actually allow the Petitioner to recover the power purchase costs quickly through considerably less percentage of surcharge and will also be beneficial for consumers as PPAC back-log won’t be created. In any case, the Petitioner won’t levy PPAC surcharge more than suo-motu limit as specified in Business Plan Regulations and shall seek approval of the Hon’ble Commission in case the variation is more than the suo-motu limit.
- 5.41 Therefore, existing PPAC mechanism may be implemented on monthly basis instead of quarterly basis with removal of capping.

Cross subsidy as per Tariff Policy:

- 5.42 As per Tariff Policy 2016, the appropriate Commission would notify a roadmap such that tariffs are brought within $\pm 20\%$ of the Average cost of Supply. Clause 8.3 of Tariff policy 2016 is reproduced below:

“2. For achieving the objective that the tariff progressively reflects the cost of supply of electricity, the Appropriate Commission would notify a roadmap such



that tariffs are brought within $\pm 20\%$ of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy."

- 5.43 The Petitioner would like to bring to the kind notice of the Hon'ble Commission that the cross subsidy in the approved tariff is more than norms as mentioned in the Tariff Policy 2016. A comparative table of cross subsidy approved by the Hon'ble Commission in its tariff order from FY 2018-19 to FY 2021-22 is tabulated below:

Table 5. 8:: Comparison of Cross subsidy approved in respective tariff orders

S.No	Category	Approved in TO Dated 28.03.2018	Approved in TO Dated 31.07.2019	Approved in TO Dated 28.08.2020	Approved in TO Dated 30.09.2021
		FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
1	Domestic	-23%	-29%	-32%	-39%
2	Non Domestic	+48%	+63%	+69%	+54%
3	Industrial	+27%	+36%	+44%	+27%
4	Agriculture	-58%	-55%	-45%	-57%
5	Public Lighting	-13%	+5%	+18%	+4%
6	DMRC	-19%			
7	DJB	+7%			
8	E Vehicle		-28%	-34%	-39%

- 5.44 The issue related to cross subsidy and tariff simplification has also been addressed in agenda item no 4(a) of 60th Meeting of Forum of Regulator Dated 23rd June 2017 which mentions that Domestic category may have within itself three sub-categories i.e. Cross subsidizing, Cross Subsidized, and cross subsidy neutral.
- 5.45 It is pertinent to mention that as per cross subsidy approved in Tariff Order dated 30.09.2021 by the Hon'ble Commission during FY 2021-22 within Domestic category is not in line with the EA 2003, NTP, several Judgments of the Hon'ble APTEL as also the 60th meeting of Forum of Regulator.
- 5.46 In view of the above, Hon'ble Commission is requested to kindly address the issue of cross subsidization among all categories by restructuring the existing tariff structure. It is also suggested that common tariff may be adopted across all categories of consumer matching with average cost of supply of the Petitioner.

Tariff Simplification:

- 5.47 The Petitioner proposes to simplify the Tariff Slabs and Rationalise the Tariffs for different consumer categories as per the National Tariff Policy, 2016. The relevant extracts of the Policy are reproduced below:

“8.3 Tariff design: Linkage of tariffs to cost of service

It has been widely recognised that rational and economic pricing of electricity can be one of the major tools for energy conservation and sustainable use of ground water resources.

In terms of the Section 61(g) of the Act, the Appropriate Commission shall be guided by the objective that the tariff progressively reflects the efficient and prudent cost of supply of electricity.

The State Governments can give subsidy to the extent they consider appropriate as per the provisions of section 65 of the Act. Direct subsidy is a better way to support the poorer categories of consumers than the mechanism of cross-subsidizing the tariff across the board. Subsidies should be targeted effectively and in transparent manner. As a substitute of cross subsidies, the State Government has the option of raising resources through mechanism of electricity duty and giving direct subsidies to only needy consumers. This is a better way of targeting subsidies effectively.

Accordingly, the following principles would be adopted:

- 1. Consumers below poverty line who consume below a specified level, as prescribed in the National Electricity Policy may receive a special support through cross subsidy. Tariffs for such designated group of consumers will be at least 50% of the average cost of supply.*
- 2. For achieving the objective that the tariff progressively reflects the cost of supply of electricity, the Appropriate Commission would notify a roadmap such that tariffs are brought within $\pm 20\%$ of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy.”*

- 5.48 In addition, NITI Aayog also issued a Diagnostic Study of the Power Distribution Sector in April 2019, wherein the issue of Complex Retail Tariff Structure has issued way forward as below:

“Over time, because of considerable changes in the consumer mix, consumption pattern, and demand-supply situation, there has been substantial addition in the number of categories, sub-categories and slabs. While the introduction of these categories served the intended purpose initially, it has now become difficult for the regulatory commissions to do away with any of them, owing to socio-political reasons. In fact, the Economic Survey for fiscal 2016 noted the following key points regarding electricity tariffs:



- Complexity of tariff schedules prevents economic actors from responding sufficiently to price signals
- Price and non-price barriers come in the way of single-nationwide electricity price through OA
- Existence of separate and multiple tariff categories, sub-categories and slabs create a complexity, which prevents consumers from fully responding to tariffs because of the high cost of processing the price information

Currently, the tariffs framed by the SERC for retail consumers are complex with many sub-categories and conditions. This leads to confusion not just at the consumer level but even at the discom level.

It is, therefore, recommended that the tariff structures should be reviewed. While carrying out simplification of tariff categories, revenue neutrality needs to be ensured. We may merge/eliminate existing tariff categories, based on:

- End-use
- Energy consumption
- Socio-economic profile/affordability
- Social factors (rural and urban area differentiation)
- Consumption pattern/load factor
- Voltage
- Efficient energy use

Based on the above exercise, standard tariff categories need to be defined across all states. Also, guidelines need to be laid out for determination of sub-categories and prescribing limit on the number of slabs under the standard tariff categories. Any tariff standardisation exercise at the national level will require a comprehensive assessment of the impact on revenue of the utilities. The tariff design should reflect the prudent and efficient cost of supply to the consumers while maintaining revenue neutrality. The new tariff structure should adequately recover fixed costs of the distribution utility through demand charges and variable costs through energy charge. Socio-economic development of the utility should be promoted by providing attractive and affordable tariffs to households, agricultural and industrial consumers. “

5.49 Some of the State Regulatory Commissions have started moving from the complicated Tariff Structures to a simpler and compact tariff structures.



Commissions like Jharkhand State Electricity Regulatory Commission and Uttarakhand Electricity Regulatory Commission have made efforts towards reduction in slabs as well as clubbing similar categories in progressive manner so that it does not adversely affect the consumers.

- 5.50 Jharkhand State Electricity Commission in its Tariff Orders for FY 2018-19 and FY 2019-20 has completely done away with slabs in any Tariff Categories, making the Tariff Structure simple and have rationalised the Tariff Structure to better meet the Cost of Supply. As in FY 2019-20 all the consumer categories are within +/-10% of the average cost of supply except Irrigation and Agriculture (~19%). In FY 2018-19, the JSERC took the bold step for rationalising the tariff categories/sub-categories and slabs to around 16 from around existing 28 categories/sub-categories/slabs.
- 5.51 Furthermore, JSERC has merged all HT consumers except HT Domestic consumers into a single category and has implemented kVAh based Tariff for all HT consumers and LT Industrial consumers for FY 2019-20. JSERC has also restructured all consumers having contracted demand less than 5 kW as domestic consumers.
- 5.52 Similar developments have happened in Uttarakhand as well. The Total No. of Consumer Categories have been brought to 7, viz., Domestic, Non-Domestic, Govt. Public Utilities (comprising Street Lights, Public Water Works, etc.) Private Tubewells, Industries, Mixed Load and Railway Traction.
- 5.53 UERC has also set the tariff for all the consumer categories within +/-20% of the average cost of supply except PTW consumers. UERC has also implemented kVAh based Tariffs for all consumers having a contracted capacity above 25 kW.
- 5.54 In the light of the above submissions, the Petitioner requests the Hon'ble Commission to explore the possibility of further simplifying the tariff structure of the Petitioner without adversely affecting the interests of the consumers.

Revision of Security Deposit on 2 months average billing

- 5.55 The Petitioner is presently charging consumer security deposit as per Regulation 20 of DERC (Supply Code and Performance Standards) Regulations 2017, whereby all new consumers are to be charged a fixed rate based on their applied load.
- 5.56 Hon'ble Commission in its Schedule of Charges and the Procedure (First Amendment) Order, 2017 dated 28.09.2017 approved the charges for security deposit for various categories of consumers. The relevant extract is reproduced below: -

"1. The table for security deposit under clause 3(1) of the principal order shall be substituted, namely:



S.No.	Tariff Category (as per Tariff Order)	Security Deposit for Permanent Connection (Rs. Per kW or per kVA as the case may be)
(1)	(2)	(3)
1	Domestic	
(i)	Upto 2 KW	600
(ii)	Above 2 kW upto 5 kW	900
(iii)	Above 5 kW	1200
2	Non-Domestic	4500
3	Industrial	4500
4	Agriculture	300
5	Public Lighting	3000
6	Railway, DMRC, DIAL, DJB	3000
7	Mushroom Cultivation	600
8	Advertisement and Hoardings	4500
9	Charging Stations for E-Rickshaw/ E-Vehicle	2500

“

- 5.57 The current methodology of collecting Security Deposit is not equitable. Firstly, it does not have equality between two new consumers having same load profile but varying consumption levels. The consumers falling in higher unit slabs end-up paying lesser deposit than what is collected based on the per KW norms as specified by the Hon'ble Commission. Secondly, a consumer who has taken a connection in the past has already paid the security deposit at the then prevailing rate. Since then, the electricity tariff has increased. The security deposit paid by such consumers are inadequate to cover the consumption for period of billing cycle.
- 5.58 Ideally, Consumer Security deposit has to be linked with the consumption on individual consumer, the prevailing tariff as well as billing cycle. Therefore, it is proposed that the security deposit collected from the consumers to be linked to the consumption profile and applicable tariff of individual consumers i.e. to the bill amount and bill amount equivalent to billing period. The rationale behind charging consumer security deposit is to safeguard the interest of honest paying consumers against any default in payment of electricity dues by defaulting consumers and to protect the revenue of DISCOMs.
- 5.59 The security deposit should include the amount corresponding to two months' average billing. The time flow chart from serving of bill to disconnection of consumer in case of default is tabulated below: -

S.No	Particulars	Duration
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1	Energy Bill	30 days consumption
2	Due date	15 days
3	Disconnection notice	15 days
Total		60 days

5.60 It is also pertinent to mention that the currently applicable security deposit is not sufficient enough to recover the two months' bill of the consumer. A comparison table of security deposit with two months bill for various category of consumer is tabulated below: -

Category	Load (KW/KVA)	Security Deposit (₹)	Avg 2 months Billed amount (₹)	Shortfall (₹)
Domestic A	2	1200	1,511	-311
Domestic B	5	4500	5,647	-1,147
Domestic C	10	12000	15,328	-3,328
Non Domestic	5	22500	23,656	-1,156
Industrial	5	22500	37,261	-14,761
Agriculture	5	1500	4,252	-2,752
Mushroom Cultivation	5	3000	8,831	-5,831
Public Utilities	5	15000	18,181	-3,181
Advertisement and hoardings	5	22500	23,656	-1,156

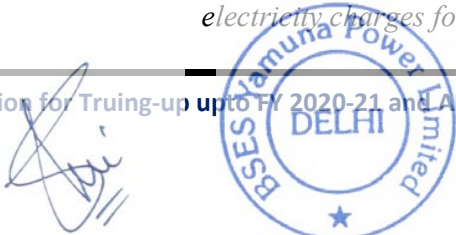
5.61 The proposed mechanism will also benefit low end consumers as they will have to pay lower deposits, this methodology is adapted by various SERCs throughout the nation. One such extract of Tamil Nadu Electricity Supply Code Notification No. TNERC/SC/7-24, dated 18.03.20211 is as follows:

“(5) Additional Security Deposit

(i) The adequacy of security deposit may be reviewed and refixed once in a year in case of HT consumers and once in every two years in case of LT consumers taking into account the interest due for credit. Such reviews shall be made in the month of April/May. The rate of interest on the security deposit shall be on the basis of the Commission's directive to the Licensees in this regard.

(ii) The adequacy of security deposit shall be based on the periodicity of billing for the respective category.

(a) For the categories of consumer under monthly billing, the Security Deposit is equivalent to two times of the monthly average of the electricity charges for the preceding twelve months prior to April.



(b) For the categories of consumer under bi-monthly billing, the Security Deposit is equivalent to three times of the monthly average of the electricity charges for the preceding twelve months.”

(c) For the categories of consumer under half yearly billing, the security deposit is equivalent to seven times of the average charges per month.”

- 5.62 The Security Deposit is linked to the consumption profile of individual consumers in various SERCs supply code throughout the nation.

The provision in Section 47 (2) of the Electricity Act 2003 in support the proposal is as under:

“47...

(2) Where any person has not given such security as is mentioned in subsection (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter. ...”

- 5.63 In view of the above, we request the Hon’ble Commission to kindly review the security deposit and allow the security deposit on the basis of average bill of two months.

Lead plus Lag for high voltage consumers

- 5.64 The kVAh consumption of consumer meters is being recorded in lag only mode as per the Hon’ble Commission’s directive issued vide letter no. 5284 dated 27.08.2004.
- 5.65 The present KVAh based billing accounts only lagging reactive power. The reactive drawl and injection both occupy the networks capacity and reduce the useful capacity of the distribution system. Therefore, it is proposed to include lead reactive power for billing consumption. Currently, consumers use capacitors extensively for improving power factor but it hampers the installations of the distribution licensee and consumers.
- 5.66 Consumer mostly use of fixed capacitors, bulk compensation on HT in fixed mode, use of substandard controllers having erratic and inconsistent performance,



- thereby, leading to additional Reactive (lead) Power Charges causing burden on the distribution licensee.
- 5.67 It is important to note that, more particularly, during off peak period, there is hardly any reactive injection, and due to high capacitive injection by high end consumers, the voltage becomes very high and sometimes so much so that it becomes difficult to control the same.
- 5.68 The reactive compensation is effective when it is nearer to the load and the extra reactive compensation by HT consumers cannot be used / compensated against extra reactive energy drawl. Current is higher at lagging or leading power factor as compared to unity power factor and hence losses are also higher. Under leading power factor, excessive over voltages may occur thus endangering the system stability. Also, for serving the same load, a transformer of higher capacity is required due to increase in current due to leading power factor.
- 5.69 Absence of any punitive measures for overcompensation prompted the consumers to use capacitors indiscriminately, much in excess of their requirements. CEA mandates that power factor of the bulk consumer shall be within ± 0.95 and hence the lead power factor also has to be within prescribed limits and to maintain it, adequate reactive compensation is to be provided and its burden is also on the bulk consumer apart from the distribution licensee
- 5.70 The most effective remedy to remove such anomaly is to introduce kVAh billing in lag as well lead mode i.e. kVAh 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.
- 5.71 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 (11 kV and above) is as per their actual requirement and proper voltage is maintained for all the consumers. It will not only be helpful and beneficial for distribution licensee but also for the concerned consumers.
- 5.72 The Petitioner requests to the Hon'ble Commission to introduce kVAh billing in both lag and lead mode.



Harmonic Dumping

5.73 As per Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017, it shall be obligatory for nil the consumers to restrict the harmonics dumped as notified under IEEE Standard (STD 519-1992 till it is notified by the CEA

1. EHV consumer's meters in BYPL license area have the capability to measure harmonics.
2. Harmonics degrades the performance of power system. The disadvantages of harmonics in the power distributed network are listed below:
3. The harmonics flowing in the distribution network downgrade the quality of the electrical power
4. supply. There can have several negative effects on the operation of the power system
5. Increased losses on the distribution system due 10 increase in the effective rms value of the current
6. Over-load in neutral conductors due to cumulative increase in the third harmonics created by the
7. single-phase loads
8. Overloads, vibration and premature ageing of the generators, transformers and motors as well as increase in the noise level
9. Overloads and premature ageing of the power factor correction capacitors
10. Distortion of the supply voltage that can disturb the operation of the sensitive loads
11. Resonance between the supply inductance and capacitance of the power factor correction capacitors

5.74 The end users and utilities share responsibility for limiting harmonic current injections and voltage distortion at the point of common coupling. Since there are two parties involved in limiting harmonic distortions, the evaluation of harmonic distortion is divided into two parts measurements of the currents being injected by the load and calculations of the frequency response of the system impedance. Measurements should be taken continuously over a sufficient period of time so that time variations and statistical characteristics of the harmonic distortion can be accurately represented. Sporadic measurements should be avoided since they do not represent harmonic characteristics accurately given that harmonics are a continuous phenomenon. Also, short duration temporary Power Quality Monitoring System cannot detect events such as voltage sags, interruptions and transients, which are among the main Power Quality issues.



- 5.75 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."

- 5.76 However, the penal charges are still not notified therefore it is requested to fix the penal charges at 20% on Energy Charges for consumers at 11 kV and above when they fail to provide adequate harmonic filtering equipment to avoid dumping of harmonics into DISCOM's network beyond the permissible limits as specified by CEA Regulations

Fixed charges on MDI for Domestic Consumers

- 5.77 As per DERC (Supply Code & Performance Standards) Regulations, 2017, the billing demand is defined as:

"(16) "Billing Demand" means highest of the following:

(i) the contract demand or the sanctioned demand wherever contract demand has not been provided in the supply agreement.

(ii) the maximum demand indicated by the meter during the billing cycle."

- 5.78 Presently, fixed charges are being levied on Sanctioned Load/ Contract Demand or MDI (Whichever is higher) for all categories of consumers except the Domestic category. As per Regulation 17 of DERC (Supply Code and Performance Standards) Regulations 2017, the sanctioned load is revised once in a year on the basis of highest of average of maximum demand recorded as per billing cycle covering any four consecutive calendar month in the preceding financial year and not immediately on exceeding the sanctioned load.

- 5.79 Fixed charges for domestic consumers, if levied on the basis of billing demand as defined in DERC (Supply Code and Performance Standards) Regulations, 2017 would deliver the following benefits in the tariff structure of Delhi:

- i. In recovering the fixed cost according to the load usage of the consumer.
- ii. Ensuring timely recovery of expenses which would otherwise take a financial year under the load revision exercise.
- iii. The amount so recovered would be pass through in the ARR of the petitioner as additional revenue would be realized and benefit the consumer in future tariff proceedings.



- 5.80 In view of the above, the Petitioner would like to request the Hon'ble Commission to kindly allow to recover the fixed charges for all categories of consumers including domestic category on the basis of Sanctioned Load/ Contract Demand or MDI (whichever is higher).

Surcharge on Excess load for Domestic Consumers

- 5.81 A surcharge of 30% is levied on the fixed charges corresponding to excess load beyond sanctioned load / contract demand during such billing cycle. This surcharge is currently not applicable on domestic consumers. This results into over burdening of distribution network and does not encourage discipline as consumers is extracting more load than what is sanctioned to him without any penal provision but surcharge on account of load violation is being levied on other categories. Domestic consumers constitute of 60% of total load served by the petitioner such measures would help in timely recovery of costs and ensure discipline on load usage.
- 5.82 In terms of the Supreme Court Judgment in Executive Engineer and Anr. Vs. M/s Sri Seetaram Rice Mills (2012) 2 SCC 108, any drawal by the consumer in excess of the Contract Demand would tantamount to "unauthorised use" of electricity under Section 126 of the EA 2003. It may therefore kindly be directed by this Hon'ble Commission that the surcharge of 30% on excess drawl would be without prejudice to its other consequences under the Act.

Time of Day Tariff

- 5.83 The current Time of Day (ToD) tariff is applicable to other than domestic consumers above 10 kW of sanctioned load. However, Delhi is witnessing peak at night hours due to domestic consumption at midnights. To mitigate this peak, we request the following:
1. TOD may be approved for all three phase consumers having sanctioned load above 10KW for all categories (other than Domestic, however option may be given to the domestic consumers to avail the benefit of ToD).
 2. ToD may also be made optional for single phase domestic consumers as well in view to promote energy efficiency, demand response and other non-wired alternative so as to optimize over all power purchase cost as well as network augmentation cost.
 3. ToD may also be approved for EV category consumers to promote usage of electric vehicles and to facilitate integration of renewable energy into the grid e.g. wind and solar which are increasingly becoming pans of our portfolio due to RPO.



- 5.84 In view of the above, it is requested to increase the ToD Peak Surcharge and Rebate to at least 30% to make it more attractive to the consumers and would result in benefits to both consumer and the licensee.

Delivery of bill through digital mode

- 5.85 WhatsApp is the most commonly used mode of communication, during the first and second wave of COVID-19 as the field activities were suspended. A lot of consumers submitted their meter reading through WhatsApp and BYPL has also sent notifications related to metering, billing and collection and other consumer services.
- 5.86 Hon'ble Commission has also provided for serving of ebills and notifications like disconnection, new connection, etc through SMS and Email in its Supply Code & Performance Standards Regulations 2017. The usage of WhatsApp is the most popular digital and user friendly medium among the wider section of consumers as compared to the usage of email and SMS.
- 5.87 The Petitioner vide its letter dated 27.09.2021 has requested the Hon'ble Commission to consider the following proposal;
- a) to make the WhatsApp as primary digital communication medium along with SMS and E-mails
 - b) to deliver e-bills only through WhatsApp and stop physical bills to the consumers availing bill through WhatsApp in line with the Regulation 38(5) of DERC (Supply Code & Performance Standards) Regulations, 2017.
 - c) To send notifications such as disconnection notices, MDI notices, ELCB letters, new connections notification etc. through WhatsApp only.
 - d) To make WhatsApp number mandatory while processing the new connection application.

Collection Charges to be provided on collection of Pension Trust Surcharge

- 5.88 Currently, the Petitioner is earning the collection charges@3% on amount of Electricity Duty collected by it through the Electricity Bills on behalf of Delhi Municipal Corporation (DMC). The collection of Electricity Duty is the responsibility of Delhi Municipal Corporation (DMC) under DMC Act. Since the Petitioner is



collecting the same on behalf of Government, the Petitioner gets commission of 3% on collection of Electricity Duty.

- 5.89 The basic objective behind such commission is to compensate the Petitioner against the expenses incurred towards collection of Electricity Duty. The Petitioner has to separately account for such collections and has to keep a proper vigilance towards the same. Further the cash collection charges and bank charges incurred towards maintenance of separate account for the same is also borne by the Petitioner. Thus, the Petitioner meets its cost through such collection charges/commission received from the Government.
- 5.90 Similarly, the Petitioner is also incurring the cost towards collection of Pension Trust Surcharge. The entire collection on account of Pension Trust Surcharge is given to Pension Trust. Thus, the Petitioner requests that a suitable percentage preferably 3% may be allowed to be retained by the Petitioner out of the total collection of Pension Trust Surcharge to meet its associated costs.

Compliance to Recent Statutes and Government Directions

- 5.91 The Petitioner would like to bring to the notice of this Hon'ble Commission that there have been significant recent developments impacting the Petitioner which will require specific consideration from this Hon'ble Commission. The new laws and directions which the Petitioner needs to comply with are as follows.

1. Ministry of Power Notification dated 17.08.2021 mandating installation of Smart Meters with Prepayment feature.
2. Letter from GoNCTD dated 11.06.2021 seeking detailed concrete and executable plans for removal of mesh of overhead cables.

- 5.92 The Petitioner, after looking into all the aspects to comply with the above, has detailed the proposed plan as follows.

A. Recovery of Expenses to be incurred in order to comply with Ministry of Power Notification dated 17.08.2021

- 5.93 It is submitted that Ministry of Power, Government of India, in pursuance to the provisions made in clause 4(1) (b) of the Central Electricity Authority (Installation and Operation of Meters) (Amendment) Regulations, 2019 framed under sub-section (1) of section 55 read with clause(c) of sub-section (2) of section 177 of the Electricity Act, 2003, vide its Gazette Notification Dated August 17, 2021 has notified the following timelines for the replacement of existing meters with smart meters with prepayment feature:



"1. All consumers (other than agricultural consumers) in areas with communication network, shall be supplied electricity with Smart Meters working in prepayment mode, conforming to relevant IS, within the timelines specified below:

(i) All Union Territories, electrical divisions having more than 50% consumers in urban areas with AT&C losses more than 15% in financial year 2019-20, other electrical divisions with AT&C losses more than 25% in financial year 2019-20, all Government offices at Block level and above, and all industrial and commercial consumers, shall be metered with smart meters with prepayment mode by December, 2023:

Provided that the State Regulatory Commission may, by notification, extend the said period of implementation, giving reasons to do so, only twice but not more than six months at a time, for a class or classes of consumers or for such areas as may be specified in that notification;

(ii) All other areas shall be metered with smart meters with prepayment mode by March, 2025:

Provided that in areas which do not have communication network, installation of prepayment meters, conforming to relevant IS, may be allowed by the respective State Electricity Regulatory Commission:

(iii) All consumer connections having current carrying capacity beyond that specified in relevant IS, may be provided with meters with smart meters having AMR facility."

- 5.94 Vide above, Ministry of Power, GoI has made it mandatory for all the Distribution Licensees to supply and install Smart Meters working in prepayment mode for all consumers except Agricultural Consumers by March 2025 **(Copy attached herewith as Annexure – 5.2).**
- 5.95 In view of the above, it is submitted that the Petitioner will have to incur considerable expenses specially on two counts.
- I. Cost incurred towards installation of smart pre-paid meters.
 - II. As the replaced meters will no longer serve any purpose and shall be rendered technologically obsolete, these meters will undergo decapitalization before the end of their useful life and thus the loss on writing off these meters needs to be passed on to consumers as per Regulation 45 of DERC MYT Regulations, 2017.
- 5.96 It is submitted that as on 31.03.2021, the Petitioner has approximately 18 lakh consumers excluding Agricultural consumers. The Petitioner will have to replace the meters for all these consumers in the next three years in a phased manner.



- 5.97 It is submitted that there are following two models available for Achieving this objective of replacement of existing meters with Smart meters.
- I. CAPEX Model – Wherein, the meters shall be procured by the Petitioner and get it installed.
 - II. OPEX Model – Wherein, an Implementing Agency shall be responsible for supply and installation as well as upkeep of such meters and a charge on ₹/meter/month or annual basis is paid.
- 5.98 The Proposal on whether the installation of Smart Meters should be done under CAPEX or OPEX model is already before the Hon'ble Commission. The Petitioner would like to submit that under both the Options, substantial funding is required to comply with the above. As the Hon'ble Commission is aware that it is very difficult for the Petitioner to arrange for complete funds as no lending agency is willing to grant loan owing to precarious financial condition of the Petitioner. Further, funding of the above as per conventional approach will only lead to front loading of tariff on account of higher upfront depreciation on meters, technological obsolescence and interest and repayment obligations in initial years which will require substantial tariff hike. Further, in case of OPEX model as there is no margin in the cash flows owing to lower retail tariff, it is impossible for the Petitioner to pay to the Implementing Agency.
- 5.99 Therefore, to address the above issues, it is proposed that Hon'ble Commission allows a surcharge to be collected by the Petitioner to fund the above. This surcharge may be determined on the basis of mode of execution of the above task (CAPEX/OPEX) undertaken by the Petitioner. The surcharge so collected will fund the above, whether in entirety or partially. This will prevent front loading of tariff as well as will not require substantial tariff increase.
- 5.100 It is further submitted that this being a one-time large scale replacement, it would not be appropriate to include the same as part of regular retail tariff as this will result in temporarily spike in tariff which subsequently will have to be withdrawn resulting in uncertainty of tariff. **In view of the above, it is prayed before the Hon'ble Commission to determine a surcharge based on the mode of execution decided, which shall be collected from the consumers and utilized to comply with the above notification for providing Smart Meters.**

B. Letter from GoNCTD dated 11.06.2021 seeking detailed concrete and executable plans for removal of mesh of overhead Cables



- 5.101 It is submitted that the Petitioner is in receipt of letter from GoNCTD dated 11.06.2021 (**Copy attached herewith as Annexure – 5.3**) directing it to submit plans to remove mesh of overhead cables. The Petitioner in compliance to the same has submitted the plans to GoNCTD vide its letter dated 28.06.2021 for converting the overhead network to underground network. It is submitted that to comply with the above, there will be substantial capital required.
- 5.102 It is submitted that as and when GoNCTD directs the Petitioner to initiate the above works and arrange funds, the Petitioner shall approach this Hon'ble Commission for relief. As submitted above as it will not be possible for the Petitioner to arrange for funds to carry out the above works and further to avoid any front loading of tariff resulting in tariff spike, **the Petitioner requests Hon'ble Commission to determine a surcharge and allow the Petitioner to collect the same. It is proposed that the surcharge collected shall be utilized to fund the above scheme similar to deposit works as this mode of execution will be tariff neutral.**

Expected Revenue with tariff revision proposed

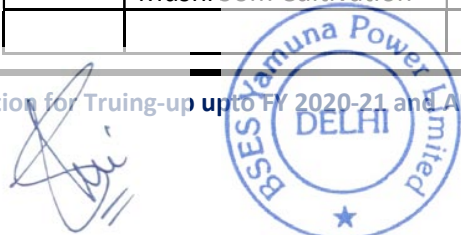
- 5.103 The expected revenue from existing tariff and revised revenue as per proposal is tabulated below:

Table 5. 9: Expected revenue category-wise (₹/ Unit)

S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue	Hike In tariff	Revised Revenue
		₹ Cr.	₹ Cr.	₹ Cr.	₹ Cr.	%	₹ Cr.
1	Domestic	197	1,861	-2	2,056	To meet the above revenue gap, the retail tariff ought to be determined in such a manner that there ought not to be any revenue gap during FY 2022-23. (Ref-Para-5.59)	
1.1	Domestic	180	1,791	-	1,971		
1.1.1	Upto 2 KW Connected Load	37	1,049	-	1,085		
	0-200 Units	21	264	-	285		
	201-400 Units	11	405	-	417		
	401-800 Units	4	316	-	321		
	801-1200 Units	0	47	-	47		
	Above 1200 Units	0	16	-	16		
1.1.2	> 2 KW to ≤ 5 KW Connected Load	44	424	-	468		
	0-200 Units	12	25	-	37		
	201-400 Units	16	97	-	113		
	401-800 Units	12	180	-	192		
	801-1200 Units	3	88	-	91		



S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue	Hike In tariff	Revised Revenue
		₹ Cr.	₹ Cr.	₹ Cr.	₹ Cr.	%	₹ Cr.
	Above 1200 Units	1	33	-	34		
1.1.3	> 5 KW to ≤ 15 KW Connected Load	85	287	-	372		
	0-200 Units	21	7	-	28		
	201-400 Units	20	28	-	49		
	401-800 Units	24	80	-	104		
	801-1200 Units	11	73	-	84		
	Above 1200 Units	9	98	-	107		
1.1.4	> 15 KW to ≤ 25 KW Connected Load	6	13	-	19		
	0-200 Units	0	0	-	0		
	201-400 Units	0	0	-	0		
	401-800 Units	1	1	-	2		
	801-1200 Units	1	1	-	2		
	Above 1200 Units	3	12	-	15		
1.1.6	> 25 KW Connected Load	8	18	-	26		
	0-200 Units	0	-0	-	0		
	201-400 Units	0	0	-	0		
	401-800 Units	0	0	-	0		
	801-1200 Units	0	0	-	1		
	Above 1200 Units	7	17	-	24		
1.2	Single Delivery Point on 11 KV for GHS	1	11	-0	12		
1.3	Hospital / Worship (11KV)	15	56	-2	69		
1.4	DVB Staff	0	3	-	4		
2	Non Domestic	469	1,308	-7	1,769		
2.1	Upto 3 KVA	139	210	-	349		
2.2	Above 3 KVA	329	1,098	-7	1,420		
3	Industrial	64	332	-2	394		
4	Agriculture & Mushroom Cultivation	0	0	-	0		



S.No	Category	Fixed charges	Energy Charges	Other Charges	Total Revenue	Hike In tariff	Revised Revenue
		₹ Cr.	₹ Cr.	₹ Cr.	₹ Cr.	%	₹ Cr.
5	Public Utilities	63	214	-5	272		
5.1	Public Lighting	10	47	-	57		
5.2	Delhi Jal Board (DJB)	31	103	-3	131		
5.3	Railway Traction	-	-	-	-		
5.4	DMRC	22	64	-2	84		
6	Delhi International Airport Limited (DIAL)	-	-	-	-		
7	Temporary Supply	-	59	-	59		
8	Advertisement and Hoardings	0	0	-	0		
9	Charging Stations for E-Vehicle	-	14	-	14		
9.1	Supply at LT	-	14	-	14		
9.2	Supply at HT				-		
10	Self-Consumption	-	-	-	-		
TOTAL Revenue Billed		793	3,788	-16	4,565		
Total Revenue Collection @ 99.5%		4,542					

5.104 In light of the above discussion, the Petitioner proposes the following cost recovery mechanism:

1. The revenue gap at current tariff is ₹1,460 Crore. To meet the above revenue gap, the retail tariff ought to be determined in terms of Regulation-130 and 131 of DERC Tariff Regulations, 2017 (Refer Para-5.23 above) in such a manner that the same should ensure recovery of 100% fixed and variable costs through fixed and Energy charges respectively.
2. Issues which have been decided by the Hon'ble Supreme Court in favour of the Petitioner and needs to be implemented by the Hon'ble Commission in true letter and spirit.

It is noteworthy that on 01.12.2021 final Order was passed by the Hon'ble Supreme Court in Civil Appeal Nos. 884 of 2010, 980 of 2010 and 9003-04 of 2011 filed by this Hon'ble Commission. The said Civil Appeals were respectively filed against Judgments dated 06.10.2009, 30.10.2009 and 12.07.2011 passed by the Hon'ble Tribunal. The relevant extract of the Order dated 01.12.2021 is set out below:

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

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

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

Pending applications, if any, also stand disposed of."

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

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

We are also of the view that the appellant has to comply with the directions issued by the Appellate Authority, namely, Appellate Tribunal for Electricity within a reasonable time. Therefore, we direct the appellant to comply with the directions contained in the impugned order within a period of three months from today, if not already complied with, and file a compliance report before this Court within two weeks thereafter.

Pending applications, if any, also stand disposed of." [Emphasis Supplied]



It is submitted that the following issues of Petitioner remain partly or completely unaddressed which need to be given effect to by the Hon'ble Commission:

1. **Issues in Civil Appeal No. 884 and 980 of 2010**
 - a. Re-determination of AT&C loss Trajectory for FY 2007-08 to 2009-10
 - b. Capital Expenditure - Allowance of purchase from Related Party after benchmarking with NDPL
 - c. Allowance of capitalization pending Electrical Inspector Clearance.
2. **Issues in Civil Appeal No. 9003 - 9004 of 2011**
 - a. Funding of Revenue Gap in the debt equity ratio of 70:30
 - b. Funding of Working Capital funding in the D/E ratio 70:30

5.105 The Petitioner is taking appropriate steps as regards the allowance of the aforesaid claims separately with the Hon'ble Commission. The Petitioner vide letter No. RA/BYPL/FY 2021-22/259 dated 14.12.2021 submitted the detailed representation on the aforesaid issues. The Petitioner shall provide any further details / information / clarifications required by the Hon'ble Commission, its staff or its consultants to implement the directions of the Hon'ble Supreme Court in terms of the Order dated 01.12.2021. The Petitioner therefore reserves its rights and contentions on the aforesaid claims in this Petition.

The impact is pending to be allowed for last 10-14 years. The revenue realised by virtue of the assets installed by the Petitioner by incurring the capital expenditure is being considered in each year's ARR. However, the cost is pending to be allowed even after 14 years. Same is also against the provisions of tariff design and recovery of Regulatory Assets provided in National Tariff Policy, 2006 which states that the tariff should reflect the efficient and prudent cost of supply of electricity and any outstanding Regulatory Assets ought to be recovered within a period of maximum 3 years.

5.106 Deferment of legitimately incurred costs for such long period is not in the interest of future consumers as they will be burdened with the past costs. Clause-5.11 (h) (4) of National Tariff Policy, 2006 states that future consumers should not be burdened with past costs.

5.107 Therefore, the same ought to be given effect in the ongoing tariff determination exercise so as to ensure recovery of the pending amount within 3 years.



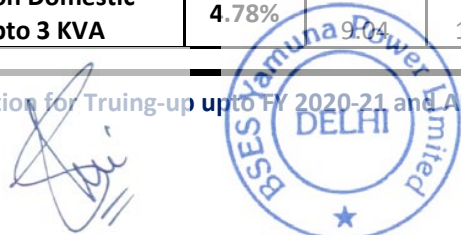
5.108 It has to be ensured that the DISCOM should realise return on equity employed in the business which can only happen when all costs including impact of APTEL Judgments are recovered through tariffs.

Ratio of Average Billing Rate to Average Cost of Supply:

5.109 The ratio of Average Billing Rate (ABR) to Average Cost of Supply (ACoS) at existing tariff and proposed tariff is tabulated below:

Table 5. 10: Ratio of ABR to ACoS for FY 2022-23

S. No	Category	% of total Sales	Average Cost of Supply	Average Billing rate at current tariff	Hike in Tariff	Average Billing rate as per revised tariff#	% ABR to COS at existing tariff	% ABR to COS at proposed tariff
		%	Rs./ Unit	Rs./ Unit	%	Rs./ Unit	%	%
1	2	3	4	5	6	7	8	9
1	Domestic		9.04	4.48	To meet the revenue gap, the retail tariff ought to be determined in such a manner that after considering a suitable collection efficiency, there ought not to be any revenue gap during FY 2022-23. (Refer Para-5.59)		50%	To be determined by Hon'ble Commission
1.1	Domestic		9.04	4.40		49%		
1.1.1	Domestic upto 2 KW Connected load	40.86%	9.04	3.80		42%		
1.1.2	Between 2 KW to 5 KW Connected Load	14.19%	9.04	4.72		52%		
1.1.3	Between 5 KW to 15 KW Connected Load	8.30%	9.04	6.41		71%		
1.1.4	Between 15 KW to 25 KW Connected Load	0.30%	9.04	9.09		101%		
1.1.5	Above 25 KW Connected Load	0.35%	9.04	10.57		117%		
1.2	Single Delivery Point on 11 KV GHS	0.36%	9.04	4.93		54%		
1.3	11 KV Worship/Hospital	1.00%	9.04	9.90		109%		
1.4	DVB Staff	0.24%	9.04	2.14		24%		
2	Non Domestic		9.04	11.36		126%		
2.1	Non Domestic Upto 3 KVA	4.78%	9.04	10.45		116%		



S. No	Category	% of total Sales	Average Cost of Supply	Average Billing rate at current tariff	Hike in Tariff	Average Billing rate as per revised tariff#	% ABR to COS at existing tariff	% ABR to COS at proposed tariff
		%	Rs./ Unit	Rs./ Unit	%	Rs./ Unit	%	%
1	2	3	4	5	6	7	8	9
2.2	Non Domestic Above 3 KVA	17.49%	9.04	11.61			128%	
3	Industrial	5.89%	9.04	9.57			106%	
4	Agriculture & Mushroom Cultivation	0.00%	9.04	3.56			39%	
5	Public Utilities	4.61%	9.04	8.45			94%	
6	Temporary Supply	0.94%	9.04	8.95			99%	
7	Advertisement and Hoardings	0.00%	9.04	52.58			582%	
8	E Vehicle	0.45%	9.04	4.48			50%	
10	Self consumption	0.25%	9.04	-			0%	
12	Total		9.04	6.53			72%	



Tariff Schedule Proposed

5.110 The Tariff Schedule proposed during FY 2022-23 is tabulated below:

Table 5. 11:: Tariff Schedule proposed for FY 2022-23

S. No	Particulars	UoM	Amount	Reference
1	ARR estimated for FY 2022-23	Rs. Cr.	6,292	Table 4.25
2	Revenue realization estimated for FY 2022-23	Rs. Cr.	4,542	Table 4.26
3	Revenue actually required for FY 2022-23	Rs. Cr.	6,292	3=1
4	Collection Efficiency	%	99.50%	
5	Revenue Billed required to be allowed for FY 2022-23 based on projections	Rs. Cr.	6,324	5=3/4

5.111 In view of the above the Petitioner proposes the Hon'ble Commission to determine a suitable cost reflective tariff in terms of Regulation-130 and Regulation-131 of DERC Tariff Regulations, 2017 (refer Para-5.23 above), so as to recover the projected Revenue Gap.

