

PETITION FOR SEEKING REVIEW OF TARIFF ORDER DATED 28thMARCH 2025 PASSED BY THE HON'BLE COMMISSION FOR TRUING UP OF FY 2023-24, ANNUAL PERFORMANCE REVIEW (APR) FOR FY 2024-25, ANNUAL REVENUE REQUIREMENT FOR THE MYT CONTROL PERIOD OF FY 2025-26 TO FY 2027-28AND DETERMINATION OF TARIFF FOR THE FY 2025-26 OF NORTH BIHAR POWER DISTRIBUTION CO. LTD. IN CASE NO.29/2024UNDER SECTION 94 (1) (f) AND 94 (2) OF THE ELECTRICITY ACT, 2003, READ WITH REGULATIONS 6(3), 12, 31, 36, 37, 38 AND 39 OF THE BIHAR ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2005 AND AMENDMENTS ISSUED THEREIN

June2025

Submitted by:

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

Vidyut Bhawan-I, 3rd Floor, J.L.N. Marg, Patna-800001, Bihar



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BEFORE THE BIHAR ELECTRICITY REGULATORY COMMISSION, PATNA

Petition No: _____ in Case No. 29/2024

IN THE MATTER OF:

Petition for seeking review of Tariff Order dated 28th March 2025 passed by the Hon'ble Commission for Truing up of FY 2023-24, Annual Performance Review (APR) for FY 2024-25, Annual Revenue Requirement for the MYT Control Period of FY 2025-26 to FY 2027-28 and determination of tariff for the FY 2025-26 of North Bihar Power Distribution Company Limited in Case No. 29/2024 under section 94 (1) (f) and 94 (2) of the Electricity Act, 2003, read with Regulations 6(3), 12, 31, 36, 37, 38 and 39 of the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 and amendments issued therein.

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

(Hereinafter referred to as "NBPDC" or 'the Petitioner' which shall mean for the purpose of this Petition), having its registered office at Vidyut Bhawan-I, 3rd Floor, J.L.N. Marg, Patna-800001, Bihar.

..... **PETITIONER**

The Petitioner hereby submits as under:

1. North Bihar Power Distribution Company Ltd.(NBPDC) is a Company incorporated under the Companies Act, 1956 (now Companies Act 2013) and having its registered office at Vidyut Bhawan III, 4th Floor, J.L.N. Marg, Patna-800001, Bihar. The Petitioner is a distribution licensee under the Fifth Proviso to Section 14 of the Electricity Act, 2003.
2. The Hon'ble Commission under sections 62 and 64 of the Electricity Act, 2003 read with BERC (Multi Year Distribution Tariff) Regulations, 2021 and BERC (Multi Year Distribution Tariff) Regulations, 2024 had issued tariff order for Truing up of FY 2023-24,

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Annual Performance Review (APR) for FY 2024-25, Annual Revenue Requirement for the MYT Control Period of FY 2025-26 to FY 2027-28 and determination of tariff for the FY 2025-26 of NBPDC under Case No. 29/2024 on 28th March 2025.

3. Section 94 (1) (f) of the Electricity Act, 2003 stipulates that the appropriate Commission shall review its decisions, directions and orders for the purpose of any inquiry or proceedings under the Act.
4. Section 94 (2) of the Electricity Act, 2003 stipulates that the appropriate Commission shall have powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.
5. Regulation 6 (3) of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulate that the Hon'ble Commission shall review, revoke, revise, modify, amend, alter, or otherwise change any order issued or action taken by the Secretary or any Officer of the Commission, if considered appropriate.
6. Regulation (12) (1, 2 & 3) of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulate that the Petitioner shall file the Petitions before the Hon'ble Commission in appropriate formats and in accordance with the relevant provisions of the Act.
7. Regulation 31 of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulate that the Hon'ble Commission may within 60 days of the making of any decision, direction, or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit.
8. Section 36 of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulates that subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and directions regarding the implementation of the Regulations and procedure to be followed and various matters which the Commission has been empowered by these Regulations to specify or direct.
9. Regulation 37 of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulate the Hon'ble Commission to limit or otherwise affect the inherent power of the Commission to make such orders.
10. Regulation 38 of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulate that the Hon'ble Commission has power to rectify any defect or error in any proceeding before it, and all acts shall be done for the purpose of determining

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the real question or issue arising in the Proceedings.

11. Section 39 of the BERC (Conduct of Business Regulation, 2005) and its amendments issued therein stipulates that if any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.
12. In view of the above, the Petitioner hereby submits that the Tariff Order on 28th March 2025 passed by the Hon'ble Commission in Case No. 29/2024 suffers from a few unreasonable disallowances, errors apparent and typo errors and requires modification of the said order on certain specific aspects as detailed herein.
13. The Petitioner states that the present review petition is being filed on the following points:
 - A. Error in arriving Transmission loss for FY 2023-24 and thereby disallowances of resultant parameters for FY 2023-24
 - B. Error in arriving the additional DSM charges for FY 2023-24 and accordingly disallowance of Power Purchase cost made due to DSM Charges for FY 2023-24
 - C. Error in arriving the methodology for sharing of (Gains) / loss on account of Power Purchase cost for FY 2023-24
 - D. Other Finance Charges for FY 2023-24
 - E. Error in disallowances on account of ESCERTs expense for FY 2023-24
 - F. Error in non-consideration of Rent Charges for Smart Prepaid meter for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28
 - G. Error in calculation of GFA and resultant parameters (Depreciation, R&M expense and Return on Equity) for FY 2023-24, and subsequent effect in FY 2025-26 to FY 2027-28
 - H. Capex and Capitalisation for FY 2023-24 and FY 2024-25
 - I. Interest on loan for FY 2025-26 to FY 2027-28
 - J. Error in arriving of Distribution loss, collection efficiency and AT&C loss for FY 2025-26 to FY 2027-28
 - K. Error in arriving A&G expense for FY 2025-26 to FY 2027-28
 - L. Error in arriving Interest on Working Capital for FY 2025-26 to FY 2027-28
 - M. Relaxation in applicability of TOD Tariff Structure for FY 2025-26
 - N. Green Tariff for FY 2025-26

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14. Accordingly, the Petitioner requests and prays the Hon'ble Commission to:

- A. Admit this Petition on record and treat it as complete.
- B. Review and modify the Order dated 28th March 2025 passed in Case No. 29/2024 on the aforesaid points.
- C. Examine the proposal submitted in the enclosed Review Petition for a favorable dispensation.
- D. Condone for the delay of 06 days in filing this petition.
- E. Condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date. The Petitioner's believes that such an approach would go a long way towards providing a fair treatment to all the stakeholders and may eliminate the need for a review or clarification.
- F. Pass such further Order, as the Hon'ble Commission may deem fit and appropriate, keeping in view the facts and circumstances of the case.

North Bihar Power Distribution Company Limited


Petitioner

Location: Patna

Date: 4/06/2025



1. Introduction

1. The present review petition is being filed by the Petitioner, North Bihar Power Distribution Company Limited (NBPDCCL or the Petitioner) against the Tariff Order dated 28thMarch 2025 passed by the Bihar Electricity Regulatory Commission (BERC or the Hon'ble Commission) undertaking the Truing up of the FY 2023-24, Annual Performance Review (APR) for FY 2024-25, Annual Revenue Requirement (ARR) for FY 2025-26 to FY 2027-28 and determination of Tariff for FY 2025-26. The Hon'ble Commission under sections 62 and 64 of the Electricity Act, 2003 read with BERC (Multi Year Distribution Tariff) Regulations, 2021 and BERC (Multi Year Distribution Tariff) Regulations, 2024 respectively has passed on the Tariff Order on 28thMarch 2025 under Case No. 29/2024. The said tariff order is enclosed as **Annexure-I**.
2. The Petitioner hereby submits that the Tariff Order on 28thMarch 2025 passed by the Hon'ble Commission in Case No. 29/2024 suffers from a few unreasonable disallowances, errors apparent, typo errors and requires modification of the said order on certain specific aspects as detailed herein.

Maintainability of Review Petition

3. The present Review Petition has been filed within 60 days from the date of the Tariff order dated 28thMarch 2025 granting liberty to the Petitioner to approach this Commission and is within limitation.
4. The Hon'ble Commission can exercise the power of review under Section 94 of the Electricity Act on the principles contained in Order 47 Rule I of the CPC, 1908. The Petitioner has demonstrated in this Review Petition sufficient cause for the Hon'ble Commission to review and rectify the errors mentioned in the impugned order dated 28thMarch 2025.
5. Under Order 47 Rule 1 of CPC, a person aggrieved by the order of a Court can file a review on the following grounds:

"1. Application for review of judgment. (1) Any person considering himself aggrieved—

- a. by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

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b. by a decree or order from which no appeal is allowed, or
c. by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

6. The judgments of the Hon'ble Supreme Court unequivocally establish that a Review Petition is not only maintainable for error apparent on the face of the record but would also be maintainable on grounds that the impugned order would not have been passed but for erroneous assumption, which in fact did not exist, some mistake or for any other sufficient reason. The word 'sufficient reason' is wide enough to include a misconception of fact or law by a court. The power to exercise the review jurisdiction has been specifically vested with the Commission under Section 94(1)(f) of the Electricity Act 2003.
7. It is a settled principle of law that an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of record but also if the same is necessitated on account of some mistake or for any other sufficient reason.
8. Section 94 of the Electricity Act 2003 provides that the Appropriate Commission shall, for the purposes of any inquiry or proceedings under the Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the matters specified in that Section. Sub-section 1(f) of Section 94 deals with the review of decisions, directions, and orders.
9. Further, while addressing the issues raised by Patna Metro Rail Corporation Limited in the tariff order dated 28th March 2025, the Hon'ble Commission has specified that those issues shall be addressed afterwards separately. This entails that the said order dated 28.03.2025 is already under review by Hon'ble Commission.

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Request to condone the delay in filing Review Petition:

10. The present petition has been filed for seeking review of Tariff Order dated 28th March 2025 passed by the Hon'ble Commission for Truing up of FY 2023-24, Annual Performance Review (APR) for FY 2024-25, Business Plan and Annual Revenue Requirement for the MYT Control Period of FY 2025-26 to FY 2027-28 and determination of tariff for the FY 2025-26 under section 94 (1) (f) and 94 (2) of the Electricity Act, 2003, read with Regulations 6(3), 12, 31, 36, 37, 38 and 39 of the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 and amendments issued therein which stipulates that the Hon'ble Commission may within 60 days of the making of any decision, direction, or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit. The Petitioner hereby request seeking condonation of delay of **6 days** in filing the petition.
11. It is pertinent to mention that the Hon'ble Commission has issued the tariff order on 28th March 2025. Subsequently, the Petitioner analysed the said tariff order in accordance with the relevant rules and Regulations along with vetting and verification of data by various departments which consumed substantial time. Moreover, the Petitioner has analysed all the direction issued by the Hon'ble Commission in the aforesaid order and tried to comply the same. However, the Petitioner faced some challenges in implementation of few.
12. For example: In reference to Time-of-day tariff across all consumers (except Agriculture) for FY 2025-26, the Petitioner is facing difficulty in its implementation due to present billing structure of few of the consumer categories and also due to limited availability of compatible meter. The issue was discussed at large internally with several departments and with metering agencies on several occasions. Based on the discussion, points have been submitted in the Review Petition.
13. In view of the above, it is submitted that the aforesaid exercise and discussions with several departments and external stakeholders, took substantial time for the Petitioner. Further, it is pertinent to mention that Regulation 31 of BERC (Conduct of Business Regulation, 2005) and its amendments issued therein specifies that the



Review petition may be filed within 30 days beyond the period of 60 days after the order of the Commission in some circumstances.

14. It is pertinent to mention that aforesaid delay is neither willful nor intentional and is caused solely due to undertaking such exercise on account of issue faced by the petitioner. Thus, the petitioner by way of the present petition and in the interest of justice, equity and good conscience prays to condone the delay of **6 days** and allow the Hon'ble Commission to admit the captioned petition.

The Petitioner states that the present review petition is being filed on the following points:

- A. Error in arriving Transmission loss for FY 2023-24 and thereby disallowances of resultant parameters for FY 2023-24
- B. Error in arriving the additional DSM charges for FY 2023-24 and accordingly disallowance of Power Purchase cost made due to DSM Charges for FY 2023-24
- C. Error in arriving the methodology for sharing of (Gains) / loss on account of Power Purchase cost for FY 2023-24
- D. Other Finance Charges for FY 2023-24
- E. Error in disallowances on account of ESCERTs expense for FY 2023-24
- F. Error in non-consideration of Rent Charges for Smart Prepaid meter for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28
- G. Error in calculation of GFA and resultant parameters (Depreciation, R&M expense and Return on Equity) for FY 2023-24, and subsequent effect in FY 2025-26 to FY 2027-28
- H. Capex and Capitalisation for FY 2023-24 and FY 2024-25
- I. Interest on loan for FY 2025-26 to FY 2027-28
- J. Error in arriving of Distribution loss, collection efficiency and AT&C loss for FY 2025-26 to FY 2027-28
- K. Error in arriving A&G expense for FY 2025-26 to FY 2027-28
- L. Error in arriving Interest on Working Capital for FY 2025-26 to FY 2027-28
- M. Relaxation in applicability of TOD Tariff Structure for FY 2025-26
- N. Green Tariff for FY 2025-26
- O. Typographical errors

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2. Detailed description

1. The reasons and grounds for review of the Tariff Order dated 28th March 2025 for Truing up of the FY 2023-24, Annual Performance Review (APR) for FY 2024-25, Annual Revenue Requirement (ARR) for the MYT Control Period from FY 2025-26 to FY 2027-28 and determination of Tariff for the FY 2025-26 are detailed hereunder:

A. Error in arriving Transmission loss for FY 2023-24 and thereby disallowances of resultant parameters for FY 2023-24

- i. The Petitioner had submitted its Audited Annual Accounts for FY 2023-24 complied in all material aspects with the Indian Accounting Standards (Ind AS) notified under the Companies (Indian Accounting Standards) Rules, 2015 and subsequent amendments thereto, the Companies Act, 1956 (to the extent notified and applicable), applicable provisions of the Companies Act, 2013, and the provisions of the Electricity Act, 2003 to the extent applicable along with its tariff petition on 15th November 2024.
- ii. Based on this, the Multi-Year Tariff Petition was filed wherein the Petitioner requested the Hon'ble Commission to consider STU transmission loss of 571.39 MU for FY 2023-24. The STU loss as claimed by the petitioner and approved by the Hon'ble Commission under table 4.9 & 4.10 and section 4.3.1 of the tariff order dated 28th March 2025 is represented in the table below:

Table 2.1: Comparison of STU loss (in MU) as claimed by NBPDC and approved by BERC for FY 2023-24

S. No	Particulars	Claimed	Approved
1	STU Loss	571.39	471.46

- iii. The Petitioner hereby submits that the STU loss as considered by the Petitioner is based on actuals as per the audited accounts of FY 2023-24. Further, it is to submit that the month wise calculation of STU loss is submitted by the Petitioner in response to query of BERC letter No. 48 dated 15.01.2025. Moreover, the Hon'ble Commission has also arrived at STU loss of 1273.247 MU at Bihar level in the tariff order dated 28.03.2025.

- iv. Further, the relevant extract from the tariff order (p.no.104) is provided hereunder:

“Intra-State Transmission losses

<i>S. No.</i>	<i>Particular</i>	<i>Unit</i>	<i>Value</i>
<i>A</i>	<i>Drawal At Bihar Boundary</i>	<i>MU</i>	<i>37083.26</i>
<i>B</i>	<i>Intrastate Purchase</i>	<i>MU</i>	<i>3135.001</i>
<i>C</i>	<i>Total Power at BSPTCL</i>	<i>MU</i>	<i>40218.26</i>
<i>D</i>	<i>NBPDCL Total Drawal</i>	<i>MU</i>	<i>17147.42</i>
<i>E</i>	<i>SBPDCL Total Drawal</i>	<i>MU</i>	<i>21404.76</i>
<i>F</i>	<i>EMBEDDED GENERATION</i>	<i>MU</i>	<i>47.32975</i>
<i>G</i>	<i>Discom's (NB+SB) drawal from BSPTCL</i>	<i>MU</i>	<i>38504.85</i>
<i>H</i>	<i>Sale to Prosumers</i>	<i>MU</i>	<i>10.13154</i>
<i>I</i>	<i>Railway Overdrawal</i>	<i>MU</i>	<i>430.028</i>
<i>J</i>	<i>Total Drawal from BSPTCL</i>	<i>MU</i>	<i>38945.01</i>
<i>K</i>	<i>Losses in STU</i>	<i>MU</i>	<i>1273.247</i>
<i>L</i>	<i>Losses in STU-NBPDCL (44.48%)</i>	<i>MU</i>	<i>566.3402</i>
<i>M</i>	<i>Losses in STU-SBPDCL (55.52%)</i>	<i>MU</i>	<i>706.91</i>
<i>N</i>	<i>Percentage STU Losses</i>	<i>%</i>	<i>3.17%</i>

Although the actual intra-state Transmission Loss as computed above comes to 1273.247 MU, however, Commission considers Intra-state transmission (STU) loss at 1059.92 MU (as per SLDC certificate). This loss quantum of 1059.920 MU is apportioned among NBPDCL & SBPDCL in the power sharing ratio i.e. 471.46 MU for NBPDCL and 588.47 MU for SBPDCL.”

- v. Further, it is humbly submitted that the Hon'ble Commission has computed the actual intra-state transmission loss of 1273.247 MU (as shown above) but has approved the STU loss of 1059.92 MU which appears to be an error apparent on face of the record.
- vi. Further, it is pertinent to mention that Hon'ble Commission has relied on SLDC certificate submitted by BSPTCL to BERC through letter no. 57 dated 06.12.2024 as Annexure-1 while approving the STU loss for the Petitioner. Perusing the SLDC

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certificate along with the supporting sheets, it transpires that the very basis of energy computation suffers from infirmity as for various GSS there are difference between feeder sum and transformer LV sum and further remark is made that the same needs to be checked and resolved by T and C team at the earliest. Therefore, relying on the same for considering the STU loss of the Petitioner seems not appropriate. The said BSPTCL letter is enclosed herewith as **Annexure-II**.

- vii. Further, it is hereby humbly submitted that the above STU loss as described by BSPTCL is inclusive of the quantum of input and output energy of open access consumers, railways and other entities apart from Bihar DISCOMs. And, therefore, accounting the same STU loss on to the petitioner attributing to the loss on part of other entities is not correct. Whereas the STU loss arrived by the Petitioner has been substantiated by the documents / energy accounting report submitted by the Petitioner during the tariff proceedings.
- viii. In view of the above, the Petitioner respectfully requests the Hon'ble Commission to consider the STU loss for true-up year of FY 2023-24 based on actuals as per the audited accounts of FY 2023-24 and subsequently consider the resultant parameters, such as, Power Purchase cost, energy balance, AT&C loss and others as claimed by the Petitioner for the FY 2023-24.

B. Error in arriving the additional DSM charges for FY 2023-24 and accordingly disallowance of Power Purchase cost made due to DSM Charges for FY 2023-24

- i. The Petitioner hereby submit that DSM charge claimed by Bihar DISCOMs for FY 2023-24 in the tariff petition filed dated 15th November 2024 and during further tariff proceedings is provided in the table below:

Particulars	NBPDCL	SBPDCL	Total Bihar
ERPC UI DSM (MU)	(77.02)	(96.14)	(173.16)
DSM Charges for Bihar level payable	66.15	77.65	143.80
VARh charges	0.33	0.39	0.72

Particulars	NBPDCL	SBPDCL	Total Bihar
Less: Bhutan Deviation	40.46	47.50	87.95
Revised DSM charge (Rs. Cr)*	25.16	31.40	56.57
Approved DSM (Rs. Cr)	0.76	0.95	1.71
Disallowed DSM (Rs. Cr)	24.40	30.45	54.86
DSM charges disallowed (overdrawl when F<49.9)	20.35	25.39	45.74
DSM charges disallowed (Overdrawl - deviation in between 10-15%)	4.06	5.06	9.12

* In response to TVS query response, BERC letter no. 128 dt. 31.01.2025

- ii. Further, the Petitioner hereby submit that the Hon'ble Commission in the table on page no.127 has specified the disallowance head mentioning as 'DSM charges payable (overdrawl when F<49.5)' and 'DSM charges payable (Overdrawl - deviation in between 10-15%)'. It is humbly submitted that there appears to be typographical error and the same head correctly may be amended as 'DSM charges payable (overdrawl when F<49.9)' and 'DSM charges payable (Overdrawl - deviation beyond 15%)'.
- iii. Further, the Hon'ble Commission has specified the disallowance of Rs.45.74 Cr on account of overdrawl when F<49.9 and of Rs.9.12 Crore Overdrawl - deviation beyond 15%) whose detailed calculation has not been provided. Moreover, based on the calculation of the Petitioner, the aforesaid disallowances varies.
- iv. The Hon'ble Commission in the Tariff order dated 28.03.2025 has disallowed the Deviation Charges of Rs.54.86 Crore. The Hon'ble Commission treated the aforesaid DSM charges as penal in nature. In this context, the following are the observations of the Hon'ble Commission extracted from the aforesaid order:-

"The Commission has checked the data submitted by the petitioners with the DSM account maintained by ERPC.

The Commission is of the opinion that the licensees' under drawl / over drawl of UI energy should be strictly within the specified limit stipulated by CERC so as to maintain grid discipline and also to avoid any additional deviation charges, which ultimately result in increase of power purchase cost. The under-drawl and/or over-drawl of Energy above the allowable limit and/or beyond the allowable time blocks can be controlled through better power

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planning combined with improved power portfolio management and efficient Grid operation and for this reason the Commission is of the view that imposition of additional deviation charges on account of deviation in volume and over-drawl when grid frequency is below that 49.95 Hz are penal in nature and therefore should not be allowed to pass through in the power purchase cost.

As per CERC DSM Regulations 2022 read with CERC Suo-moto order dated 06.02.2023, the charges for deviation in a time block by buyer payable by such buyer in case of deviation by way of over-drawl increases in proportion to % increase of deviation in particular time block. The charges for deviation are maximum, when deviation is beyond 15%. Similarly, the deviation charges are levied irrespective of volume limit when frequency of grid is at critical level. The buyer shall have to pay for deviation by way of over-drawl (i) @ 150% of normal rate of charge for deviation when $[49.90 < f < 49.95]$; and (ii) @ 200% of normal rate of charge for deviation when $[f \leq 49.90]$.

In order to maintain the grid discipline and to ensure grid security and to discourage over drawl beyond permissible limits, the Commission decides not to approve the cases of over-drawl when the deviation in a time block is beyond 15% and / or the frequency of grid is less than 49.90 Hz.

The Commission therefore does not find the additional deviation charges as discussed above fit to be considered..."

- v. In contrary to the observations and treatment of the Hon'ble Commission, this is to submit that the Deviation Charges for different frequency band and quantum of deviation under overdrawal / underdrawal are specified under Central Electricity Regulatory Commission (CERC) DSM and these are not penal in nature. This is quite evident from the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2022 (CERC DSM Regulations) that defines the deviation as a commercial settlement mechanism for settlement of energy/power that is drawn/injected in deviation of the schedule with an overall objective of maintaining the grid discipline and security. This is clear from the Objectives mentioned in Regulation 3 of the CERC DSM Regulations which is reproduced below: -

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“The objective of these regulations is to maintain grid discipline and grid security as envisaged under the Grid Code through the commercial mechanism for Deviation Settlement through drawl and injection of electricity by the users of the grid.”

- vi. Thus, from the above it is amply evident that the Deviation charges specified under above Regulations are merely a commercial mechanism and not penal charges. The instances of deviation are solely dependent on the Grid Frequency and Real time Grid conditions both of which are uncontrollable to Bihar DISCOMs. Depending upon the grid operation condition, at any time block such deviation might be helping the grid operation viz deviation in the form of over drawl at high frequency, under drawl at low frequency. Hence, treating the deviation charges as penalty is against the CERC DSM Regulations. This can be evident from the charges as defined in the said Regulations as presented below:

DSM Rate		
Frequency	Underdrawl (Receivable)	Overdrawl (Payable)
F<49.90	150%	200%
49.90<F<49.95	120%	150%
49.90<F<50.03	Up to 10% OR (0 to 100) MW – 90%	Up to 10% OR (0 to 100) MW – 100%
	(10-15)% OR (100 to 200) MW – 50%	(10-15)% OR (100 to 200) MW – 120%
	Beyond 15% OR >200 MW – 10%	Beyond 15% OR >200 MW – 150%
50.03 <F<50.05	50%	75%
F>50.05	0%	0%

Entity	Charges for Deviation payable to Deviation and Ancillary Service Pool Account	
	Deviation by way of under-drawl	Deviation by way of over-drawl
Buyer (other than the	Zero:	1. @normal rate of charges

Entity	Charges for Deviation payable to Deviation and Ancillary Service Pool Account	
buyer with schedule less than 400 MW and the RE Rich States	Provided that such buyer shall be paid back for under draw as under: (i) @90% of normal rate of charges, for deviation upto (10% or 100 MW, whichever is lower) (ii) @50% of normal rate of charges, for deviation beyond (10% or 100 MW, whichever is lower) and (upto 15 or 200 MW, whichever is lower)	for deviation upto (10% or 100 MW, whichever is lower); 2. @120% of normal rates of charges for deviation beyond (10% or 100 MW, whichever is lower) and (up to 15 or 200 MW, whichever is lower) 3. @150% of normal rates of charges for deviation beyond (15% or 200 MW, whichever is lower)

- vii. The Hon'ble Commission may kindly appreciate that the forecasted demand being dependent upon unforeseen and uncontrollable factors is liable to deviate from actual demand as there is no tool/system devised yet which can exactly know the future power demand. Similarly, the power availability from various sources considered in power procurement planning (which are done at least one day in advance) very often changes due to various unforeseen and uncontrollable factors. Thus, deviation is an inherent phenomenon associated with power system operation which keeps on happening continuously in the integrated power system.
- viii. The Petitioner hereby reiterate that these deviations are not penal in nature. This is quite evident from the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2022 (CERC DSM Regulations) that defines the deviation as a commercial settlement mechanism for settlement of energy/power that is drawn/injected in deviation of the schedule with an overall objective of maintaining the grid discipline and security.
- ix. Further, in accordance with the aforesaid CERC DSM Regulations 2022 read with CERC Suo-moto order dated 06.02.2023, it is to be noted that in case of overdrawal,

the charges for Deviation over and above 15% or 200 MW whichever is lower or the cases of overdrawal under $f < 49.9$ also includes normal rate of DSM and its associated charges. For example, deviation charges for deviation of 1% over and above 15% as calculated by the Hon'ble Commission involved both normal DSM charges /rates up to 16% of the deviation along with 50% additional DSM rates for that 1% over and above 15% of overdrawal. Further, in case of overdrawal under $f < 49.9$, the deviation charges of 200% of the normal rates also includes the normal rate of 100%. Therefore, without adjusting the normal rates of charges considering the entire amount as penalty and thereby disallowing the entire amount is an error on part of the Hon'ble Commission.

- x. It is pertinent to mention that CERC DSM Regulations defines the deviation as a commercial settlement mechanism for settlement of energy/power that is drawn/injected in deviation of the schedule with an overall objective of maintaining the grid discipline and security. Further, it is to mention that the DISCOMs in their Tariff Petitions dated 15.11.2024 had submitted to the Hon'ble Commission that the DSM deviation is at the State periphery and separate entity wise deviation is not computed by the SLDC. It is humbly submitted that the DSM charges at Bihar level as considered by Hon'ble Commission also attributes to deviation incurred by Railway. Therefore, without taking into consideration the contribution of Railway in the cases of over-drawl when the deviation in a time block is beyond 15% and / or the frequency of grid is less than 49.90 Hz, the disallowances made by the Hon'ble Commission is not appropriate. As per the process followed by BSPTCL, the Bihar DISCOMs initially pay for the deviation settlement for the state of Bihar (including for the Indian Railways) and later the BSPTCL calculates and raises bills to Railways for their respective deviation in schedule and withdrawal. The amount recovered from Railways is then refunded to DISCOMs. The SLDC deviation charge as shown in the Tariff Petition of the DISCOMs, and Tariff Order is the DSM settlement amount recovered from the Indian Railways. (NBPDC: Rs.146.76 Crore, SBPDCL: Rs.182.57 Crore). Further, Petitioner humbly submit that without considering the DSM charges paid and recovered on part of Railways, the disallowances made on account of DSM paid for the entire state of Bihar is not rationale and needs to be reviewed by the Hon'ble Commission.



- xi. Therefore, in view of the foregoing, the Hon'ble Commission is prayed to allow the expenses actually incurred and booked in the audited books of accounts towards deviation charges as claimed in true up Petition for FY 2023-24 by the DISCOMs.

C. Error in arriving the methodology for sharing of (Gains) / loss on account of Power Purchase cost for FY 2023-24

- i. The Hon'ble Commission under section 4.7 of the Tariff order dated 28.03.2025 had specified power purchase corresponding to the distribution losses as approved by the Commission for FY 2023-24.
- ii. The additional power purchase cost for FY 2023-24 as computed by the Hon'ble Commission is specified under table 4.25 (p.no.142) of the tariff order dated 28.03.2025. The same is reproduced hereunder:

“Table 4.25: Additional Power Purchase Cost for FY 2023-24 as computed by the Commission

Particular	Unit	NBPDCL	SBPDCL
Total Energy Requirement at Gen Bus (with 15% dist loss target for NBPDCL & SBPDCL)	MU	21,040.17	25,103.12
Total Energy Purchased as per actual distribution loss (14.99% for NBPDCL & 19.27% SBPDCL)	MU	21,037.08	26,258.56
Additional Energy Purchased	MU	(3.09)	1,155.44
Additional power purchase cost @APPC (in Cr) including Tr.charges (Rs. 5.40/kWh)	Cr	(1.67)	623.94
Loss : 1/3rd to be passed on to consumer (in Cr)	Cr		207.98
Loss 2/3rd to be absorbed by licensee (in Cr)	Cr		415.96
(Gain) : 2/3rd to be passed on to consumer (in Cr)	Cr	(1.11)	
(Gain) : 1/3rd to be absorbed by licensee	Cr	(0.56)	

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- iii. The Petitioner hereby submits that the treatment made by the Hon'ble Commission to arrive at the sharing of (Gains) / loss on account of Power Purchase cost is not correct and appears to be an error on the face record due to the following ground:
- a) Not considering the distribution loss trajectory for FY 2023-24 already approved by the Hon'ble Commission
 - b) Error in arriving APPC due to non-consideration of 1% Rebate on Power purchase cost

Not considering the distribution loss trajectory for FY 2023-24 already approved by the Hon'ble Commission

- iv. The Petitioner hereby submits that the distribution loss target for NBPDCCL and SBPDCL for FY 2023-24 as approved by the Commission in the tariff order dated 23.03.2023 of FY 2023-24 was 15%, which was not in line with the RDSS loss target. And thereby, the same has been appealed by the Petitioner before Hon'ble APTEL and the same is pending for adjudication.
- v. Later on, the Hon'ble Commission, while issuing the tariff order for FY 2024-25 dated 01.03.2024 had revised the distribution loss target for NBPDCCL and SBPDCL for FY 2023-24 (wherein FY 2023-24 being the APR year) (16.60% and 19.91% respectively) which were aligned with the RDSS loss target for FY 2023-24. The relevant extract of the said tariff order is provided hereunder:

“The Ministry of Power, Govt of India, vide letter F.No.24/3/3/2019-PFC (MoP)- Part(2)-(E-263367) dated 28.08.2023 and also the Rules issued vide its GSR 558 (E) dated 26th July 2023 stated that the AT&C loss reduction trajectory adopted by the SERC for tariff determination shall be in accordance with the trajectory agreed by the respective State Governments and approved by the Central Government under RDSS and the BERC may adopt the trajectory in accordance with the Rules. Accordingly, the Commission considers the AT&C loss trajectory for FY 2023-24 as specified in the RDSS scheme as given below.

Table 5.9: Distribution and AT& C Loss Target for FY 2023-24

Particulars	NBPDCCL	SBPDCL
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(Handwritten signatures)

Distribution Loss	16.60%	19.91%
Collection Efficiency	97.12%	93.65%
AT&C Loss	19.00%	25.00%

The Commission has considered the Distribution loss at 16.60% and 19.91% for FY 2023-24 for NBPDCCL and SBPDCL respectively for computation of Energy Requirement.”

- vi. Accordingly, while calculating the additional power purchase in table 4.24 at page no. 138-139 of the tariff order dated 28.03.2025, the Petitioner has considered the distribution loss of 16.60%.
- vii. However, the Hon'ble Commission under table 4.25 (p.no. 142) had computed the sharing of gain / (loss) on account of additional power purchase due to excess distribution loss approved by the Commission for FY 2023-24. In the table, the Commission has wrongly considered distribution loss target of 15% for NBPDCCL and SBPDCL respectively for FY 2023-24.
- viii. Accordingly, the Petitioner requests the Hon'ble Commission to consider the distribution loss target of 16.60% for NBPDCCL and 19.91% for SBPDCL for FY 2023-24 as already approved in the tariff order for FY 2024-25 dated 01.03.2024 while computing the sharing of gain / (loss) on account of additional power purchase due to excess distribution loss approved by the Commission for the FY 2023-24 under table 4.25 at Bihar level.

Error in arriving APPC due to non-consideration of 1% Rebate on Power purchase cost

- ix. Further, The Hon'ble Commission in the Tariff order dated 28.03.2025 under Table 4.23 (p.137) has calculated 1% rebate of tune to Rs.111.23 Crore on total power purchase cost of Rs.11,369.01 Crore for the Petitioner for FY 2023-24. Further, the net power purchase cost of Rs.11,257.78 Crore is arrived at after reducing the 1% rebate from the total power purchase cost.
- x. This entails APPC (without rebate) of Rs.5.40 per unit (11,369.01 / 21,037.08) and APPC (with rebate) of Rs.5.35 per unit (11,257.78 / 21,037.08)

- xi. Further, the Hon'ble Commission under Table 4.25 (p.142) has calculated the additional power purchase cost of Rs. (1.67) Crore for FY 2023-24 by considering the average power purchase cost at Rs.5.40 per unit.
- xii. From the above table, it appears that the Hon'ble Commission while estimating the additional power purchase cost for FY 2023-24 has not accounted for the 1% rebate on power purchase cost, which is an error and needs to be reviewed by the Hon'ble Commission.
- xiii. Further, the Hon'ble Commission under the same Table has specified sharing of gain / (loss) on account of variation in distribution loss for FY 2023-24 wherein 1/3rd of gain is to be absorbed by the licensee. On contrary to this, the Petitioner submits that had the Hon'ble Commission accounted for a 1% rebate on power purchase cost while estimating the additional power purchase cost for FY 2023-24, the gain to be borne by the Petitioner on account of variation in distribution loss for FY 2023-24 would have been lesser than Rs.(0.56) Crore as specified in the aforesaid table. The same is represented in the table below:

Parameter	Amount (Rs. Crore)
Approved total power purchase cost for FY 2023-24 (Rs. Cr)	11369.01
Less: 1% Rebate (Rs. Cr)	111.23
Approved Net Power purchase cost (Rs. Cr)	11257.78
Energy purchased (MU)	21037.08
APPC (without rebate) (Rs./kWh)	5.40
APPC (with rebate) (Rs./kWh)	5.35
Additional power purchase cost (Rs. Cr) @ APPC of 5.40 per unit	(1.67)
Gain) : 2/3 rd to be passed on to consumer (in Cr)	(1.11)
(Gain) : 1/3 rd to be absorbed by licensee	(0.56)

- xiv. Accordingly, the Hon'ble Commission is requested to consider the claim of the Petitioner pertaining to arriving the methodology for sharing of (Gains) / loss on account of Power Purchase cost for FY 2023-24 and the amount raised by the Petitioner may be allowed.

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D. Other Finance Charges for FY 2023-24

- i. The Hon'ble Commission while approving the Other Finance Charges for FY 2023-24 has not approved the Bill discounting finance charges. The relevant excerpt of the Tariff Order dated 28.03.2025 is as follows:

“Bill discounting finance charges

NBPDCL and SBPDCL have claimed Rs. 15.71 crore and Rs. 30.09 Crore respectively towards bill discounting finance charges for FY 2023-24 based on the audited accounts.

These charges represent working capital financing charges. The Commission has considered and allowed interest on working capital separately, hence the bill discounting finance charges are not approved for FY 2023-24 in true up.”

- ii. As above, the NBPDCL and SBPDCL had claimed Rs.15.71 crore and Rs.30.09 Crore respectively towards bill discounting finance charges for FY 2023-24 based on their audited accounts. However, the Commission did not consider the audited accounts figures and has disallowed the Bill Discount charges claimed by the Petitioner.
- iii. In this regard, the Petitioner hereby submits that through the mechanism/facility of Bill Discounting the DISCOMs are able to reduce their requirement of working capital and the Interest on Working Capital (IOWC) submitted in the Tariff Petition is after reducing it through the process of Bill Discounting. Had the DISCOMs not used the Bill Discounting there has been more requirement/ projection in IOWC. So, it is not prudent to not consider the cost attached to the Bill Discounting as the DISCOMs have accrued interest on the same that should be allowed to pass through in ARR.
- iv. This is again to submit that through the mechanism/facility of Bill Discounting the DISCOMs are able to reduce their requirement of working capital and the Interest on Working Capital (IOWC) submitted in the Tariff Petition is after reducing it through the process of Bill Discounting.
- v. So, the Hon'ble Commission is requested to kindly consider the bill discount charges claimed by Discoms as per the Audited Accounts.

E. Error in disallowances on account of ESCERTs expense for FY 2023-24

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The expense for purchase of ESCERTs claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2023-24 is provided hereunder:

Table: 2.8: ESCERTs expense Claimed by NBPDCCL Vs Approved by BERC for FY 2023-24

Year	NBPDCCL (Rs Cr)		
	Claimed	Approved	Disallowance
FY 2023-24	10.04	-	10.04

- i. The Petitioner has incurred the actual expense of Rs.10.04 Crore towards the purchase of ESCERTs in FY 2023-24.
- ii. The Petitioner hereby submits that Perform, Achieve and Trade (PAT) is a regulatory instrument to reduce Specific Energy Consumption in energy intensive industries, with an associated market-based mechanism to enhance the cost effectiveness through certification of excess energy saving which can be traded. PAT is a mechanism for improvements in energy efficiency of energy intensive industries. Specific high energy intensive industries are identified as Designated Consumers (DCs) within certain key sectors.
- iii. The 'Distribution Licensee' was also included as DCs under second cycle of PAT. PAT Cycle II commenced from 1st April 2016 and was completed on 31st March 2019. Implementation of PAT cycle -II has resulted in total energy savings of about 14.08 MTOE translating into avoiding of about 68 million tons of CO₂ emission. It was submitted to the Bureau of Energy Efficiency (BEE) that Discoms do not contribute to Green House Gas emissions and are in continuous evolving phase on account of various projects like Smart Metering, Revamped Distribution Sector Scheme (RDSS) etc. Therefore, Discoms may be exempted from PAT Cycle-II, however, the Petitioners purchased Energy Savings Certificates (ESCERTs) in FY 2023-24 under protest.
- i. So, the Hon'ble Commission is requested again to kindly consider the expense of the Petitioner incurred towards purchase of ESCERTs and allow the actual expense as claimed by the petitioner for FY 2023-24.

F. Error in non-consideration of Rent Charges for Smart Prepaid meter for FY 2023-24, FY 2024-25 and FY 2025-26

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The rent charges for smart prepaid meter as claimed by the Petitioner and approved by the Hon'ble Commission for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28 are provided hereunder:

Table: 2.2: Rent charges for smart prepaid meter Claimed by NBPDC Vs Approved by BERC for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28

Parameter	Claimed				Approved				Disallowance
	Ph-I	Ph-II	Ph-III	Claimed (Total)	Ph-I	Ph-II	Ph-III	Approved (Total)	
FY 2023-24	65.90	37.78	-	103.67	65.9	28.34	-	94.24	9.43
FY 2024-25	85.38	156.80	74.25	316.43	85.38	78.40	37.13	200.91	115.52
FY 2025-26	106.58	249.82	424.84	781.24	106.58	-	-	106.58	674.66
FY 2026-27	106.58	250.99	733.63	1091.20	106.58	-	-	106.58	984.62
FY 2027-28	106.58	250.99	760.25	1117.82	106.58	-	-	106.58	1011.24

- i. **Reason for disallowance:** The Hon'ble Commission, while disallowing the aforesaid meter rent charges, has stated that the petitioner has incurred these expenses pertaining to phase-II and phase-III smart prepaid meter installation without prior approval of the Commission. The relevant extract from the tariff order dated 28.03.2025 regarding meter rent charges for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28 (p.no. 200, 315&599) is provided hereunder:

For FY 2023-24:

“The Commission notes that smart meter rental expenses for Phase I , Phase II & Phase III have been paid by the Petitioners as shown in the Audited Account for FY 2023-24. However, since the petitioners have incurred the expenses pertaining to Phase II and Phase III without prior approval, the Commission therefore deem it fit to allow 75% of the meter rental charges pertaining to Phase II and Phase III as pass through in Trueing up of FY 2023-24.”

For FY 2024-25:

“Accordingly, the Commission has allowed only 50 % of phase-II and phase-III smart prepaid meter project for FY 2024-25 subject to true-up based on actual expenses reported through audited accounts due prudence check and

validation as directed in Order dated 25.04.2023 in Case No. 05/2020 and Order dated 28.04.2023 in Case No 26/2022 and Case No 27/2022. Therefore, the Commission directs both DISCOMs to file a separate petition for approval of rental charges in respect of Phase II and Phase III smart prepaid meters project.”

For FY 2025-26 to FY 2027-28:

“Further, the Commission disallows the rental charges for smart meter project phase II and phase -III due to non-filing of the petition regarding rental charges, which is already discussed in true-up and APR chapter. Therefore, the Commission has not approved the rental charges for phase II and phase III smart meter project”.

- ii. The Petitioner hereby submit that it has already provided the detailed justification in the prayer to consider the rental charges Phase II & Phase III in response to TVS letter no.129 dated 31.01.2025.However, the Hon’ble Commission while approvingthe meter rental charges pertaining to Phase II and Phase III of tune to only75% for FY 2023-24, 50% for FY 2024-25 and NIL for FY 2025-26 onwardsbrings non-uniformity in approachand is not justified.
- iii. The petitioner has already provided the reason for non-filing of the petition regarding smart meter rental expenses for Phase II & Phase IIin response to TVS letter no.128 dated 31.01.2025.
- iv. In this regards the Petitioner hereby submits the following:
 - a) Bihar DISCOMs in its ARR Petition for FY 2023-24 via case no. 16 & 17 of 2022 had claimed the OPEX expenses of Rs. 70.69 Crore and Rs. 25.70 Crore for Phase II and Rs. 9.29 Crore and Rs. 3.99 Crore in Phase III for FY 2023-24 for NBPDC and SBPDCL respectively. Accordingly, the Hon’ble Commission in its order dated 23rd March 2023 in case no. 16 & 17 of 2022 had approved A&G expenses with the following observation.

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“The Commission has not considered the rental charges for smart prepaid meters since the capex and opex of the said scheme has not yet been approved. However, the said expenses shall be considered in truing up based on actual expenses reported through audited accounts due prudence check and validation.”

b) In this regard, the Petitioner submit that capex and capitalization plan for the MYT control period FY 2022-23 to FY 2024-25 including the smart prepaid meters scheme were submitted by the Petitioner vide letter no.593 dated 22.12.2022 which are Annexed as Case No. 26/ 2022 and 27/2022 in **Annexure-VIII**. It is pertinent to mention that the Hon’ble Commission in its order dated 08.06.2023 in case no. 26/2022 and 27/2022 has approved the capex and capitalization plan for the MYT control period FY 2022-23 to FY 2024-25, including the smart prepaid meters scheme under Phase-II and Phase-III.

c) Furthermore, the Hon’ble Commission in its Tariff Order for FY 2024-25 dated 01st March 2024 has considered the rental charges for smart prepaid meters for FY 2024-25 including Phase-II and Phase-III under A&G head with the following observation.

“The Commission provisionally considers the rental charges for smart prepaid meters as projected by the Discoms subject truing up based on actual expenses reported through audited accounts vis-à-vis actual no. of smart prepaid meters installed under OPEX modal due prudence check and validation as directed in Case No 05/2020, Case No 26/2022 and Case No 27/2022.”

d) In light of the above and as per the direction of the Hon’ble Commission, the Petitioner has claimed the rental charge for smart prepaid meters for phase-II & phase—III (OPEX expenses) in truing up of FY 2023-24 as per the audited actual account for FY 2023-24.

e) Further, it is hereby submitted that the Phase-II and Phase-III smart metering plan is structured as a combination of 70% OPEX and 30% CAPEX mode. It is

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humbly submitted that the Petitioner has already submitted the business plan, along with MYT tariff petition for FY 2025-26 to FY 2027-28, for CAPEX portion of smart metering implementation. Further, it is pertinent to mention that Smart metering implementation has been emphasized by the Ministry of Power and BERC, which is guided by the several Regulation and Guidelines.

- f) Moreover, Clause **(b)** of the sub regulation 1 of the Regulation 4 of the CEA (Installation and Operation of Meters) (Amendment) Regulations, 2022 which stipulates that **all consumers in areas with communication network, shall be supplied electricity with Smart Meters** working in prepayment mode.
- g) Further, Clause 1 of Notification dated 17th August 2021 of Ministry of Power which is as follow:

“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:”*

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Ministry of Power Letter no. 23/05/2020-Part (1) dated 26th February 2021 para 4 which is as follows

- h) Further, The Electricity (Rights to Consumers) Rules, 2020 has been notified 31.12.2020 and as per this rule, no connection shall be given without a meter, and such meter shall be the Smart pre-payment meter. The relevant provision in the above-mentioned Rule is reproduced below:

“No connection shall be given without a meter, and such meter shall be the smart prepayment meter or pre-payment meter. Any exception to the smart meter or prepayment meter shall have to be duly approved by the Commission. The Commission, while doing so, shall record proper justification for allowing the deviation from installation of the smart pre-payment meter or prepayment meter. “

Accordingly, the Discom are required to implement the above provision. No specific approval is required from State Commissions in this regard.”

(Emphasis added)

- i) The Petitioner submits that it is installing smart prepaid meters across the state and thereby the monthly rental charge (under OPEX mode) is discovered based on the open tender invited by the petitioner followed by transparent competitive bidding process.
- v. Further, it is humbly submitted that from the perusal of the aforesaid orders of Hon'ble Commission, it transpires that it was not directed by the Hon'ble Commission that separate approval of smart prepaid meter rental charges expenses are to be sought by the petitioner when the petitioner has already got the approval of the said schemes (both Capex and Opex) from the Hon'ble Commission and in light of the Commission's direction the expenses were actual and claimed based on the audited accounts. Therefore, the observation and treatment (p.no 200) of Hon'ble Commission during truing up for FY 2023-24 by allowing only 75% of the meter charges pertaining to Ph-II and Ph-III is not correct and therefore, the Petitioner request the Hon'ble Commission to review the same. Further, non-consideration of

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meter rent pertaining to Ph-II and Ph-III of Smart Prepaid meter scheme for FY 2024-25, FY 2025-26 to FY 2027-28 also needs to be reviewed.

- vi. Further, the Hon'ble Commission has not specified in the tariff order dated 28.03.2025 that how the disallowance of 25% for smart prepaid meter rental charge for FY 2023-24, disallowance of 50% for FY 2024-25 and disallowance of 100% for FY 2025-26 to FY 2027-28 shall be recovered by the petitioner.
- vii. Accordingly, the Petitioner respectfully requests the Hon'ble Commission to approve the meter rental charge for Phase-II and Phase-III smart prepaid meters as claimed by the Petitioner for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28.

G. Error in calculation of GFA and resultant parameters (Depreciation, R&M expense and Return on Equity) for FY 2023-24, and subsequent effect in for FY 2025-26 to FY 2027-28

The opening GFA claimed by the Petition and as approved by the Hon'ble Commission for FY 2023-24 and FY 2025-26 to FY 2027-28 is provided hereunder:

Table: 2.3: Opening GFA Claimed by NBPDCCL Vs Approved by BERC for FY 2023-24 and FY 2025-26 to FY 2027-28

Year	NBPDCCL (Rs Cr)		
	Claimed	Approved	Difference
2023-24	21,484.77	22,029.58	544.81
2025-26	27,212.95	25,000.88	2,212.07
2026-27	31,151.10	27,166.86	3,984.24
2027-28	33,550.48	28,486.52	5,063.96

Reason for difference:

Variation in GFA:

- i. The Petitioner has issued its Audited Annual Accounts for FY 2023-24 complied in all material aspects with the Indian Accounting Standards (Ind AS) notified under the Companies (Indian Accounting Standards) Rules, 2015 and subsequent amendments

thereto, the Companies Act, 1956 (to the extent notified and applicable), applicable provisions of the Companies Act, 2013, and the provisions of the Electricity Act, 2003 to the extent applicable. For all the periods up to and including March 31, 2023, the Petitioner had prepared its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) in India, accounting standards specified under Section 133 of the Companies Act, 2013 (to the extent notified and applicable), applicable provisions of the Companies Act, 1956 and the provisions of the Electricity Act, 2003 to the extent applicable.

- ii. Therefore, the Petitioner has considered GFA based on the Audited Annual Accounts for FY 2023-24. However, the commission has considered the opening balance of GFA as per the closing balance of GFA approved in the previous tariff order dated 01.03.2024. The petitioner has adopted the opening GFA as per the audited books of accounts. The opening balance of fixed assets adopted by the Commission is not in consonance with the books of accounts of the Petitioner.
- iii. The Hon'ble Commission has considered the opening GFA for FY 2023-24 and FY 2025-26 to FY 2027-28 which is not in accordance with the accounts of the Petitioner for FY 2023-24, thereby creating a cascading effect for subsequent years, as the closing balance of the previous year is treated as the opening balance for subsequent years.
- iv. Accordingly, the Petitioner requests the Hon'ble Commission to kindly consider the Opening Gross Fixed Assets of FY 2024-25 based on closing GFA as per the audited annual accounts of the petitioner for FY 2023-24.
Further, the Petitioner requests the Hon'ble Commission to kindly consider the Opening GFA of FY 2025-26, FY 2026-27 and FY 2027-28 based on the closing GFA as derived by the Petitioner in the penultimate year.

Disallowance in Depreciation on account of Fixed Asset Register (FAR):

- v. Further, in reference to depreciation, the **Hon'ble Commission has allowed only 75% of the total calculated depreciation for FY 2023-24 and FY 2025-26 to FY 2027-28 on account of non-submission of fixed asset register (FAR) by the petitioner.** The relevant extract from the tariff order is provided hereunder:

“However, in view of the fact that in spite of repeated direction of the Commission issued vide various tariff orders, the petitioner has not submitted

the Asset Register, in absence of which it is very difficult to ascertain whether allowing depreciation on estimated Asset value will be justified under applicable Regulations as well as in the consumer interest. The Commission therefore decides to allow only 75% of the total calculated depreciation...”

- vi. The Petitioner hereby reiterates that in response to compliance of directives regarding Fixed Asset Register (FAR) for Q1 and Q2 for FY 2024-25, the petitioner had submitted as follows:

“It is actively implementing an **Enterprise Resource Planning (ERP)** system, as mandated under the **Revamped Distribution Sector Scheme (RDSS)** of the Government of India. This initiative aims to enable the creation and maintenance of a **component-wise Fixed Asset Register (FAR)**, along with comprehensive item-wise asset details. This will also facilitate the preparation of voltage-wise cost of supply data. It is noteworthy that **approximately 80% of the ERP implementation has been completed.**

In compliance with the directives of the Hon'ble Commission, the **Fixed Asset Register (FAR) for FY 2023-24 has been prepared** and is annexed herewith for the Commission's review. The FAR has been compiled using financial records, incorporating essential details such as asset categories, acquisition years, values, and depreciation schedules.”

The Petitioner is again sharing the FAR for FY 2023-24, enclosed as **Annexure-III**.

- vii. Furthermore, it is to mention that the Appellate tribunal's judgment dated 02nd January 2025 in appeal no.364 of 2024 & IA No.1274 of 2024 relating to imposition of penalty by the Jharkhand State Electricity Regulatory Commission on to Jharkhand Bijli Vitran Nigam Limited for non-submission of Fixed Asset Register by JBVNL had set aside the order of JSERC. The key extract of the APTEL judgement is provided hereunder and also enclosed as **Annexure-IV**.

“... the JSERC noted that it was again imposing penalty of 2 per cent due to various reasons as summarized below: - “The Commission on several occasion i.e. nearly seven years has directed the Petitioner to submit the Fixed Asset

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Register. But the Petitioner on one pretext or other has not submitted the Fixed Asset Register despite the lapse of seven years.

.....

The Electricity Act has sufficient provision for handling the situation of disobedience. As already mentioned above, section 142 gives the Commission power for punishment in such a situation. The Commission is a creation of the statute. Even if such power given is considered by the Commission to be insufficient the Commission cannot convert its power of tariff fixation given by section 61 and 62 of the Electricity Act 2003 into a proceeding for imposing penalty.

.....

Section 142 of the Electricity Act enables the Commission, if it is satisfied that any person has contravened any of the provisions of the Electricity Act or the rules or regulations made thereunder, or any direction issued by the Commission, to pass an order in writing directing that, without prejudice to any other penalty to which such person may be liable under this Electricity Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

.....

the JSERC had acted beyond its jurisdiction in imposing a penalty of 2% reduction in their ARR for the Appellant's failure...

.....

The impugned order, to the extent indicated hereinabove, is set aside, and the matter is remanded to the JSERC to pass an order afresh adding the 2%, deducted by it earlier, to the Annual Revenue Requirement of the Appellant."

- viii. In view of the above, the resultant parameters of GFA such as, depreciation, R&M expense, and Return on Equity claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2023-24 and FY 2025-26 to FY 2027-28 differs which is provided hereunder:

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Table: 2.4: Parameters Claimed by NBPDCI Vs Approved by BERC for FY 2023-**24**

FY 2023-24	NBPDCI (Rs Cr)		
	Claimed	Approved	Disallowance
Depreciation	513.30	316.14	197.16
R&M expense	266.41	260.17	6.24
Return on Equity	421.28	421.78	(0.50)

Table: 2.5: Parameters Claimed by NBPDCI Vs Approved by BERC for FY 2025-**26**

FY 2025-26	NBPDCI (Rs Cr)		
	Claimed	Approved	Disallowance
Depreciation	778.53	428.33	350.20
R&M expense	280.29	236.97	43.32
Return on Equity	639.00	531.27	107.73

Table: 2.5: Parameters Claimed by NBPDCI Vs Approved by BERC for FY 2026-**27**

FY 2026-27	NBPDCI (Rs Cr)		
	Claimed	Approved	Disallowance
Depreciation	836.64	485.12	351.52
R&M expense	321.45	257.40	64.05
Return on Equity	772.09	604.47	167.62

Table: 2.5: Parameters Claimed by NBPDCI Vs Approved by BERC for FY 2027-**28**

FY 2027-28	NBPDCI (Rs Cr)		
	Claimed	Approved	Disallowance
Depreciation	864.51	512.27	352.24
R&M expense	346.54	269.85	76.69
Return on Equity	835.65	639.43	196.22

- ix. Overall, it is to be concluded that the disallowance in aforesaid parameters by Hon'ble Commission have been made primarily because of difference in GFA and non-preparation of FAR. Accordingly, the Petitioner requests the Hon'ble Commission to revisit the methodology adopted and accordingly allow the depreciation, R&M expense and ROE claimed by the petitioner for FY 2023-24 and FY 2025-26 to FY 2027-28.
- x. Further, the Hon'ble Commission has not specified in the tariff order dated 28.03.2025 that how the disallowance of 25% in depreciation shall be recovered by the petitioner.

H. Capex and Capitalisation for FY 2023-24 and FY 2024-25

- i. The Hon'ble Commission has specified the approved capex and capitalisation of several schemes undertaken by the Petitioner for FY 2023-24 under table 4.33, page no.156-157 (pdf p.184) against the claim of the petitioner as specified under table 4.30 page no.151-152 (pdf p.178) in the tariff order dated 28.03.2025, a few is depicted in the table below:

(Figures in Rs. Crore)

Particulars	Opening CWIP	CAPEX	Capitalization	Closing Balance
DDUGJY (Claimed)	20.71	(0.09)	0.13	20.49
DDUGJY (Approved)	958.35	-0.09	0.13	958.13
RGGVY (Claimed)	-	6.15	6.15	-
RGGVY (Approved)	161.11	6.15	6.15	161.11
MKVYS (Claimed)	74.37	107.69	57.99	124.07
MKVYS (Approved)	-13.85	51.03	57.99	-20.80

- ii. It is pertinent to mention that opening CWIP, capex, capitalization and closing CWIP for several schemes, such as, DDUGJY, MKVYS, old schemes etc. as approved by the Hon'ble Commission differs against the claim of the petitioner for FY 2023-24.
- iii. The Petitioner hereby reiterate that the claim of the petitioner for FY 2023-24 is in accordance with the audited books of accounts for FY 2023-24 and MYDT Regulations, 2021 & MYDT Regulations, 2024. However, the rationale for disallowance of capex and capitalisation of the said scheme is not provided by the Hon'ble Commission.

- iv. Further, the prayer of the petitioner regarding disallowance towards capex and capitalisation for FY 2025-26 to FY 2027-28 has been provided in detail in Review petition against the Business plan for FY 2025-26 to FY 2027-28.
- v. Moreover, it is pertinent to mention that the Petitioner undertakes several technological interventions for reduction of distribution loss, system strengthening and operational improvements, such as smart metering, energy accounting, reconductoring etc. Moreover, the Hon'ble Commission directs the petitioner for loss reduction and improvement in operational parameters. It may be noted that system improvement and to achieve reduction in losses requires adequate capex and capitalization.
- vi. Furthermore, Regulation 6.2 (c) of Bihar Electricity Regulatory Commission (Procedure for filing Capital investment and Capitalization plan) Regulations, 2018 stipulates that the Petitioner needs to submit capital investment plan for the subsequent years which may be revised afterwards based on the actual figure. The relevant extract of the same is provided hereunder:

“6.2 The Licensee(s) shall submit the Capital investment Plan every year with the ARR/Multiyear ARR petition and it should inter-alia contain: —

.....

(c) Scheme wise Source wise capital investment plan containing year wise schedule of capital expenditure and capitalization for next ten years starting from ensuing years. Based on actual expenditure and capitalization the rolling plan may get revised in subsequent filings.”

- vii. Accordingly, the Petitioner once again requests the Hon'ble Commission to kindly consider the claim of capex, capitalization and CWIP for FY 2023-24 and FY 2024-25.

I. Interest on loan for FY 2025-26 to FY 2027-28

The interest on loan claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2025-26 to FY 2027-28 is provided hereunder:

Table: 2.9: Interest on loan Claimed by NBPDC Vs Approved by BERC for FY 2025-26 to FY 2027-28

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Year	NBDCL (Rs Cr)		
	Claimed	Approved	Disallowance
FY 2025-26	768.13	637.81	130.32
FY 2026-27	897.45	693.84	203.61
FY 2027-28	916.59	686.29	230.30

- i. It is observed that the opening loan balance and addition of loan for FY 2025-26 to FY 2027-28 differs as claimed by the petitioner vis-à-vis approved by the Hon'ble Commission. The petitioner has considered the loan portfolio based on the capex and capitalisation plan as envisaged. However, the Commission considered opening loan for FY 2025-26 to FY 2027-28 based on the closing loan approved in review for FY 2024-25 in accordance with the approved capex plan. This has resulted into the disallowance as shown in table above for FY 2025-26 to FY 2027-28.
- ii. Therefore, the Hon'ble Commission is requested to consider the submission of the Petitioner and accordingly approves the interest on loan for FY 2025-26 to FY 2027-28 as claimed by the petitioner.

J. Error in arriving of Distribution loss, collection efficiency and AT&C loss for FY 2025-26 to FY 2027-28

- i. The Distribution loss, collection efficiency and AT&C loss claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2025-26 to FY 2027-28 is specified under section 6.4 of the tariff order for FY 2025-26 dated 28.03.2025 which is provided hereunder:

Table: 2.6: Distribution loss, Collection efficiency and AT&C loss Claimed by NBDCL Vs Approved by BERC for FY 2025-26 to FY 2027-28

Year	Claimed			Approved		
	FY 25-26	FY 26-27	FY 27-28	FY 25-26	FY 26-27	FY 27-28
Distribution Loss	14.47%	14.39%	14.31%	14.12%	13.71%	13.30%
Collection Efficiency	98.50%	98.70%	98.90%	100.00%	100.00%	100.00%
AT&C Loss	15.75%	15.50%	15.25%	14.12%	13.71%	13.30%

- ii. The Petitioner hereby submits that the BERC (Multi Year Distribution Tariff), Regulations 2024 as issued by the Hon'ble Commission did not specify any Distribution Losses, Billing Efficiency, Collection Efficiency and Aggregate Technical & Commercial Losses trajectory. It is to be noted that the sunset time for RDSS scheme as specified by Ministry of Power is 31st March 2025. And, therefore, AT&C loss trajectory for DISCOMs including for the Petitioner for FY 2025-26 and subsequent years was not known.
- iii. Despite this, the Hon'ble Commission may appreciate that the Petitioner has projected the AT&C loss for FY 2025-26 onwards considering 0.25% reduction in AT&C loss of FY 2024-25. And accordingly projected the improvement in distribution loss and collection efficiency appropriately for FY 2025-26 as compared to FY 2024-25.
- iv. The Hon'ble Commission has not accepted the proposed loss level by the petitioner for FY 2025-26 stating the reason as mentioned hereunder:

“The Commission observes that, as per RDSS target, the approved distribution loss for FY 2024-25 is 14.55% for NBPDCCL and 17.49% for SBPDCL. The Commission notes that the distribution loss reduction trajectory proposed by the petitioner over the control period is moderate, showing little reduction in the present loss level. Considering the significant investment made into the transmission & distribution infrastructure under RDSS & other schemes, the Petitioners should achieve a lower level of distribution loss. Hence, the Commission does not accept the proposal of DISCOMs.”

- v. The Hon'ble Commission has aligned its Distribution loss trajectory in line with RDSS for FY 2023-24 and FY 2024-25 and the Hon'ble Commission has considered the same percentage reduction over the previous FY while approving the distribution loss for the control period of FY 2025-26 to 2027-28 is described below:

DISCOM	Approved Distribution loss for FY 2023-24	Approved Distribution loss for FY 2024-25	% Reduction in Distribution loss
NBPDCCL	14.99%	14.55%	2.94%

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- vi. Further, while approving the distribution loss for the control period of FY 2025-26 to 2027-28, Hon'ble Commission considered 2.94% reduction per year which is significantly large reduction of distribution loss per year.
- vii. However, it is pertinent to highlight that distribution loss and AT&C losses for a distribution licensee may not get drastically reduced beyond a certain threshold limit and requires massive investments
- viii. It is to be noted that the Hon'ble Commission has also reduced capitalization and Smart Prepaid Meters Phase 2 & 3 in absence of prior performance and its approval, thereby approving double penalty on account of reduction in AT&C loss and its capitalization claim.
- ix. Further, the Commission has considered 100% collection efficiency for FY 2025-26 to 2027-28. In view of the above, the Commission has projected Distribution Loss, Collection Efficiency and AT&C loss for the control period FY 2025-26 to FY 2028-29 as provided in the table 2.6 above.
- x. Further, it is pertinent to mention that Bihar is a poor state wherein consumer's per capita income is very low as compared to the national average. Therefore, consumers usually tend to default payment of bills or delayed payment. In such cases, consideration of 100% collection efficiency is not appropriate. The petitioner hereby requests to consider the collection efficiency the same as proposed by the petitioner in its MYT tariff petition dated 15th November 2024.
- xi. In context of the above, the Petitioner hereby respectfully request the Hon'ble Commission that distribution loss, collection efficiency and AT&C loss projection for the period after the RDSS scheme, i.e. from FY 2025-26 to FY 2027-28 may be considered as claimed by the petitioner in the MYT tariff petition dated 15th November 2024 (also specified above).
- xii. Considering this, the Petitioner believes that these recommendations will contribute to a more balanced and realistic regulatory framework, ensuring that the trajectory for critical parameters like distribution losses, collection efficiency, and AT&C losses is both achievable and reflective of the evolving challenges in the electricity distribution sector.

- xiii. Accordingly, the Petitioner requests the Hon'ble Commission to kindly consider the Distribution Loss, Collection Efficiency and AT&C Loss as claimed above by the Petitioner for FY 2025-26 to FY 2027-28.

K. Error in arriving A&G expense for FY 2025-26 to FY 2027-28

- i. The normative A&G expense (excluding smart prepaid meter rental charges) claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2025-26 to FY 2027-28 is provided hereunder:

Table: 2.6: A&G expense Claimed by NBPDCCL Vs Approved by BERC for FY 2025-26 to FY 2027-28

Year	NBPDCCL (Rs Cr)		
	Claimed	Approved	Disallowance
FY 2025-26	285.68	161.55	124.13
FY 2026-27	318.80	180.49	138.31
FY 2027-28	355.37	201.42	153.95

- ii. The Petitioner hereby stipulates the provision for calculation of A&G expense in accordance with MYDT Regulations 2024 which is provided hereunder:

“Administrative and General (A&G) Expense.— A&G expense shall be computed as per the norm escalated by wholesale price index (WPI) and adjusted by provisions for confirmed initiatives (IT etc. initiatives as proposed by the Distribution Licensee and validated by the Commission) or other expected one-time expenses, and shall be governed by following formula:

*A&G_n = (A&G_b * WPI_{inflation}) + Provision Where: A&G_n: A&G expense for the yearn A&G_b: A& G expense as per the norm*

WPI inflation: is the average increase in the Wholesale Price Index(WPI) for immediately preceding three years

Provision: Cost or initiatives or other one-time expenses as proposed by the Distribution Licensee and validated by the Commission.

Till the norms of A&G expenses is specified by the Commission, the actual historical cost will be considered for determination of A&G expenses.”

(Emphasis added)

- iii. From the above, it is clear that the A&G expense for a year and A&G base norms is to be calculated considering the actual A&G expense for the year.
- iv. However, it is observed that the Hon'ble Commission has calculated A&G base norms considering Net A&G expense (Total A&G expenses - Meter Reading and Bill distribution - Franchise Commission - Rental charge for smart prepaid meter) instead of total A&G expense under table 7.81 & 7.83 (p.no.598) thereby has adopted the changed / revised methodology for calculation of A&G expense norms under the said table 7.83.
- v. It is pertinent to mention that unlike the calculation of aforesaid A&G expense norms for the control period for FY 2025-26 to FY 2027-28, the Hon'ble Commission while deriving the A&G expense norms for the control period for FY 2022-23 to FY 2024-25 in the tariff order for FY 2022-23 dated 25th March 2022 had considered A&G expense as per audited accounts (net off Prior period Holding tax and Bank/LC charges included in A&G expenses). The extract of the same is enclosed as **Annexure-V**. The Hon'ble Commission has not specified the reasoning for change in approach for calculating A&G base norms for MYT control period of FY 2025-26 to FY 2027-28 against the A&G base norms calculated for MYT control period of FY 2022-23 to FY 2024-25.
- vi. Accordingly, the petitioner once again requests the Hon'ble Commission to kindly consider the A&G expenses norms and A&G expenses as submitted by the petitioner and accordingly allow the A&G expenses as claimed by the petitioner for FY 2025-26 to FY 2027-28.

L. Error in arriving Interest on Working Capital for FY 2025-26 to FY 2027-28

The Interest on Working Capital claimed by the Petitioner and as approved by the Hon'ble Commission for FY 2025-26 to FY 2027-28 is provided hereunder:

Table: 2.7: Interest on Working Capital Claimed by NBPDC Vs Approved by BERC for FY 2025-26 to FY 2027-28

Year	NBDCL (Rs Cr)		
	Claimed	Approved	Disallowance
FY 2025-26	16.17	7.60	8.57
FY 2026-27	18.12	9.24	8.88
FY 2027-28	18.73	10.05	8.68




- i. The difference between Interest on working capital claimed by the petitioner and that approved by the Hon'ble Commission is primarily because of the variations in dependent parameters (R&M expense, receivables, power purchase cost, depreciation, ROE etc.) as claimed by the petitioner vis-à-vis approved by the the Hon'ble Commission for FY 2025-26 to FY 2027-28.
- ii. It is pertinent to mention that the financial support provided by the State Government to DISCOMs is passed on to the consumers through tariff subsidy and thereby is not retained with the Petitioner.
- iii. In view of the above, the Hon'ble Commission treatment of reducing two months of anticipated Government's financial support from the working capital requirement of the DISCOMs may not be appropriate.
- iv. It is requested to the Hon'ble Commission to allow the Interest on working capital for FY 2025-26 to FY 2027-28 as claimed by the petitioner.

M. Relaxation in applicability of TOD Tariff Structure for FY 2025-26

- i. The Hon'ble Commission has approved the TOD tariff structure for all consumers having Contract Demand more than 10kW including all industrial and commercial consumers having Contract Demand more than 10kW (excluding Agriculture consumer) in its tariff order dated 28.03.2025.
- ii. However, it is to bring kind attention of the Hon'ble Commission that the petitioner is experiencing issues in its implementation of the same on the following two major grounds:

Difficulty in TOD tariff implementation across all consumers (except Agriculture) in absence of compatible meter:

- a) It is pertinent to mention that the Petitioner in its tariff petition has proposed TOD tariff only for Smart prepaid meter consumer having load more than 10 KW, as reproduced below:

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“...the DISCOMs have proposed the following TOD tariff for all consumer categories for which Prepaid Smart meters are installed and are having Maximum Demand > 10kW (excluding Agriculture consumer) for FY 2025-26”

- iii. However, the Hon'ble Commission has approved TOD tariff for all consumer, as reproduced below:

“...The Commission directs the petitioners to take all necessary steps to ensure that the TOD tariff to all consumers with contract demand > 10 kW, except agriculture consumers should be implemented wef 1st April 2025.

Relevant extract from the terms and conditions of the tariff schedule (on page.695 and 709) is also reproduced below:

“(13) Time of Day tariff (ToD)

ToD tariff is applicable to all LT Consumers, except Agriculture consumers, like DS-I, DS-II, DS-III, NDS-I, NDS-II, LTIS-I, LTIS-II and PWW, having contract demand more than 10 KW.

.....

12) Time of Day tariff (ToD) (for all HT consumers)

ToD tariff shall be mandatory for all HT consumers.”

- iv. The Petitioner hereby submit that presently Petitioner has both the Smart meter and conventional meters installed at the consumer end. It may be noted that while Smart meters are compatible to implement TOD tariff, other conventional meters installed at the consumer categories who has been introduced with TOD tariff are not compatible.
- v. Moreover, it is pertinent to mention that Bihar DISCOMs are in process of implementing Smart meters across different consumer categories in the state in the phase wise manner.

- vi. Therefore, it is humbly submitted that implementing the TOD tariff across all the meters is not feasible and hence it is requested that the same may be reviewed and allowed only for the consumers with installed smart meters and as and when in the phase wise manner, the conventional meters is replaced with smart meters, the same will be implemented thereafter.

Difficulty in TOD tariff implementation for Categories having two tariff-slabs:

- a) In case of domestic and NDS consumer categories wherein two slabs exists, the calculation for slab wise TOD is a bit difficult and enabling IT based billing system is cumbersome job. The Petitioner is experiencing difficulty for implementation of TOD for domestic and NDS consumer categories which is explained below.
- b) At present the daily profile data fetched by meter agency doesn't contains the daily TOD profile. Currently, it is only available at the end of the month. However, the Petitioner is working on the same, so that the daily TOD profile is available on daily basis.

For DS-II category:

Two slabs of DS-II category are (a) First 100 units, (b) Above 100 units.

- A dual-slab pricing model introduces complexity:
 - Up to 100 units: Rs. 7.42/kWh
 - Above 100 units: Rs. 8.95/kWh
- Combined with TOD variations, the rates become:
 - 11 PM to 9 AM (Normal Rate):
 - Rs. 7.42/kWh (≤ 100 units)
 - Rs. 8.95/kWh (> 100 units)
 - 9 AM to 5 PM (Off-Peak Rate):
 - 80% of Rs. 7.42/kWh = Rs. 5.94/kWh (≤ 100 units)
 - 80% of Rs. 8.95/kWh = Rs. 7.16/kWh (> 100 units)
 - 5 PM to 11 PM (Peak Rate):
 - 120% of Rs. 7.42/kWh = Rs. 8.90/kWh (≤ 100 units)
 - 120% of Rs. 8.95/kWh = Rs. 10.74/kWh (> 100 units)

From the above, it can be seen that handling both the slab-based tariff and TOD tariff simultaneously creates system constraints, technical hurdles in the billing as well as arises the consumer confusion. This dual structure risks implementation errors and inefficiencies.

- vii. In view of the above implementation challenges, the petitioner hereby requests the Hon'ble Commission that applicability of TOD tariff structure may please be reviewed and following proposal of the petitioner may be considered:
- a) TOD tariff structure may be limited to Smart meter consumers only having load more than 10 KW (except Agriculture consumer) in line with the MYT petition submitted.
 - b) Further, for the consumers having currently installed conventional meters, TOD tariff structure shall be implemented once the said conventional meters in replaced with Smart meter.
 - c) For the consumer categories having two tariff slab structure, the billing with TOD tariff may be allowed as following.
 - i. For day wise energy charge calculation, consumers may be allowed to bill as per respective normal energy charge rate (Rs./kWh or KVAh).
 - ii. Further a monthly weightage average per unit energy charge (Rs./kWh or KVAh) at the end of the month (say '**slab weighted rate**') shall be calculated to arrive at a single tariff for entire consumption of the month.
 - iii. This slab weighted rate shall be used to bill the consumer against the applicable TOD slab structure in the monthly bill.
 - iv. Any adjustment arising out of the this shall be passed in the monthly bill of the consumer as **described below through example.**

Illustrative Example of proposing TOD tariff implementation for consumer categories having two tariff slab structure:

Considering the case of DS-II consumer categories whose applicable slab wise tariff is as follows:

Unit slab	Energy Charge (Rs./kWh)
1-100	7.42
Above 100	8.95

An illustrative day wise energy consumption and break-up of the same energy consumed during normal period, off-peak period and peak period along with the applicable energy charge is provided in the table below.

Day	Energy consumption (kWh)			Day wise energy charge (Rs.)
	Daily energy consumption (kWh)	Normal period: TOD-1	Off-peak period (80%): TOD-2	
1	3			22.26
2	4			29.68
3	6			44.52
4	4			29.68
5	6			44.52
6	6			44.52
7	7			51.94
8	8			59.36
9	4			29.68
10	4			29.68
11	5			37.1
12	6			44.52
13	4			29.68
14	4			29.68
15	3			22.26
16	3			22.26
17	3			22.26
18	3			22.26
19	5			37.1
20	5			37.1
21	5			37.1
22	2			14.84
23	3			26.85
24	3			26.85
25	3			26.85

Energy consumption (kWh)					
Day	Daily energy consumption (kWh)	Normal period: TOD-1	Off-peak period (80%): TOD-2	Peak period (120%): TOD-3	Day wise energy charge (Rs.)
26	3				26.85
27	3				26.85
28	3				26.85
29	6				53.7
30	5				44.75
Total	129	39.67	46.67	42.67	1001.55

- Day wise energy charge in the above table is calculated at the tariff rate of Rs.7.42 per unit for the (1-100) units.
- On 22nd day, cumulative of 100 unit is consumed by the consumer in that month. Therefore, from 23rd day onward in that month, the day wise energy charge in the above table is calculated at the tariff rate of Rs.8.95 per unit.

Further, a monthly weightage average per unit energy charge (Rs./kWh or KVAh) at the end of the month (say 'slab weighted rate') is determined equal to Rs.7.76 per unit $[(100*7.42 + 29*8.95)/129]$

Further, period wise energy charge is calculated based on the aforesaid 'slab weighted rate' as depicted below:

	Normal period: TOD-1	Off-peak period (80%): TOD-2	Peak period (120%): TOD-3	Total
Energy consumption (kWh)	39.67	46.67	42.67	129
slab weighted rate (Rs./kWh)	7.76	7.76	7.76	
Energy Charge	307.97	289.85	397.51	995.34

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(Rs.)				
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Monthly Adjustment = Rs. 6.21 (1001.55 – 995.34)

Accordingly, monthly adjustment of Rs.6.21 may be passed in the monthly bill of the consumer after end of the month.

N. Green Tariff for FY 2025-26

- i. The Hon'ble Commission has approved a green tariff of Rs.0.42/ unit which is the incremental tariff and shall be applied over and above the normal tariff rates.
- ii. The petitioner observes that the Hon'ble Commission has determined the green tariff relying on four key parameters as provided below:
 - a) Average pooled power cost of RE
 - b) Cross subsidy charges
 - c) Service Charge covering prudent cost of distribution licensee for providing Green Energy
 - d) Fixed cost of thermal units due to stranded power
- iii. For the same, the Hon'ble commission has considered the cross-subsidy charges i.e. difference between ACoS and ABR of respective tariff categories as Rs.0.92 per unit. However, the petitioner hereby submits that the cross-subsidy charges as determined by the Hon'ble Commission in table 9.13 (p.646) of the tariff order for FY 2025-26 is Rs.1.86 per unit. This appears to be an error apparent on face of the record.
- iv. Further, the Hon'ble Commission has considered average cost of power purchase from RE sources considering the RE purchase cost at consumer end as Rs.4.06 per unit. The rationale for the same is not provided in the tariff order.
- v. Moreover, it is pertinent to mention that in the state of Madhya Pradesh, Regulation 3.8(A)(c)(iii) of MPERC (Co-generation and generation of electricity from Renewable sources of energy) Regulations, 2021 and amendments thereof specifies that the components for determining Tariff for Green Energy for consumer shall include:
 - a) Average Pooled Power Purchase Cost of RE sources (wind, HPO and others) and its contribution in Average Cost of Supply considering the normative losses, Intra-State Transmission losses and Inter and Intra State Transmission Charges
 - b) Cross Subsidy Charges, if any

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c) Service Charge covering prudent cost of distribution licensee for providing Green Energy.

- vi. However, Madhya Pradesh Electricity Regulatory Commission in Tariff Order for Madhya Pradesh DISCOMs for FY 2024-25 has calculated the Green Energy Charge considering the difference in weighted average rate of RE power and weighted average rate of Energy charge (Variable Charges) of Non-RE sources. The extract of the same is enclosed as **Annexure-VI**.
- vii. It pertinent to mention that Petitioner has adopted the methodology similar to MP and other states while proposing the Green tariff for Bihar for FY 2025-26 under Case No. 06/2024, enclosed as **Annexure-VII**.
- viii. Accordingly, the Petitioner has also proposed Green tariff of Rs.1.17 per unit for Bihar for FY 2025-26.
- ix. In view of the above, the Petitioner respectfully requests the Hon'ble Commission to approve the green tariff for Bihar for FY 2025-26 as proposed by the Petitioner (Rs.1.17 per unit).

O. Typographical errors

- a) Table 6.42 on page no.437: CAPEX and Capitalisation data as specified for NBPDCCL for FY 2025-26 to FY 2027-28 pertains to SBPDCL and vice versa.This appears to be typographical error.

Summary of the Parameters claimed and approved under Review Petition:

Summary of Parameters raised in this Review Petition for disallowances of SBPDCL is provided in the table below:

S. No	Particulars	Year	Unit	Claimed	Approved	Difference
A	STU Loss	FY 2023-24	MU	571.39	471.46	99.93
B	DSM charges	FY 2023-24	Rs. Crore	25.16	0.76	24.4
C	Additional Power purchase cost on account of sharing of (gain)/loss	FY 2023-24	Rs. Crore	-0.56	117.87	118.43
D	Other Finance Charges	FY 2023-24	Rs. Crore	15.71	0	15.71
E	ESCERTs expense	FY 2023-24	Rs. Crore	10.04	0	10.04
F	Rent charges for smart prepaid meter	FY 2023-24	Rs. Crore	103.67	94.24	9.43
		FY 2024-25	Rs. Crore	316.43	200.91	115.52
		FY 2025-26	Rs. Crore	781.24	106.58	674.66
		FY 2026-27	Rs. Crore	1091.2	106.58	984.62
G	Depreciation	FY 2027-28	Rs. Crore	1117.82	106.58	1011.24
		FY 2023-24	Rs. Crore	513.3	316.14	197.16
		FY 2025-26	Rs. Crore	778.53	428.33	350.20
		FY 2026-27	Rs. Crore	836.64	485.12	351.52
		FY 2027-28	Rs. Crore	864.51	512.27	352.24
		FY 2023-24	Rs. Cr	266.41	260.17	6.24
		FY 2025-26	Rs. Cr	280.29	236.97	43.32

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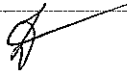
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S. No	Particulars	Year	Unit	Claimed	Approved	Difference
	AT&C Loss	FY 2025-26	%	15.75%	14.12%	1.63%
		FY 2026-27	%	15.50%	13.71%	1.79%
		FY 2027-28	%	15.25%	13.30%	1.95%
K	A&G expense	FY 2025-26	Rs. Crore	285.68	161.55	124.13
		FY 2026-27	Rs. Crore	318.8	180.49	138.31
		FY 2027-28	Rs. Crore	355.37	201.42	153.95
L	Interest on Working Capital	FY 2025-26	Rs. Crore	16.17	7.6	8.57
		FY 2026-27	Rs. Crore	18.12	9.24	8.88
		FY 2027-28	Rs. Crore	18.73	10.05	8.68
M	TOD Tariff	FY 2025-26	<p>BERC approved TOD tariff for all consumers above 10 KW load (except Agriculture).</p> <p>DISCOMs pray the following: a) TOD tariff structure may be limited to Smart meter consumers only having load more than 10 KW (except Agriculture consumer) in line with the MYT petition submitted.</p> <p>b) Further, for the consumers having currently installed conventional meters, TOD tariff structure shall be implemented once the said conventional meters in replaced with Smart meter.</p> <p>c) For the consumer categories having two tariff slab structure, the billing with TOD tariff may be allowed as per the proposal</p>			

S. No	Particulars	Year	Unit	Claimed	Approved	Difference
			submitted in the Review Petition.			
N	Green Tariff	FY 2025-26	Rs. / kWh	1.17	0.42	0.75

2. In the facts and circumstances mentioned herein above, the Petitioner submits that the Hon'ble Commission may examine the claim of the Petitioner under such heads afresh without being influenced by the decision taken in the earlier orders. In this regard it is well settled that there is no res judicata applicable in tariff matters and each tariff period need to be independently assessed and decided.
3. In view of the above, the Petitioner submits that there are errors apparent on the face of the record in the Order dated 28th March 2025. There is otherwise sufficient cause for review and reconsideration of the Order dated 28th March 2025 passed in Case no. 29/2024.
4. The Petitioner has not filed any appeal against the Order dated 28th March 2025 passed in Case no. 29/2024. The Petitioner has also not availed any other remedy or proceedings other than the present review petition as on date.
5. For the reasons mentioned herein above, the Hon'ble Commission may be pleased to review the order dated 28th March 2025.
6. Accordingly, the Petitioner requests and prays the Hon'ble Commission to:
 - a) Admit this Petition on record and treat it as complete.
 - b) Review and modify the Order dated 28th March 2025 passed in Case No. 29/2024 on the below mentioned points:
 - A. Error in arriving Transmission loss for FY 2023-24 and thereby disallowances of resultant parameters for FY 2023-24
 - B. Error in arriving the additional DSM charges for FY 2023-24 and accordingly disallowance of Power Purchase cost made due to DSM Charges for FY 2023-24
 - C. Error in arriving the methodology for sharing of (Gains) / loss on account of Power Purchase cost for FY 2023-24
 - D. Other Finance Charges for FY 2023-24
 - E. Error in disallowances on account of ESCERTs expense for FY 2023-24
 - F. Error in non-consideration of Rent Charges for Smart Prepaid meter for FY 2023-24, FY 2024-25 and FY 2025-26 to FY 2027-28



- G. Error in calculation of GFA and resultant parameters (Depreciation, R&M expense and Return on Equity) for FY 2023-24, and subsequent effect in FY 2025-26 to FY 2027-28
- H. Capex and Capitalisation for FY 2023-24 and FY 2024-25
- I. Interest on loan for FY 2025-26 to FY 2027-28
- J. Error in arriving of Distribution loss, collection efficiency and AT&C loss for FY 2025-26 to FY 2027-28
- K. Error in arriving A&G expense for FY 2025-26 to FY 2027-28
- L. Error in arriving Interest on Working Capital for FY 2025-26 to FY 2027-28
- M. Relaxation in applicability of TOD Tariff Structure for FY 2025-26
- N. Green Tariff for FY 2025-26
- O. Typographical errors

- c) Examine the proposal submitted in the enclosed Review Petition for a favorable dispensation.
- d) Condone for the delay of 06 days in filing this petition.
- e) Condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date. The Petitioner's believes that such an approach would go a long way towards providing a fair treatment to all the stakeholders and may eliminate the need for a review or clarification.
- f) Pass such further Order, as the Hon'ble Commission may deem fit and appropriate, keeping in view the facts and circumstances of the case.





3. Regulatory Provisions

I. The Electricity Act 2003

Section 94. (Powers of Appropriate Commission): ---

(1) *The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -*

- a) summoning and enforcing the attendance of any person and examining him on oath.*
- b) discovery and production of any document or other material object producible as evidence.*
- c) receiving evidence on affidavits.*
- d) requisitioning of any public record.*
- e) issuing commission for the examination of witnesses.*
- f) reviewing its decisions, directions, and orders.**
- g) any other matter which may be prescribed.*

(2) *The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.*

II. BERC (Conduct of Business Regulation, 2005) and its amendments issued therein.

Regulation 6. Officers of the Commission

(3) *The Commission shall, at all times, have the authority, either on an application made by any interested or affected party or suo motu, to review, revoke, revise, modify, amend, alter or otherwise change any order issued or action taken by the Secretary or any Officer of the Commission, if considered appropriate.*

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Regulation 12. (Petitions and Pleadings before the Commission)

(1) *All Petitions to be filed before the Commission shall be typewritten, cyclostyled, or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered and signed. The Commission may in addition, seek copies of*

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Petitions in electronic form on such terms and conditions, as the Commission direct. The contents of the Petition should be divided appropriately into separate paragraphs, which shall be numbered serially. The Petition shall be accompanied by such documents, supporting data and statements as the Commission may specify.

(2) The Petition as far as possible shall refer to the relevant provisions of the Act.

(3) On receiving any application or complaint other than the Petition, the Commission shall have a right either to change such application or complaint into a Petition and initiate its proceedings or send such application or complaint to the concerned licensee/utility for appropriate action.

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Regulation 31. Review of the decisions, directions, and orders

(1) The Commission may, on its own motion, or on the application of any of the person or parties concerned, within 60 days of the making of any decision, direction, or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit.

Provided that the Commission may, if it is satisfied, that the petitioner was prevented by sufficient cause from filing the review petition within the said period, allow it to be filed within a further period not exceeding 30 days, subject to such terms and conditions which commission may consider appropriate.

(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations.

(3) The application shall be accompanied by such a fee, if any, as may be laid down by the Commission.

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Regulation 36. (Issue of orders and directions)

Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and directions in regard to the implementation of the Regulations and procedure to be followed and various matters which the Commission has been empowered by these Regulations to specify or direct.

Regulation 37. (Saving of inherent power of the Commission)

(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may

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be necessary for ends of justice or to prevent the abuse of the process of the Commission.

(2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

(3) Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers, and functions in a manner it thinks fit.

Regulation 38. (General Power to Amend)

The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, rectify any defect or error in any proceeding before it, and all acts shall be done for the purpose of determining the real question or issue arising in the Proceedings.

Regulation 39. (Power to Remove Difficulties)

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.



PETITIONER

Place: *Patna*

Dated: *04* June 2025

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