



SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

Registered Office: Vidyut Bhawan, Bailey Road, Patna – 21.

A Govt. Of Bihar Undertaking

(Department of Commercial)

CIN. U40109BR2012SGC018890

Letter No.....392.....
SBC-1445/2021

Dated...17.04.23

From

Purushottam Prasad,
Chief Engineer (Com.)

To

The Secretary,
Bihar Electricity Regulatory Commission,
Patna

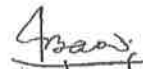
Sub: Regarding submission on behalf of both the DISCOMs in the matter of petition u/r 6(3), 12, 31, 36, 37, 38, 39 of the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 seeking exemption in implementation of Time Of Day (TOD) structure (both timing and the rate) as directed in Tariff Order issued on 23rd March, 2023 by Hon'ble Bihar Electricity Regulatory Commission for Turing Up of FY 2021-2, Annual Performance Review (APR) of FY 2022-23, Annual Revenue Requirement (ARR) and Determination of Retail Tariff for FY 2023-24 for North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL).

Sir,

With reference to above subject, please find enclosed herewith reply petition on behalf of both the DISCOMs in the matter of petition u/r 6(3), 12, 31, 36, 37, 38, 39 of the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 seeking exemption in implementation of Time Of Day (TOD) structure (both timing and the rate) as directed in Tariff Order issued on 23rd March, 2023 by Hon'ble Bihar Electricity Regulatory Commission for Turing Up of FY 2021-2, Annual Performance Review (APR) of FY 2022-23, Annual Revenue Requirement (ARR) and Determination of Retail Tariff for FY 2023-24 for North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL) for your kind information and needful.

Encl. :- As above.

Yours faithfully,


17/04/23
(Purushottam Prasad)
Chief Engineer (Com.)

South Bihar Power Distribution Co. Ltd.; Vidyut Bhawan, Bailey Road, Patna – 21.

E-mail:- cecom.sbpdcl22@gmail.com; Mob. No.-7763814744

(BERC) 32/2023
SUDHIR (DEO)

PETITION UNDER REGULATIONS 6(3), 12, 31, 36, 37, 38, 39 OF THE BIHAR ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2005 SEEKING EXEMPTION IN IMPLEMENTATION OF TIME OF DAY (TOD) STRUCTURE AS DIRECTED IN TARIFF ORDER ISSUED ON 23rd MARCH 2023 BY HON'BLE BIHAR ELECTRICITY REGULATORY COMMISSION FOR TRUING UP OF FY 2021-22, ANNUAL PERFORMANCE REVIEW OF FY 2022-23, ANNUAL REVENUE REQUIREMENT (ARR) AND DETERMINATION OF RETAIL TARIFF FOR FY 2023-24 FOR NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED (NBPDC) AND SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED (SBPDCL)

Submitted by:

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

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



SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

Vidyut Bhawan I, 2nd Floor, J.L.N. Marg, Patna-800001, Bihar



BEFORE THE BIHAR ELECTRICITY REGULATORY COMMISSION, PATNA

Petition No: _____

IN THE MATTER OF:

Petition under Regulations 6(3), 12, 31, 36, 37, 38, 39 of the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 seeking exemption in implementation of Time of Day (TOD) structure as directed in Tariff Order issued on 23rd March 2023 by Hon'ble Bihar Electricity Regulatory Commission for Truing up of FY 2021-22, Annual Performance Review of FY 2022-23, Annual Revenue Requirement (ARR) and determination of Retail Tariff for FY 2023-24 for North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL).

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

(Hereinafter referred to as "NBPDC" or "DISCOM" or "Petitioner" which shall mean for the purpose of this Petition), having its registered office at Vidyut Bhawan III, 4th Floor, J.L.N. Marg, Patna-800001, Bihar.

SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

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

.....PETITIONERS

Through
Chief Engineer (Commercial),
South Bihar Power Distribution Company Limited,
3rd Floor, Vidyut Bhawan-III, Bailey Road, Patna-800001, Bihar

The Petitioners hereby submit 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 deemed licensee under the Fifth Proviso to Section 14 of the Electricity Act, 2003.

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2. South Bihar Power Distribution Company Ltd. (SBPDCL) is a Company incorporated under the Companies Act, 1956 (now Companies Act 2013) and having its registered office at Vidyut Bhawan III, 3rd Floor, J.L.N. Marg, Patna-800001, Bihar. The Petitioner is a deemed licensee under the Fifth Proviso to Section 14 of the Electricity Act, 2003.
3. Whereas the Hon'ble Commission in the Tariff Order dated 23.03.2023 for Truing up of FY 2021-22, Annual Performance Review of FY 2022-23, Annual Revenue Requirement (ARR) and determination of Retail Tariff for FY 2023-24 for North Bihar Distribution Company Limited (NBPDC) (Case No. 16/2022) and South Bihar Distribution Company Limited (SBPDCL) (Case No. 17/2022) has changed the existing Time of Day (TOD) slabs applicable for FY 2020-23
4. Whereas the Commission has made normal period from 9:00 am to 5:00 pm and the off-peak period from 11:00 pm to 9:00 am. While the existing TOD structure as approved by the Hon'ble Commission in Tariff Order dated 25.03.2022 and applicable for FY 2022-23 has normal period from 5:00 am to 5:00 pm and the off-peak period from 11:00 pm to 5:00 am.
5. Whereas due to some technical issues the Petitioner is unable to carry out the changes in the TOD meter as approved by the Hon'ble Commission in Tariff Order dated 23.03.2023 for FY 2023-24.
6. Whereas the Petitioner vide Letter No. SBC/1742/202 (Part-I) 301 dated 31.03.2023 in the subject matter "Seeking exemption in implementation of TOD structure as directed in Tariff Order issued on 23rd March 2023 by Hon'ble BEREC for NBPDC & SBPDCL" has submitted to the Commission the technical difficulties in carrying out the changes in TOD meters as approved by the Hon'ble Commission in Tariff Order dated 23.03.2023 for FY 2023-24 and requested the Hon'ble Commission to exempt the DISCOMs from implementing the change in TOD structure from 01st April 2023.
7. So, the present Petition is being filed on behalf of both the DISCOMs namely South Bihar Power Distribution Company Limited (SBPDCL) and North Bihar Power Distribution Company Limited (NBPDC). The DISCOMs request the Hon'ble Commission to grant exemption in implementation of revised Time of Day (TOD) structure (both timing slot and rate) from 01st April 2023. In the meantime, the DISCOMs may please be allowed to bill the HT consumers availing the TOD facility based on the TOD structure (both timing and the rate) approved by the Hon'ble Commission in the Tariff Order dated 25th March 2022 (applicable for FY 2022-23).

DETAILED SUBMISSION

8. The Hon'ble Commission in the Tariff Order dated 23.03.2023 for Truing up of FY 2021-22, Annual Performance Review of FY 2022-23; Annual Revenue Requirement (ARR) and determination of Retail Tariff for FY 2023-24 for North Bihar Distribution Company Limited (NBPDC) and South Bihar Distribution Company Limited (SBPDCL) has approved Time of Day (TOD) Tariff. Relevant excerpt of the Tariff Order is as follows:

13) Time of Day tariff (ToD) (for all HT consumers including HTSS and Oxygen Gas Manufacturers (33kV and 11kV)

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ToD tariff shall be mandatory for all HT consumers. Under the Time of Day (ToD) Tariff, electricity consumption and demand in respect of HT consumers for different periods of the day, i.e., normal period, peak load period and off-peak load period, shall be recorded by installing a ToD meter. The consumption recorded in different periods shall be billed at the following rates on the tariff applicable to the consumer.

Time of Use	Demand Charges	Energy Charges
(i) Normal Period (09:00 am - 05:00 pm)	Normal Rate	Normal rate of energy charges
(i) Evening Peak load Period (05:00 pm - 11:00 pm)	Normal Rate	105% normal rate of energy charges
(iii) off-peak load Period (11:00 pm - 09:00 am)	Normal Rate	85% normal rate of energy charges

9. As above, the Commission has made normal period from 9:00 am to 5:00 pm and the off-peak period from 11:00 pm to 9:00 am. While the existing TOD structure as approved by the Hon'ble Commission in Tariff Order dated 25.03.2022 and applicable for FY 2022-23 has normal period from 5:00 am to 5:00 pm and the off-peak period from 11:00 pm to 5:00 am. Further, the Commission has also changed TOD rate of off-peak and peak period as from the existing rate of 90% and 110% of the normal rate to 85% and 105% of the normal rate respectively.
10. It is pertinent to mention here that the DISCOMs in the Tariff Petition for FY 2023-24 submitted the following TOD structure:

Time of Use	Demand Charges	Energy Charges
(i) Normal Period (05:00 am - 05:00 pm)	Normal Rate	Normal rate of energy charges
(i) Evening Peak load Period (05:00 pm - 11:00 pm)	Normal Rate	110% normal rate of energy charges
(iii) off-peak load Period (11:00 pm - 05:00 am)	Normal Rate	90% normal rate of energy charges

11. However, the Hon'ble Commission without any request of the DISCOMs or any other stakeholders has changed the TOD structure as shown above for FY 2023-24. The Commission has changed the normal period starting from 5:00 am to 9:00 am. Similarly, the ending of off-peak period has changed from 5:00 am to 9:00 am. The Commission has also changed the off-peak rate from 85% to 90% of the normal rate and the peak rate from 110% to 105% of the normal rate.
12. It is pertinent to mention that the DISCOMs in Case No. 14/2021 apprised the Hon'ble Commission the following facts:
- a) There are two (2) varieties of the TOD meter- TOD meters manufacture and supplied prior to 2015 and TOD meters that are manufacture and supplied after 2015. For the

[Handwritten signatures and initials]

TOD meters which are manufactured prior to 2015, the meters in the consumer's premise do not support the updating of software. This means that it is not possible for the DISCOM to update the software in the currently installed HT meters of the HT consumers. This can be made possible if the HT meter installed in the premises of the consumer is replaced with TOD compatible HT meters with FOTA (Firmware Over-The-Air) facility required for TOD timing update.

- b) For the TOD HT meters which are manufactured and supplied in 2015 or after 2015 changing the TOD structure requires updation/modification in software of the meters which needs to be undertaken from case-to-case basis. This essentially means that the DISCOM personnel needs to visit the premises of each and every consumer which avails the facility of TOD and update the metering software of the consumer.
 - c) Further, for the cases where the meters are owned by the consumers, the updation of metering software needs to be undertaken by the consumer through the manufacture of the meter (OEMs). The updating of metering software is not the liability of the DISCOM. For such change to take place, the DISCOMs need to intimate such HT consumers to undertake the required modifications in the metering software through the OEM.
13. Taking into cognizance the situation, the Hon'ble Commission in Order dated 12.10.2022 agreed to reinstate the previous TOD and allowed the DISCOMs to charge the previous TOD structure. The relevant excerpt of the Commission's Order dated 12.10.2022 in Case No. 14/2021 is as follows:

Quote

D. Commission's analysis and order

1. The Petitioner has sought exemption from implementation of new ToD structure stated in the Tariff order dated 26th March 2021, allowing existing ToD structure of FY 2020-21 from 1st April 2021 onward.

2. Petitioner has submitted that they have faced a lot of technical and practical difficulties while implementing the above directions.

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The Meter Manufacturer submitted that the meters which are manufactured prior to 2015 and also not covered under guarantee/warranty period, the necessary changes cannot be made effective through remote location. Instead, the manufacturer was not sure if applying the necessary changes is possible even after visiting the premises of the consumer on case to case basis. The manufacturer further informed that, for the meters manufactured in and after 2015 and covered under Guarantee/Warranty, they will take sincere efforts to make necessary changes for roll out of new ToD as approved for FY 2021-22 in the tariff order dated 26th March 2021. However, the number of such meters is significantly less in comparison to the total number of meters.

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5. The Commission after considering the above submissions, recognizing the gravity and unprecedented nature of situation; absence of conformity in respect of implementing the new ToD structure shall be deemed to be a complete compliance of the said Tariff Order for FY 2021-22.

6. In the light of the aforesaid discussions, the Tariff order dated 26.03.2021 issued by the Commission in Case No. 33 & 34/2020 stands amended to the extent of the changes as discussed and noted in the foregone paragraphs.

Unquote

14. Further, segregating the TOD meters based on their build year, the DISCOMs have found out that, as of now, ~40% (for the case of Bihar including NBPDC and SBPDCL) of the TOD meters have been supplied before the year 2015 i.e., that means for all such cases, the meters are incompatible for TOD updation. The segregation based on years is provided below:

	Total no. of TOD meters	Supplied before 2015	Supplied in 2015 or later
SBPDCL	2298	934	1364
NBPDC	1483	552	931
Total	3781	1486	2144

15. From the above it is clear that the number of TOD HT meters supplied prior to 2015 and not compatible with software updating/upgradation are 1486. It is important to note that at the time of Case No. 14/2021 the number of TOD HT meters which are not compatible with software updating/upgradation were 2209 that have been significantly reduced to 1486 now.

16. Further, this is to submit that through the revised TOD structure the Commission has made peak tariff as 105% of the normal tariff while keeping the non-peak tariff as 85% of the normal tariff. In such a case it is evident that there would be a financial impact on the DISCOMs as the off-peak charges are not commensurate with the peak charges. The DISCOMs which are struggling to maintain the adequate cash flow will get the hit of different peak and off-peak charges in the operating period of FY 2023-24.

17. So, the present Petition is being filed on behalf of both the DISCOMs namely South Bihar Power Distribution Company Limited (SBPDCL) and North Bihar Power Distribution Company Limited (NBPDC). The DISCOMs request the Hon'ble Commission to grant exemption in implementation of revised Time of Day (TOD) structure (both timing and the rate) from 01st April 2023. In the meantime, the DISCOMs may please be allowed to bill the HT consumers availing the TOD facility based on the TOD structure (both timing and the rate) as approved by the Hon'ble Commission in the Tariff Order dated 25th March 2022 (applicable for FY 2022-23).

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PRAYERS:

The DISCOMs in view of the above, prays the Hon'ble Commission for the following:

- a) To admit this petition and treat it as complete.
- b) To accept and approve the exemption in implementation of TOD structure for HT consumers (both timing and the rate) as approved by the Hon'ble BEREC in the Tariff Order dated 23rd March 2023 as requested in this Petition. In the meantime, the DISCOMs may please be allowed to bill the consumers availing the TOD facility based on the TOD structure (both timing and the rate) approved by the Hon'ble Commission in the Tariff Order dated 25th March 2022 (applicable for FY 2022-23).
- c) In addition, the Petitioner may be allowed to file detailed Review Petition for the Tariff Order dated 23.03.2023 for the State DISCOMs under Section 94 (1) (f) of the Electricity Act, 2003, read with Regulations 38, 39 and 40 of the Bihar Electricity Regulatory Commission Multi Year Tariff (Distribution) Regulations, 2022.
- d) The Petitioner further request the Hon'ble Commission to condone any inadvertent omissions/errors/shortcomings and permit to add/change/modify/alter this filing and make further additional 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.
- e) The Petitioner further request the Hon'ble Commission to examine the proposal submitted in the enclosed Petition for a favorable dispensation;
- f) The Petitioner further request the Hon'ble Commission to pass such Order, as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case

Submitted on behalf of:

SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

having its registered office at:

2nd Floor, Vidyut Bhawan, Bailey Road, Patna-8000001, Bihar

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

having its registered office at:

3rd Floor, Vidyut Bhawan, Bailey Road, Patna-8000001, Bihar

Through

Chief Engineer (Commercial),

South Bihar Power Distribution Company Limited,

3rd Floor, Vidyut Bhawan-III, Bailey Road, Patna-8000001, Bihar

PLACE: PATNA

DATED: 17-04-2023

Arshi

**Chief Engineer
Commercial
SBPDCL**

*Arshi
AET (com)*

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*Arshi
SBPDCL*

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Regulatory Provisions:

I. National Tariff Policy, 2016

h) Multi Year Tariff

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

II. Electricity Act, 2003

Section 62. (Determination of tariff):

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

III. BERC (Multi Year Distribution Tariff) Regulations, 2021

37. Power to amend- The Commission may, at anytime, amend, alter or modify any provision of these Regulations.

38. Power to remove difficulties- If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

IV. BERC (Conduct of Business) Regulations, 2005

6 (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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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.

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VII. PRAYER:

Thus, in the light of above stated facts and circumstances, it is most humbly prayed that this Hon'ble Commission be pleased to:

- A. Dismiss the captioned Petition with exemplary costs.
- B. Direct the East Central Railways to submit the pending CSS and other charges along with the arrears and interest thereon on account of availing Open Access.
- C. Adjudicate the Petition No. 02 of 2023 filed by the DISCOMS seeking directions for levying the applicable Open Access Charges including Cross-Subsidy Surcharge along with the Arrears and Interest thereon, before this Hon'ble Commission prior to adjudication of the present Petition.
- D. Condone any inadvertent omissions/errors/shortcomings and permit the Answering Respondents to add/change/modify/alter this filing and make further submissions as may be required at a future date.
- E. Pass any such order, this Hon'ble Commission may deem fit in the interest of justice, equity and good conscience.

Submitted on behalf of:

SOUTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

having its registered office at:

2nd Floor, Vidyut Bhawan, Bailey Road, Patna-8000001, Bihar

NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED

having its registered office at:

3rd Floor, Vidyut Bhawan, Bailey Road, Patna-8000001, Bihar

Through

Chief Engineer (Commercial),

South Bihar Power Distribution Company Limited,

3rd Floor, Vidyut Bhawan-III, Bailey Road, Patna-8000001, Bihar

PLACE: PATNA

DATED: 13-04-2023

Law
CPJ *Chief Engineer*
 Commercial
 SBPDCL
CE/Com/NBPDCL

AZE (com)

SB
ESB(EN)
NB PDCL

CPJ
ABE/COM
SBPDCL

REB(Com)
SBPDCL

(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 fee, if any, as may be laid down by the Commission.

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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.

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