

Chapter 2

PROCEDURAL ASPECTS OF THE ARR PETITION (S)

2.1 ARR Petitions filed by UHBVNL & DHBVNL

The Petition(s) filed by UHBVNL and DHBVNL as reproduced in the preceding chapter were examined at length. The Commission, vide memo no. 4632-33/HERC/Tariff dated 9.01.2019 sought a few clarification / additional information from the petitioners.

2.2 Objections filed by the Interveners

The Discom (UHBVN & DHBVN), as required, issued a Public Notice in two Newspaper i.e. The Tribune (English) and Dainik Bhaskar (Hindi) dated 03.12.2019 informing the stakeholders / General Public regarding their petition / availability of documents and inviting objections on the same. Additionally, the Commission also issued public notice dated 10.01.2020 in Dainik Bhaskar (Hindi) and Tribune (English) inviting objections / suggestions / comments from the stakeholders / general public.

2.3 Objections & Discoms reply thereto

In response to the public notice issued by the Discoms and the Commission, the following objections were received in the Commission: -

2.3.1 Objection filed by Jindal Stainless, Hisar

I. TRUE-UP OF EXPENSES FOR FY 2018-19:

The intervener has submitted that DHBVN has filed its application for True-up of expenses for FY 2018-19. The application shows a large variation in some of the important performance parameters compared to the figures approved by the Commission. For ready reference some of the important parameters are given hereunder,

(All figures in Rs. Crore)			
Parameter	HERC ARR order	Actual by DHBVN	Variation with revised
Cost of power purchase	13,420.50	*16,029.65	2,309.15
O&M Expenses	1397.45	*1,409.51	12.06
R & M Cost	148.99	106.88	(-) 42.11
Interest & Financing cost	437.39	*541.74	104.35
ROE	198.23	209.19	10.96
Net Annual Expenses	16,041.69	18,452.41	2,410.74
Revenue Gap/(Surplus)		220.97	
CAPEX	1170.00		

*Parameters which are controllable as per MYT Regulations.

Commission's View:

The Commission's has noted the aberrations pointed out by the Intervener and observes that true-up is carried out as per the provisions of the MYT Regulations, 2012 under which the Order for the FY 2018-19 was passed.

It has been submitted by the Intervener that while reviewing the CAPEX Plan for the year 2018-19, the Commission had observed as under:

Further, in case of DHBVNL the actual capital expenditure for FY 2016-17 and FY 2017-18 has been Rs. 640.93 Cr. and Rs. 808.63 Cr. respectively. For the FY 2019-20, DHBVNL had proposed a capital expenditure of Rs. 1355.89 Cr. which included Rs. 300 Cr. towards the Smart Grid project of Gurgaon and Rs. 50 Cr. towards smart city project of Faridabad, Bhadurgarh, Hisar and Rewari. The expenditure of Rs. 125 Cr. for MGJG scheme and sanitization of urban feeders.

The Commission approved the overall capital expenditure plan for Rs. 1170 Cr. only for FY 2018-19. However as per the ARR Petition for true up of FY 2017-18, annual performance review for FY 2018-19 and ARR for FY 2019-20 filed by the petitioner the licensee has submitted the actual Capital Expenditure for 2017-18 to be Rs. 808.36 Cr.

In view of the licensee past performance on Capital expenditure, Commission approves the Capital expenditure of Rs. 1220 Cr. for FY 2019-20 for DHBVNL and further direct the licensee to revise their capital expenditure plan accordingly and submit the scheme wise details of proposed expenditure to the Commission within one month from the date of issue of this Order.

The Commission directs the DISCOMs to utilise the CAPEX approved for Smart Grid HERC Order on Application for True Up for the FY 2017-18, APR for the FY 2018-19 and ARR and Tariff Determination for the FY 2019-20 & Smart meters in these projects itself and not to divert the funds in other schemes. Further, the Commission decides that DISCOMs should encourage GHS, HT/LT Industrial, B&R, Tourism, Roadways to install their own Smart Meters.

Both the licensees are further directed that they shall regulate their capital expenditure plans for FY 2019-20 as per Regulations 9.7 to 9.12 of the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012.

Another important observation made by the Commission was on the submission of Cost of Service by the Licensee, which was under examination by the Commission.

Our main observations on this part of the True-up Application of the licensee are as under,

- a) There are large variations even on the controllable parameters i.e. Cost of Power Purchase and Interest & Financing Cost, which need to be disallowed. Reg. 13.2 of MYT Regulations, 2012 reads as under,

13.2 Truing-up of uncontrollable items shall be carried out at the end of each year of the control period through tariff resetting for the ensuing year and for controllable items shall be done only on account of force majeure conditions and variations attributable to uncontrollable factors.

- b) It would kindly be appreciated that every year such non-compliance of performance targets fixed by the Hon'ble Commission result in accumulation of losses of the Utilities which ultimately are carried over to the next ARR and are to be made good from the corresponding tariff increase and ultimate financial burden to the electricity consumers.
- c) Reduced expenditure on Repair & Maintenance should be taken seriously as this reflects directly on the lack of proper maintenance of the distribution system which ultimately impacts the quality of power supply to the consumers;
- d) The capital expenditure allowed to the Licensee should be linked with corresponding increase in revenue and quality of power supply otherwise it is an avoidable burden on the consumers. The Licensee need to implement the Smart Grid system in the State as the grant of concession in ToD is subject to this facility.
- e) Due to non-furnishing of voltage-wise cost of service the Commission had to adopt the average CoS for major two categories i.e. LT & HT. It results in distortion of COS to various consumers falling in HT categories (including 11 kV, 33 kV, 66 kV, 132 kV, 220 kV and 400 kV) which affects the determination of Cross Subsidy Surcharge for the Industrial consumers using open access facility. While in many of the progressive States the Cross-Subsidy Surcharge is determined for each voltage category of consumers.
- f) It is disheartening that every year the Licensees report huge revenue deficit which is carried forward and attracts the resultant carrying cost as well. DHBVN alone has reported a net revenue gap of Rs. 706.53 Crore for FY 2017-18 which after taking

into account the carried forward revenue gap of Rs.743.47 Crore for FY 2015-16 and the carrying cost comes to a huge gap of Rs.1651.04 Crore. Due to the inefficient working of the Discoms the consumers are unnecessarily burdened by way of huge revenue deficits and ultimate impact the consumer tariffs.

It has been submitted that the Utility has approached the Commission to allow a consolidated true up of Rs.18144.74 Crore for the FY 2018-19. Moreover, the Licensee has requested the Commission to allow carry forward a revenue gap of Rs.3711.33 Crore. Such a proposal is an attempt to camouflage the inefficiency by the Utility and seek relaxations over the figures approved by the Commission. It needs to be appreciated that if such relaxations are to be allowed, then the very purpose of the detailed exercise of approving ARR and other performance parameters becomes in-fructuous. Ultimately the consumers have to bear the difference by way of successive tariff increase. Moreover, these figures do indicate the lack of seriousness of the licensee to achieve the fixed parameters.

Commission's View:

The Commission has taken note of the detailed analysis and comments filed by the Intervener on the issue of Capex, Voltage Wise CoS, large variations in expenses vis-à-vis approved by HERC, non-meeting of performance targets, lower R&M expenses and large revenue deficit projected by the Discoms.

The Commission has taken note of point made by the Intervener herein and assures the Stakeholders that, while passing the present Order, the Commission will scrutinise all the details including the revenue deficit arising from non-achievement of performance targets. As far as Voltage wise CoS is concerned, the Discoms do provide the requisite data based on which CoS at two voltage levels i.e. HT and LT are computed by the Commission.

II. Annual Performance Review of 2019-20:

The intervener has submitted that DHBVN has filed its application for Annual Performance Review for FY 2019-20. The Utility has approached the Commission to allow a revised ARR of Rs.18,162.67 Crore against the earlier approved figure of Rs.16,780.53 Crore which is a considerable upward revision since the date of the HERC ARR order dated 07.03.2019.

The observations made on the True-up of ARR for FY 2018-19 also apply to the revised ARR for FY 2019-20, which may kindly be considered.

Against the estimated gap of Rs.346.98 Crore for UHBVN & DHBVN combined for FY 2019-20, these Utilities have projected a total revenue gap of Rs.1365.80 Crore. The net result is that there is resultant drop in revenue of over Rs.1000 Crore for the two Licensees since the last ARR order. This is bound to result in increased financial burden to the consumers. This is inspite of the fact that Government of India had come up with UDAY Scheme under which large sums of accumulated losses of the Utilities were passed on to the State Government so that the financial health of the Distribution Utilities could be improved and the consumers are not unnecessarily burdened by way of increased tariffs. The continuation of such poor performance of the Utilities forfeits the very purpose of Government initiative.

The Commission may take necessary corrective measures so that the operational efficiency of the Licensees is improved and the expenses are curtailed and to save the consumers from ever increasing burden on their electricity bills.

Commission's View:

The Commission has taken note of the ibid observations as far as APR for the FY 2019-20 is concerned.

III. Annual Revenue Requirement for FY 2020-21:

The Licensee has projected an Annual revenue Requirement of Rs.19,370.46 Crore for the year 2020-21. A net revenue gap of Rs. 4,030.39 Crore has been projected for both the Distribution Licensees (including gap of True up carried forward).

Some of the main observations on the ARR submissions for FY 2020-21 are as under;

1. Estimated sales to HT Industries and the energy booked to the Agriculture Consumers need to be examined carefully as these have considerable impact on the estimated revenue receipts and ultimate revenue gap. While the error in estimates of industrial consumers would result in actual revenue receipts of the Licensee, on the other hand the extra energy booked to the agriculture sector would largely impact the amount of RE Subsidy to be received from the State Govt.
2. The Commission had made following observations in the last ARR order for FY 2019-20,

"The Commission, in its Tariff Order dtd. 15/11/2018, had directed the Petitioners to engage a third party for authenticating the AP sales data for FY 2017-18 and supply hours vis-a-vis reasons of variance in supply hours and to submit analysis report at the time of next ARR filling. However, the said directive remained un-complied as the requisite report is still awaited. The Commission now directs the Petitioners to include

the FY 2018-19 AP Sales data as part of the same scope of work and submit its report within 3 months from the date of this Order. In its absence the Commission shall be constrained to consider true-up of AP sales.”

3. While submitting energy balance for DHBVN, the Licensee has mentioned in Table 46 that there will be lot of surplus power during FY 2020-21 and in the subsequent years of the control period. FY 2019-20. The relevant figures given in Table 21 on Page 45 of the ARR filing are reproduced hereunder for kind reference,

Energy Balance	Unit	FY 2020-21	FY 2021-22
Power Purchase at State Periphery	MUs	36,371	38,347
Surplus	MUs	4,785	4,718

Surplus power available during the MYT Control Period is proposed to be sold entirely through power exchange at average variable power purchase cost of the corresponding years.

The above statement shows that the Licensee is projecting huge surplus in power availability all through the Control Period and this surplus power is proposed to be sold at average variable power purchase cost. This is to be appreciated that if the Licensee does not require this power then why should the Licensee buy extra power in the first place and then sell it at a loss. It would further be noted that every now and then Licensee is approaching the Commission seeking permission to buy additional power on one pretext or other.

If the Licensee is surplus of power then it is absurd to approach the Commission seeking permission to buy extra power at high rates on the ground of shortage in power availability and then sell this power at a low rate. We have been raising this issue during various hearings relating to the proposal for new power purchases. Hon'ble Commission may kindly consider this fact while approving any new power purchase proposal. Such action of the Licensee results in,

- a) Increased cost of power purchased and sale of surplus power at a rate lower than the purchase rate and resultant revenue gap;
- b) Inflated figures of so called stranded power, which results in higher Additional Surcharge to be paid by consumers availing open access facility.

4. In Table 49 the Licensee has projected R&M expenses for the Control Period with normal increase every year. As already pointed out the Licensee has successively not been able to spend the earmarked amount on this activity. Hence a realistic provision

may kindly be allowed instead of un-necessarily inflating the Annual Revenue Requirement.

5. In Table 58 of the filing Net Interest & Financing Charges have been projected for FY 2020-21 to FY 2024-25. There is large increase in 'Long Term CAPEX Loans' over the years. These provisions may kindly be approved evaluating the expected improvement in the distribution system and ultimate benefit to be accrued to the consumers.
6. The Licensee has been recovering large amount by way of FSA from different categories of consumers, and other charges such as Wheeling Charges, Cross Subsidy Surcharge and Additional Surcharge from Open Access Consumers which have not been reflected in revenue projections. Due provisions for these revenues may please be ensured while allowing the total revenue requirement.
7. The Licensee has projected the same figure of Rs.307.66 Crore as 'Non-Tariff Income' right through since FY 2018-19. This should be approved looking at the actual figures of receipt in the past.
8. In Table 66 of the ARR filing the Licensee has indicated that there will be huge revenue gap throughout the Control Period. Nothing has been proposed for bridging this gap or steps to be taken to meet this gap. This gap can only be closed by improving the performance of the Licensee and plugging holes where there is perpetual loss of revenue, like recovery of long outstanding dues from the defaulting consumers and effective control on theft of energy.

Commission's Observations:

The Commission has carefully perused the ibid objections filed by the Intervener. On the issue of HT Sales, the Commission observes that sales projections are done by the Commission keeping in view the past trend and revenue is assessed based on the tariff in vogue including the connected load / contract demand (for demand / fixed charges). Similarly, AP Sales is estimated based on the data largely emanating from 11 kV segregated AP Feeders. However, some aberrations may creep in because of AP Supply from feeders other than segregated AP Feeder and the normative distribution loss assumed for working out sales / consumption at the Consumers end. The Commission is seized of the issue to address the aberrations so that the RE Subsidy is not over / under assessed. Further, interest on term loan is considered as per the actual loans availed and interest thereto, while interest on normative working capital is estimated based on prevailing MCLR for the relevant financial year plus an

appropriate margin of 1.25% as per the Regulations in vogue. Although the Discoms have projected surplus energy and priced thus surplus at a lower rate yet the Commission, considers the power purchase cost of intrastate sales of power only as projected by the Commission in the ARR / Tariff. FSA is a matter separately dealt with by the Commission. Lastly, new power purchase source / PPAs are approved by the Commission after due diligence including assessment of long-term demand – supply position as well as renewable purchase obligation and peak power demand.

IV. Some of the important issues needing immediate attention of the Commission:

That a couple of issues which are being brought for the kind notice of the Commission during successive hearing on the Aggregate Revenue Requirements of the Distribution Licensee and would result in reducing burden on the electricity consumers in the State are as under:

1. Need for rationalization/reduction of levy of Additional Surcharge:

We have been raising this issue in every hearing on the subject including the time of approval of ARR of the Distribution Licensees. Some of the major issues raised included,

- A. Multiplicity of recovery of so-called Fixed Charges paid to the generating companies;
 - i. The Fixed Cost is fully booked in the cost of power purchase allowed to the Licensee through every successive ARR order;
 - ii. The Fixed Demand Charges recovered from the consumers include substantial part of the fixed cost borne by the Licensee;
 - iii. During True up of ARRs at the end of each Financial Year, the difference in approved and actual power purchase cost is allowed to the Licensee and hence the total fixed cost is accounted for in the annual expenditure of the Licensee;
 - iv. While computing the FSA, any unrecovered gap in the cost of power purchase is fully figured in.
 - v. The Licensee has stated in the ARR filing that it will sell the surplus power over the Power Exchange Platform. Thus, the power so sold brings revenue

to the Licensee. Moreover, the Licensee also buys substantial power over the Exchange.

- vi. The power claimed to have been surrendered/backed down depends on what was the PLF of the specific generating stations.
- vii. Moreover, the power scheduled by the Open Access consumers is not Round the Clock power but only in certain time blocks. This has impact on the calculations submitted by the Licensee for determination of Addl. Surcharge.
- viii. The Petitioner needs to certify that the backing down was as per their instructions and not a fait accompli.
- ix. It has to be certified that the backing down was done on merit order basis and not by pick and choose method.

B. It needs to be appreciated that in majority of States no Addl. Surcharge is levied on Open Access Consumers. Any such levy proves a dis-incentive to buy cheaper power available over the Power Exchange from outside the State sources and frustrates the very purpose of facilitating the concept of Open Access provided under the Electricity Act, 2003 and Tariff Policy framed thereunder.

C. As a result of these exorbitant additional cost levied on open access consumers in the State makes this power to be availed by consumers in other States and denying this benefit to the State's own consumers.

Thus, there is urgent need for review of these issues and save the industrial consumers from this multiple charging of the fixed cost by the Licensee in the shape of Additional Surcharge.

Commission's View:

The Commission has considered the objections (Supra) and shall deal with the same in the paragraphs on Additional Surcharge in the present Order.

2. Need for determination of Cost of Service and Cross Subsidy Surcharge for each voltage level:

The intervener has submitted that the Commission has been repeatedly giving directions to the Distribution Licensees to submit voltage-wise cost of service but the Licensees have failed to comply with this direction. The result is that the Commission

decides the CoS for two major groups i.e. LT and HT supply. This leads to unrealistic determination of CoS for consumers getting supply at different voltages i.e. the consumers getting power supply on 11 kV, 33 kV, 66 kV, 132 kV, 220 kV or 400 kV are being clubbed together. If we look at the practice being followed in other States we will notice that the Cross Subsidy Surcharge is determined for each voltage level. Even the tariff schedule approved by the Commission recognizes the impact of difference in CoS at different voltage levels. We would request the Commission to fix the CoS for different voltages.

Commission's View:

The Commission has taken note of the submission made by the Intervener and will address the issue at appropriate place.

Need for simplifying the Schedule of Tariff for Industrial consumers with special reference to the Time of Use tariff:

While introducing the Time of Use Tariff in the ARR order dated 11.07.17, Hon'ble Commission had allowed a rebate of 15% on the normal tariff during off-Peak night hours (10 PM to 05-30 AM). This was however, changed in subsequent ARR order to 10%. In the last ARR order dated 07.03.2019 this benefit has been practically withdrawn, which reads as under,

Note: This rebate shall be allowed only to the consumers who install Smart Meter/Smart Grid, irrespective of the consumer category. The same may be installed by the DISCOMs as well as by the consumer themselves as per the directions of DISCOMs. Further, if such consumer install rooftop solar system also then the rebate shall be increased to 15% and in case the rooftop solar system is accompanied by battery storage system (minimum 15% of Sanctioned Load), the rebate shall increase to 20%. The consumers may be allowed to avail these benefits by giving an undertaking to comply with the terms and conditions mentioned herein above within seven months of the date of undertaking. In case any consumers fails to comply with the undertaking within the period of seven months, the benefits so availed shall have to be refunded immediately alongwith the interest of 17% per annum. The ToD tariff shall not be applicable to the consumers, who source their power from Captive Generation or Open Access at any point of time after 15.06.2019.

The fact remains that this ToD benefit is a non-existing rebate. In the absence of Smart Grid (which is to be provided by the Licensee) these rebates are illusionary only. The fact is that the night time rebate in tariff has been disallowed.

Commission's View:

The Commission has taken note of the objection on ToD Tariff in vogue and will reckon with the same while deciding ToD Tariff in the present Order.

3. Need for reduction in electricity tariff for industrial Consumers:

As is very well known, the industry is passing through a serious slow down phase. This is also an undisputed fact that industry is the largest revenue earner for the State. Therefore, all out efforts need to be made to promote industrial activity in the State by giving maximum reliefs. In order to promote industry in the State electricity tariffs for industrial consumers need to be reduced. We would urge the Commission to reduce the tariff for industrial consumers and reduce the cross subsidy being paid by the industrial consumers through higher tariff rates. Let every consumer pay for the cost of service.

Commission's View:

The Commission has taken note of the above submissions on HT tariff and observes that HT Industrial consumer tariff is higher than the HT CoS but within the +/- 20% range stipulated in the National Tariff Policy. It needs to be noted that the Cross Subsidy generated from the HT Industry is allocated largely to the Domestic Consumers. In its absence for a large segment of the DS consumers / lifeline DS consumers electricity may become un-affordable leading to theft / un-authorised use and revenue leakages adding to commercial losses thereto.

4. Need for implementation of Solar Policy and Bio-energy Policy notified by the State Government:

The State Government notified the Solar Policy, 2016 on 14.03.2016 and Bio-energy Policy on 09.03.2018. Through these Policies large number of incentives/waivers were given to the developers. In respect to wheeling of such RE power, some of the incentives given through these Policies were as follows,

Clause 4.3 of Solar Policy, 2016

Exemption of Electricity Duty & Electrical Taxes & Cess, Wheeling, Transmission & Distribution, cross subsidy charges, surcharges and Reactive Power Charges:

All electricity taxes & cess, electricity duty, wheeling charges, cross subsidy charges, Transmission & Distribution charges and surcharges will be totally waived off for Ground mounted and Roof Top Solar Power Projects.

Clause (F) under Chapter-3 (Incentives) of Bio-Energy Policy, 2018

Exemption of Transmission & Distribution, cross subsidy charges, surcharges and Reactive Power Charges:

All cross subsidy charges, Transmission & Distribution charges, surcharges and reactive power charges will be totally waived off for any biomass projects set up in the State.

However, Commission has not so far given these benefits to these RE Generators. Due to this prevailing condition, the growth of power generation from Solar and Biomass sources is one of the lowest in Haryana compared to other States in the country. Recently Hon'ble Chief Minister had taken a serious note of this situation and suitable directions would be forthcoming from the Govt. in this regard. There is need for taking a comprehensive view so that these RE sources of power could be harnessed for benefit in the State.

Commission's View: The Commission had taken note of the above submissions and observes that the dispensation for RE Power is governed by the RE Regulations in vogue.

5. Need for revisiting the concept of Advance Consumption Deposit:

Although S.47 of the EA-2003 and Reg. 5 of HERC/34/2016 Regulations permit the Licensee to recover Reasonable Security from the consumers but this has to be commensurate the purpose for which this is charged. At present this Regulations allows recovery of 1.5 times the Average Monthly Bill from HT Industrial consumers. Such an amount of Security amounts to a huge amount for the industrial consumers who are already working under adverse financial scenario. Moreover, it needs to be appreciated that the industrial consumers are required to pay their monthly electricity bills within 7 days of issue of bill, other categories are allowed 15 days.

Moreover, the Licensee is allowed Working Capital which includes revenue recoverable equivalent to 2 months billing. Therefore, there is need to reduce the Security being charged from HT Industry from existing 1.5 times of average bill to maximum 1 time.

Commission's View: The Commission had taken note of the above submissions and observes that the dispensation on ACD is governed by the relevant Regulations in vogue which is not the issue of ARR / Tariff Petition(s) under consideration. Working Capital and Interest thereto is determined in line with the provisions of the MYT Regulations in vogue.

6. Need to merge the Fuel Surcharge Adjustment at the time of ARR:

In fact the concept of Fuel Surcharge Adjustment was introduced under the Electricity Act, 2003 to avoid need for frequent amendment in the tariff. But it has become a necessary evil and is continuing since the initiation.

S.62 (4) of the Electricity Act, 2003 reads as under,

62 (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.

Therefore, the Fuel Surcharge Adjustment is to be allowed for mid-year tariff adjustment and not as a perpetual levy. Thus, the prevailing FSA should be reduced to zero while determining the Distribution Retail tariff for each Financial Year.

Commission's View: The Commission had taken note of the above submissions and observes that merging FSA in the ARR has its own merits and demerits. In Order to cushion the impact of FSA on the electricity bills of the consumers, the FSA recovery, so far, have been staggered and automatic recovery the Discoms capped as per the MYT Regulations. An important objective of the FSA mechanism is to keep the cost of power and recovery of the same aligned it may be negative or positive in a particular quarter. Merging the FSA in the ARR will undermine this flexibility as the base tariff, as per the Act, normally ought not to be altered more than once in a year.

7. Assets taken over from Consumers/Colonisers/ Developers against Self Execution Schemes/ Deposit Estimates:

Large sums are recovered from consumers/ colonizers/ developers against Deposit Estimates or Self Execution Works. There is no such fact mentioned in the ARR filing. The assets as taken over by the Licensee should appear in the total Assets created during the year through consumer contribution /taken over from third party free of cost.

Commission's View: The Commission has perused the aforesaid submissions and observes that the details of consumers contribution are being provided by

the Licensee and the same is reckoned with by the Commission while estimating the relevant parameters of the ARR.

2.3.2 Additional Observations From M/S Jindal Stainless (Hisar) Limited, Hisar (submitted after reply of DHBVNL)

I. PROCEEDINGS DURING HEARING HELD ON 12.02.2020

TRUE-UP OF EXPENSES FOR FY 2018-19:

That 'Cost of Power Purchase' is a Controllable Parameter, whereas in reply to these observations DHBVNL claimed that it is un-controllable as per MYT Regulations 8.3.8.

It was clarified that the reply of DHBVNL is wrong. The Regulation 8.3 mentions as under,

Power Purchase Price (other than for short-term power purchase and UI)	Uncontrollable
Power Purchase Price for short-term power and UI	Controllable
Power Purchase Quantum (MUs)	Controllable

Thus, the provision under MYT Regulation talks of the 'Price' of power being 'Uncontrollable' and not the 'Power Purchase Cost'. The 'Power Purchase Cost' is multiple of 'Power Purchase Price' and the 'Power Purchase Quantum'. The 'Power Purchase Quantum' is a Controllable Parameter.

Commission's View: The Commission has taken note of the additional submission of the Intervener in view of DHBVN's reply. The Commission is bound by its own Regulations in the matter and shall act accordingly.

ANNUAL REVENUE REQUIREMENT FOR FY 2020-21:

The Intervener has submitted that while presenting views on this ARR Estimates for control period FY 2020-21 to FY 2024-25, reference was drawn to Table-46 (Page 101), Table-49 (Page 107), Table-58 (Page 119) and Table-66 (Page 127 & 128). Inadvertently the Page Numbers were wrongly co-related. The Page Numbers mentioned above are correct. **A few other issues needing immediate attention of the Commission raised by the Intervener herein are as under: -**

Need for rationalization/reduction of levy of Additional Surcharge:

A statement showing the Additional Surcharge determined by various State Regulatory Commissions was submitted. A copy of this statement is attached for record.

Need for determination of Cost of Service and Cross Subsidy Surcharge for each voltage level:

A statement showing the Cross Subsidy Surcharge determined by various State Regulatory Commissions was submitted. A copy of this statement is attached for record.

Need for simplifying the Schedule of Tariff for Industrial consumers with special reference to the Time of Use tariff:

While commenting on the Time of Use Tariff in the ARR order dated 07.03.19, it was submitted that the ToU tariff was introduced by the Hon'ble Commission in the year 2017 to make available heretofore surplus power of the Discoms in the 'off-peak hours' to industrial consumers at concessional rate. Hon'ble Commission had amended the earlier rebate of 15% on the normal tariff during off-Peak night hours (10 PM to 05-30 AM), which was reduced to 10% in ARR order of 07.03.19 and that too with an unrealistic condition which reads as under,

Note: This rebate shall be allowed only to the consumers who install Smart Meter/Smart Grid, irrespective of the consumer category. The same may be installed by the DISCOMs as well as by the consumer themselves as per the directions of DISCOMs. Further, if such consumer install rooftop solar system also then the rebate shall be increased to 15% and in case the rooftop solar system is accompanied by battery storage system (minimum 15% of Sanctioned Load), the rebate shall increase to 20%. The consumers may be allowed to avail these benefits by giving an undertaking to comply with the terms and conditions mentioned herein above within seven months of the date of undertaking. In case any consumers fails to comply with the undertaking within the period of seven months, the benefits so availed shall have to be refunded immediately along with the interest of 17% per annum. The ToD tariff shall not be applicable to the consumers, who source their power from Captive Generation or Open Access at any point of time after 15.06.2019.

With the above condition having been introduced in ToU, it became un-economical for the Industry to avail this ToU rebate as the Smart Grid was not to be set up by the consumers but it was to be done by the Licensee. Thus there was no use of such a provision in the Tariff Order which is only on paper and not available to any consumer.

Moreover, the surplus power available with the Discoms during night hours is not being utilized by the Industry and this power remains unutilized.

A copy of the article on Smart Grid was handed over to the Hon'ble Commission and a copy of the same is attached for record.

Need for revisiting the concept of Advance Consumption Deposit:

While commenting on this issue the Hon'ble Commission was requested to consider the following suggestions;

1. To reduce the ACD for HT Industry to one month average bill as the industry is given 7 days' time to pay the monthly bill and moreover, the Discoms are already taking into account 2 months receivables towards 'Working Capital Cost and Interest on Working Capital'.
2. While working out the Average Monthly Bill, the Discoms are taking the bills issued for gross energy consumption, which includes the power purchased by the consumers through open access. Hence the cost of power purchased through open access is accounted towards Utility power. This computation is totally wrong and results in payment of ACD on the power otherwise purchased through open access. The average bill should be calculated after adjusting the open access power.

Need to determine Distribution Retail Supply Tariff for the two Discoms based on their individual ARRs:

It was suggested that as there is vast difference in the performance level of the two Discoms, therefore the Distribution Retail tariff should also be determined for each of the Discoms separately. At present the impact of a low performing Discom (UHBVN) is being passed on to the better performing Discom (DHBVN). There should be incentive to the consumers of DHBVN rather than to compensate for the losses of UHBVN.

The above additional comments, although presented during the hearing on 12.02.20, are being submitted for reference and record of the Commission.

Commission's View: The Commission has taken note of the submissions of the Intervener on Additional Surcharge, Cross-Subsidy Surcharge, HT Tariff, Time of Day / Use tariff, separate schedule of tariff for the two Discoms and ACD. As previously observed in the present Order ACD is not an issue being dealt with in the present Order as it flows from a separate set of Regulations. All other issues shall be dealt with by the Commission at the relevant paragraphs of the instant Order.

DHBVN Reply on the Objections by M/s JINDAL Stainless

1. True-Up of Expenses for FY 2018-19:

	Objections	Replies
	<p>There are large variations even on the controllable parameters i.e. Cost of Power Purchase and Interest & Financing Cost, which need to be disallowed. Reg. 13.2 of MYT Regulations, 2012 reads as under,</p> <p><i>13.2 Truing-up of uncontrollable items shall be carried out at the end of each year of the control period through tariff resetting for the ensuing year and for controllable items shall be done only on account of force majeure conditions and variations attributable to uncontrollable factors.</i></p>	<p>It is submitted that the cost of power purchase is an uncontrollable item under Regulation 8.3.8 of HERC MYT Tariff Regulations, 2012. DHBVN submits that the figures considered for Truing Up for FY 2018-19 are as per the audited accounts of FY 2018-19.</p>
	<p>It would kindly be appreciated that every year such non-compliance of performance targets fixed by the Hon'ble Commission result in accumulation of losses of the Utilities which ultimately are carried over to the next ARR and are to be made good from the corresponding tariff increase and ultimate financial burden to the electricity consumers.</p>	<p>Nigam submits that Nigam has achieved AT&C losses of 14.90% in FY 2018-19 against the target of 15% given by the Hon'ble Commission. Moreover, in spite of having revenue gap in each year of the 2nd MYT control period, FY 2020-21 to FY 2024-25, Nigam has not sought any tariff hike.</p>
	<p>Reduced expenditure on Repair & Maintenance should be taken seriously as this reflects directly on the lack of proper</p>	<p>Nigam is focused on preventive maintenance of assets to ensure uninterrupted operations and in FY 2018-19, amount of Rs 106.88 Crore has been</p>

	Objections	Replies
	<p>maintenance of the distribution system which ultimately impacts the quality of power supply to the consumers;</p>	<p>spent on R&M activities which is approximate to the commission's approved cost.</p>
	<p>The capital expenditure allowed to the Licensee should be linked with corresponding increase in revenue and quality of power supply otherwise it is an avoidable burden on the consumers. The Licensee need to implement the Smart Grid system in the State as the grant of concession in ToD is subject to this facility.</p>	<p>Nigam submits that the Power Discoms are in process of to provide 24x7 power in the state in line of the government policy of 24x7 power supply to all. Capital expenditure for loss reduction is required. Smart Grid project in Gurgaon is under implementation, once the capacity building is achieved, the capital expenditure will also be stabilized. DHBVN would like to submit that the main thrust over the capital expenditure for the sector is to improve efficiency and meet the growing demand from the existing and new consumers. Hence, in order to ensure that the consumers are benefitted by the various schemes adopted by the Discom a meticulous planning and analysis has been done before finalizing the expenditure over the areas in order to supply quality power, and with T&D losses have been reduced from 24.47% in FY 2015-16 to 15.34% in FY 2018-19.</p>
	<p>Due to non-furnishing of voltage-wise cost of service the Commission had to adopt the average CoS for major two categories i.e. LT & HT. It results in distortion of COS to various consumers falling in HT categories (including 11 kV, 33 kV, 66 kV, 132 kV, 220 kV and 400 kV) which</p>	<p>DHBVN submits that the information is being furnished from time to time as and when required by the Hon'ble Commission. It is pertinent to mention here that Nigam has submitted actual voltage wise losses for FY 2018-19 with HERC along with additional information sought by HERC on ARR Petition for FY 2020-21.</p> <p>In regard to the voltage wise CoS,</p>

	Objections	Replies
	<p>affects the determination of Cross Subsidy Surcharge for the Industrial consumers using open access facility. While in many of the progressive States the Cross Subsidy Surcharge is determined for each voltage category of consumers.</p>	<p>Nigam submits that in line with the APTEL judgment dated 30.05.2011 in Appeal No. 102,103 & 112 of 2010 the Commission has been approached to adopt the methodology suggested by the Hon'ble APTEL in the ibid judgment dated 30.05.2011 for broadly working out voltage wise CoS for the FY 2016-17. However, the Nigam further submits that for computation of CSS, the Commission has considered the National Tariff policy. In addition, Nigam has already submitted the proposal for methodology for computation of voltage wise CoS for which Hon'ble Commission is yet to accord its approval on the same.</p>
	<p>It is disheartening that every year the Licensees report huge revenue deficit which is carried forward and attracts the resultant carrying cost as well. DHBVN alone has reported a net revenue gap of Rs. 706.53 Crore for FY 2017-18 which after taking into account the carried forward revenue gap of Rs.743.47 Crore for FY 2015-16 and the carrying cost comes to a huge gap of Rs.1651.04 Crore. Due to the inefficient working of the Discoms the consumers are unnecessarily burdened by way of huge revenue deficits and ultimate impact the consumer tariffs.</p>	<p>Nigam finds this query irrelevant with the submitted MYT petition, as the current filed petition dealt with truing up of FY 2018-19, however, it is observed that the intervener has quoted the numbers of truing up of FY 2015-16 and FY 2017-18.</p>
	<p>The Utility has approached</p>	<p>Nigam submits that the revenue</p>

	Objections	Replies
	<p>the Hon'ble Commission to allow a consolidated true up of Rs.18144.74 Crore for FY 2018-19. Moreover, the Licensee has requested the Hon'ble Commission to allow carry forward a revenue gap of Rs.3711.33 Crore. Such a proposal is an attempt to camouflage the inefficiency by the Utility and seek relaxations over the figures approved by the Hon'ble Commission. It needs to be appreciated that if such relaxations are to be allowed, then the very purpose of the detailed exercise of approving ARR and other performance parameters becomes in-fructuous. Ultimately the consumers have to bear the difference by way of successive tariff increase. Moreover, these figures do indicate the lack of seriousness of the licensee to achieve the fixed parameters.</p>	<p>gap in the ARR arises out of the difference between the Actual expenditure of the Nigam and the Projected Expenditure as approved by the Hon'ble Commission. Further, Nigam submits that the objector has made the objections against the Nigam in the name of inefficiency of the Nigam without considering the principles which allow Nigam to claim the actual expenditure. In addition to above, it is evident from the past years tariff orders issued by the Hon'ble Commission time to time that in spite of such huge revenue gap being carried by the DHBVN over the years, the consumers are not being burdened and are eased with no tariff hikes.</p>

2. Annual Performance Review of 2019-20:

	Objections	Replies
	<p>Against the estimated gap of Rs.346.98 Crore for UHBVN & DHBVN combined for FY 2019-20, these Utilities have projected a total revenue gap of Rs.1365.80 Crore. The net result is that there is resultant drop in revenue of over Rs.1000 Crore for the two Licensees</p>	<p>It is submitted that the Nigam has reported improvement in their working. The petition against which the Hon'ble Commission issued Tariff Order dated 07.03.2019 was filed on 30.11.2018 and the projections for FY 2019-20 were submitted at that time. However, at the time of filing petition for ARR for FY</p>

	Objections	Replies
	<p>since the last ARR order. This is bound to result in increased financial burden to the consumers. This is inspite of the fact that Government of India had come up with UDAY Scheme under which large sums of accumulated losses of the Utilities were passed on to the State Government so that the financial health of the Distribution Utilities could be improved and the consumers are not unnecessarily burdened by way of increased tariffs. The continuation of such poor performance of the Utilities forfeits the very purpose of Government initiative.</p> <p>Hon'ble Commission may take necessary corrective measures so that the operational efficiency of the Licensees is improved and the expenses are curtailed and to save the consumers from ever increasing burden on their electricity bills.</p> <p>The observations made on the True-up of ARR for FY 2018-19 also apply to the revised ARR for FY 2019-20, which may kindly be considered.</p>	<p>2020-21, projected figures of FY 2019-20 have been revised based on the actuals of H1 of FY 2019-20& projections for H2 have been submitted to the Hon'ble Commission under MYT Regulations, 2012.</p> <p>In regard to the objector's query on the APR for FY 2019-20, the Petitioner had already given its reply on the same issues for True-up of FY 2018-19 and the same shall be considered for the brevity to the petitioner replies for Annual Performance Review for FY 2019-20.</p> <p>In continuation to above, various initiatives have been undertaken to reduce the AT&C losses of DHBVN and has reduced significantly from 26.89% in FY 2015-16 to 14.90% by FY 2018-19.</p>

3. Annual Revenue Requirement for FY 2020-21:

	Objections	Replies
	<p>Estimated sales to HT Industries and the energy booked to the Agriculture Consumers need to be examined carefully as these have</p>	<p>Nigam submits that the category wise energy sales for MYT Period from FY 2020-21 to FY 2024-25 have been projected by considering</p>

	Objections	Replies
	<p>considerable impact on the estimated revenue receipts and ultimate revenue gap. While the error in estimates of industrial consumers would result in actual revenue receipts of the Licensee, on the other hand the extra energy booked to the agriculture sector would largely impact the amount of RE Subsidy to be received from the State Govt.</p>	<p>Compound Annual Growth Rate (CAGR) of previous years' sales. Keeping in view the category wise load growth, base year sales have been escalated with appropriate CAGR for estimating the sales for MYT Control Period in line to HERC MYT Tariff Regulations, 2019.</p>
	<p>Hon'ble Commission had made following observations in the last ARR order for FY 2019-20,</p> <p><i>"The Commission, in its Tariff Order dtd. 15/11/2018, had directed the Petitioners to engage a third party for authenticating the AP sales data for FY 2017-18 and supply hours vis-a-vis reasons of variance in supply hours and to submit analysis report at the time of next ARR filling. However, the said directive remained un-complied as the requisite report is still awaited. The Commission now directs the Petitioners to include the FY 2018-19 AP Sales data as part of the same scope of work and submit its report within 3 months from the date of this Order. In its absence the Commission shall be constrained to consider true-up of AP sales."</i></p>	<p>Nigam would like to apprise here that all the AP feeders of DISCOM are already metered and the energy consumption data received from these meters is duly monitored and analysed by the operation wing of the Discoms. Regarding third party audit of AP feeders, it is intimated that UHBVN has already carried out third party audit of AP Sales on selected feeders through EESL and the same is being submitted to HERC on behalf of both Discoms.</p>
	<p>While submitting energy balance for DHBVN, the Licensee has mentioned in Table 46 that there will be lot of surplus power during FY</p>	<p>Nigam submits that the licensee is under universal obligation to supply power to the consumer in state. The power demand is uneven</p>

	Objections				Replies												
	<p>2020-21 and in the subsequent years of the control period. FY 2019-20. The relevant figures given in Table 21 on Page 45 of the ARR filing are reproduced hereunder for kind reference,</p> <table border="1"> <thead> <tr> <th>Energy Balance</th> <th>Unit</th> <th>FY 2020-21</th> <th>FY 2021-22</th> </tr> </thead> <tbody> <tr> <td>Power Purchase at State Periphery</td> <td>MUs</td> <td>36,371</td> <td>38,347</td> </tr> <tr> <td>Surplus</td> <td>MUs</td> <td>4,785</td> <td>4,718</td> </tr> </tbody> </table> <p><i>Surplus power available during the MYT Control Period is proposed to be sold entirely through power exchange at average variable power purchase cost of the corresponding years.</i></p> <p>The above statement shows that the Licensee is projecting huge surplus in power availability all through the Control Period and this surplus power is proposed to be sold at average variable power purchase cost. This is to be appreciated that if the Licensee does not require this power then why should the Licensee buy extra power in the first place and then sell it at a loss. It would further be noted that every now and then Licensee is approaching the Commission seeking permission to buy additional power on one pretext or other.</p> <p>If the Licensee is surplus of power then it is absurd to approach the Hon'ble Commission seeking permission to buy extra power at high</p>				Energy Balance	Unit	FY 2020-21	FY 2021-22	Power Purchase at State Periphery	MUs	36,371	38,347	Surplus	MUs	4,785	4,718	against the flat supply curve. Hence, in view of minimizing the burden of cost of unutilized power, major portion of the resultant surplus power in off peak hours is being banked for utilization in peak seasons.
Energy Balance	Unit	FY 2020-21	FY 2021-22														
Power Purchase at State Periphery	MUs	36,371	38,347														
Surplus	MUs	4,785	4,718														

	Objections	Replies
	<p>rates on the ground of shortage in power availability and then sell this power at a low rate. We have been raising this issue during various hearings relating to the proposal for new power purchases. Hon'ble Commission may kindly consider this fact while approving any new power purchase proposal. Such action of the Licensee results in,</p> <p>a) Increased cost of power purchased and sale of surplus power at a rate lower than the purchase rate and resultant revenue gap;</p> <p>b) Inflated figures of so-called stranded power, which results in higher Additional Surcharge to be paid by consumers availing open access facility.</p>	
	<p>In Table 49 the Licensee has projected R&M expenses or the Control Period with normal increase every year. As already pointed out the Licensee has successively not been able to spend the earmarked amount on this activity. Hence a realistic provision may kindly be allowed instead of un-necessarily inflating the Annual Revenue Requirement.</p>	<p>Nigam submits that Nigam is focused on preventive maintenance of assets and as a result the expenditure in FY 2018-19 and in current years has increased substantially. In FY 2018-19 amount of Rs 106.88 Crore has been spent on R&M, while the R&M cost for MYT Control Period has been projected in line with Regulation 57.3 of the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2019.</p>
	<p>In Table 58 of the filing Net Interest & Financing Charges have been</p>	<p>It is submitted that the Nigam has projected the interest on long term</p>

	Objections	Replies
	projected for FY 2020-21 to FY 2024-25. There is large increase in 'Long Term CAPEX Loans' over the years. These provisions may kindly be approved evaluating the expected improvement in the distribution system and ultimate benefit to be accrued to the consumers.	loans as per projected capital expenditure filed with the Hon'ble Commission in line to HERC MYT Tariff Regulations, 2019, which is being funded by FIs/Banks.
	The Licensee has been recovering large amount by way of FSA from different categories of consumers, and other charges such as Wheeling Charges, Cross Subsidy Surcharge and Additional Surcharge from Open Access Consumers which have not been reflected in revenue projections. Due provisions for these revenues may please be ensured while allowing the total revenue requirement.	It is submitted that FSA is not a part of ARR, while the projection of ARR is in line to the HERC MYT, Regulations 2019, and the non-tariff income is suitably adjusted by the HERC while allowing ARR to the Discom.
	The Licensee has projected the same figure of Rs.307.66 Crore as 'Non-Tariff Income' right through since FY 2018-19. This should be approved looking at the actual figures of receipt in the past.	Nigam has kept the non-tariff income in line to the actual audited figures for FY 2018-19.
	In Table 66 of the ARR filing the Licensee has indicated that there will be huge revenue gap throughout the Control Period. Nothing has been proposed for bridging this gap or steps to be taken to meet this gap. This gap can only be closed by improving the performance of the Licensee and plugging holes where there is perpetual loss of revenue, like	After UDAY the DHBVN have shown significant improvement in operational and financial parameters, thus, no additional OFR requirements posed and the benefits in shape of FSA reduction has already been passed on to the consumers.

	Objections	Replies
	recovery of long outstanding dues from the defaulting consumers and effective control on theft of energy.	

4. Some of the important issues needing immediate attention of the Hon'ble Commission:

	Objections	Replies
	<p>Need for rationalization/reduction of levy of Additional Surcharge:</p> <p>We have been raising this issue in every hearing on the subject including the time of approval of ARR of the Distribution Licensees. Some of the major issues raised included,</p> <p>A. Multiplicity of recovery of so called Fixed Charges paid to the generating companies;</p> <p>a) The Fixed Cost is fully booked in the cost of power purchase allowed to the Licensee through every successive ARR order;</p> <p>b) The Fixed Demand Charges recovered from the consumers include substantial part of the fixed cost borne by the Licensee;</p> <p>c) During True up of ARRs at the end of each Financial Year, the difference in approved and actual power purchase cost is allowed to the Licensee and hence the total fixed cost is accounted for in the annual expenditure of the Licensee;</p> <p>d) While computing the FSA, any unrecovered gap in the cost of power purchase is fully figured in.</p> <p>e) The Licensee has stated in the ARR</p>	<p>The issue raised by the intervener is already addressed and decided by the Hon'ble Commission in its past Tariff Orders.</p> <p>However, it is submitted that under the Sub Section (4) of the Section 42 of Electricity Act-2003, discoms have a universal supply obligation and are required to supply power as and when required by the consumer in area of supply. Considering the load and maximum demand, the discom entered into long term power purchase agreements (PPAs) with seller (generators/traders) so as to ensure supply of power.</p> <p>While contracting energy through long term PPAs, the tariff payable to generator consists of two parts i.e capacity charge and energy charge. Therefore, the discoms has the fixed cost obligation even when there is no off take of energy through such source.</p> <p>Whenever any consumer opts for open access the discoms continue to pay capacity charges in lieu of its contracted capacity with</p>

	Objections	Replies
	<p>filing that it will sell the surplus power over the Power Exchange Platform. Thus the power so sold brings revenue to the Licensee. Moreover, the Licensee also buys substantial power over the Exchange.</p> <p>f) The power claimed to have been surrendered/backed down depends on what was the PLF of the specific generating stations.</p> <p>g) Moreover, the power scheduled by the Open Access consumers is not Round the Clock power but only in certain time blocks. This has impact on the calculations submitted by the Licensee for determination of Addl. Surcharge.</p> <p>h) The Petitioner needs to certify that the backing down was as per their instructions and not a fait accompli.</p> <p>i) It has to be certified that the backing down was done on merit order basis and not by pick and choose method.</p> <p>B. It needs to be appreciated that in majority of States no Addl. Surcharge is levied on Open Access Consumers. Any such levy proves a dis-incentive to buy cheaper power available over the Power Exchange from outside the State sources and frustrates the very purpose of facilitating the concept of Open Access provided under the Electricity Act, 2003 and Tariff Policy framed thereunder.</p> <p>C. As a result of these exorbitant additional cost levied on open access consumers in</p>	<p>the Generating stations and the discoms are unable to sufficiently recover such fixed obligatory cost from the open access consumers. The cost recovered from the fixed charges in the tariff schedule is less than the entire fixed cost incurred by the discom for supplying energy. This leads to the situation where the discom is saddled with the stranded cost on account of its universal supply obligations.</p> <p>Section 42 (4) of the electricity Act 2003 provides as under:</p> <p><i>“where the State Commission permit a consumer or class of consumers to receive supply electricity from a person other than the distribution licensee of his area of supply, such consumers shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply”.</i></p> <p>When embedded consumers move out of the system of the distribution licensee, the distribution licensee has to bear stranding power under long term PPAs causing financial loss to the distribution licensees and the</p>

Objections	Replies
the State makes this power to be availed by consumers in other States and denying this benefit to the State's own consumers.	<p>same needs to be compensated by way of additional surcharge as determined by the State Electricity Regulator in terms of the applicable Regulations.</p> <p>In view of the adverse financial situation caused by arrangements made for complying with the obligation to supply, Section 42(4) of the Electricity Act, 2003 provides as under:</p> <p><i>"Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply."</i></p> <p>Section 8.5 of the Tariff Policy 2016 also provides;</p> <p><i>"The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an</i></p>

Objections	Replies
	<p><i>unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges.”</i></p> <p>Further, clause 5.8.3 of the National Electricity Policy notified by the Ministry of Power, Govt. of India, reads as under:</p> <p>“5.8.3...</p> <p><i>An additional surcharge may also be levied under sub-section (4) of Section 42 for meeting the fixed cost of the distribution licensee arising out of his obligation to supply in cases where consumers are allowed open access.</i></p> <p>...</p> <p>The Tariff Policy and Regulations putting the onus on DISCOMs to conclusively demonstrate that the power purchase commitments have been and will continue to remain stranded. However, with consumers frequently switching their mode of supply between DISCOM and open access, it becomes difficult for the DISCOM assess the quantum of power that will continue to remain stranded. Moreover, the quantum of stranded power does not remain constant throughout the year or a month or a week or even a day.</p> <p>It is factual that DISCOMs may also</p>

Objections	Replies
	<p>surrender power due to other reasons like seasonal variations, purchases from Power Exchange, RTC short term power purchases of DISCOMs etc. In some cases, additional renewable capacity may have been added to ensure compliance to RPO and not to meet demand. The burden of surrender of power excluding stranded due to open access is being shared by all consumers through tariff.</p> <p>However, in order to differentiate between stranded capacity due to open access and other factors, minimum of power backed down/surrendered and open access quantum is being considered for computation of additional surcharge. Thus, stranded capacity due to open access is being considered for determination of additional surcharge under prevailing regulations as stated by the objector.</p> <p>In order to cater the demand or load, utility has to develop a healthy distribution network keeping in view the maximum load and the load which is likely to come in near future. The Demand charges only cover Licensee's fixed costs of providing a certain level of energy to its consumers.</p> <p>A perusal of the aforesaid mentioned facts amply clears that the demand</p>

	Objections	Replies
		charges and Additional Surcharge are not correlated. The demand charges are recovered on account of investment in the distribution network made by the Licensee whereas additional surcharge is meant to compensate Discoms for fixed cost of the stranded capacity due to Open Access Consumers and is borne by the licensee.
	<p>Need for determination of Cost of Service and Cross Subsidy Surcharge for each voltage level:</p> <p>Hon'ble Commission has been repeatedly giving directions to the Distribution Licensees to submit voltage-wise cost of service but the Licensees have failed to comply with this direction. The result is that the Commission decides the CoS for two major groups i.e. LT and HT supply. This leads to unrealistic determination of CoS for consumers getting supply at different voltages i.e. the consumers getting power supply on 11 kV, 33 kV, 66 kV, 132 kV, 220 kV or 400 kV are being clubbed together. If we look at the practice being followed in other States we will notice that the Cross-Subsidy Surcharge is determined for each voltage level. Even the tariff schedule approved by the Hon'ble Commission recognizes the impact of difference in CoS at different voltage levels. We would request the Hon'ble Commission to fix the CoS for different voltages.</p>	In this regard reply has already been submitted above and not repeated here for the objector's sake of brevity. Nigam request the Hon'ble Commission to consider the same.
	Need for simplifying the Schedule of Tariff	It is submitted that the Smart Metering

Objections	Replies
<p>for Industrial consumers with special reference to the Time of Use tariff: While introducing the Time of Use Tariff in the ARR order dated 11.07.17, Hon'ble Commission had allowed a rebate of 15% on the normal tariff during off-Peak night hours (10 PM to 05-30 AM). This was however, changed in subsequent ARR order to 10%. In the last ARR order dated 07.03.2019 this benefit has been practically withdrawn, which reads as under,</p> <p><i>Note: This rebate shall be allowed only to the consumers who install Smart Meter/Smart Grid, irrespective of the consumer category. The same may be installed by the DISCOMs as well as by the consumer themselves as per the directions of DISCOMs. Further, if such consumer install rooftop solar system also then the rebate shall be increased to 15% and in case the rooftop solar system is accompanied by battery storage system (minimum 15% of Sanctioned Load), the rebate shall increase to 20%. The consumers may be allowed to avail these benefits by giving an undertaking to comply with the terms and conditions mentioned herein above within seven months of the date of undertaking. In case any consumers fails to comply with the undertaking within the period of seven months, the benefits so availed shall have to be refunded immediately alongwith the interest of 17% per annum. The ToD tariff shall not be applicable to the consumers, who source</i></p>	<p>is being implemented in Gurugram and Faridabad cities under pilot project. DHBVN has planned to roll out 5 Lakhs smart meters through EESL under OPEX mode by March'2021. The smart metering project is expected to get commissioned by the end of FY 2020-21. DHBVN has also planned to roll out smart metering in balance part of urban areas for which tendering is under process.</p> <p>However, regarding rebate on ToU tariff, rebate shall be allowed only to the consumers who install Smart Meter in line with Commission's directives.</p>

	Objections	Replies																														
	<p><i>their power from Captive Generation or Open Access at any point of time after 15.06.2019.</i></p> <p>The fact remains that this ToD benefit is a non-existing rebate. In the absence of Smart Grid (which is to be provided by the Licensee) these rebates are illusionary only. The fact is that the night time rebate in tariff has been disallowed.</p>																															
	<p>Need for reduction in electricity tariff for industrial consumers:</p> <p>As is very well known, the industry is passing through a serious slow down phase. This is also an undisputed fact that industry is the largest revenue earner for the State. Therefore, all out efforts need to be made to promote industrial activity in the State by giving maximum reliefs. In order to promote industry in the State electricity tariffs for industrial consumers need to be reduced.</p> <p>We would urge the Hon'ble Commission to reduce the tariff for industrial consumers and reduce the cross subsidy being paid by the industrial consumers through higher tariff rates. Let every consumer pay for the cost of service.</p>	<p>It is submitted that the tariff of different states cannot be compared due to difference in power purchase mix, loss levels, Consumer Mix and thereby the Cost of Supply. The comparison of tariff in various states should be judged against respective average power purchase cost as the tariff rationalization is based on the overall approved annual revenue requirement of the DISCOMs, out of which around 85% to 90% corresponds to the net power purchase cost. The Tariff for a particular consumer category is determined by the Commission on the basis of the Annual Revenue Requirement approved for a particular year. The tariff comparison of HT consumers in Haryana and the neighboring states is given below for ready reference:</p> <table border="1" data-bbox="954 1813 1446 2040"> <thead> <tr> <th>Particulars</th> <th>Haryana</th> <th>Delhi</th> <th>Punjab</th> <th>Rajasthan</th> <th>U.P.</th> </tr> </thead> <tbody> <tr> <td>Energy Charges</td> <td>7.28</td> <td>8.61</td> <td>6.64</td> <td>7.30</td> <td>7.56</td> </tr> <tr> <td>FSA/FCA</td> <td>0.37</td> <td>0.34</td> <td>-</td> <td>0.39</td> <td>-</td> </tr> <tr> <td>Duties and Taxes</td> <td>0.26</td> <td>1.57</td> <td>1.25</td> <td>0.40</td> <td>0.60</td> </tr> <tr> <td>Fixed Cost</td> <td>0.39</td> <td>0.58</td> <td>0.60</td> <td>0.32</td> <td>0.50</td> </tr> </tbody> </table>	Particulars	Haryana	Delhi	Punjab	Rajasthan	U.P.	Energy Charges	7.28	8.61	6.64	7.30	7.56	FSA/FCA	0.37	0.34	-	0.39	-	Duties and Taxes	0.26	1.57	1.25	0.40	0.60	Fixed Cost	0.39	0.58	0.60	0.32	0.50
Particulars	Haryana	Delhi	Punjab	Rajasthan	U.P.																											
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	Objections	Replies							
		<table border="1" data-bbox="954 249 1441 294"> <tr> <td>Total (Rs/unit)</td> <td>Rate</td> <td>8.30</td> <td>11.09</td> <td>8.49</td> <td>8.41</td> <td>8.6</td> </tr> </table> <p>From the above, it can be inferred that the effective industrial tariff in the neighbouring states with comparable sources of power purchase is higher than the industrial tariff in Discoms of Haryana.</p>	Total (Rs/unit)	Rate	8.30	11.09	8.49	8.41	8.6
Total (Rs/unit)	Rate	8.30	11.09	8.49	8.41	8.6			
	<p>Need for implementation of Solar Policy and Bio-energy Policy notified by the State Government:</p> <p>The State Government notified the Solar Policy, 2016 on 14.03.2016 and Bio-energy Policy on 09.03.2018. Through these Policies large number of incentives/waivers were given to the developers. In respect to wheeling of such RE power, some of the incentives given through these Policies were as follows,</p> <p><i>Clause 4.3 of Solar Policy, 2016</i></p> <p><i>Exemption of Electricity Duty & Electrical Taxes & Cess, Wheeling, Transmission & Distribution, cross subsidy charges, surcharges and Reactive Power Charges:</i></p> <p><i>All electricity taxes & cess, electricity duty, wheeling charges, cross subsidy charges, Transmission & Distribution charges and surcharges will be totally waived off for Ground mounted and Roof Top Solar Power Projects.</i></p> <p><i>Clause (F) under Chapter-3 (Incentives) of Bio-Energy Policy, 2018</i></p> <p><i>Exemption of Transmission & Distribution, cross subsidy charges, surcharges and Reactive Power Charges:</i></p> <p><i>All cross-subsidy charges, Transmission &</i></p>	<p>In order to promote RE generation in the state of Haryana, Nigam is entering into power purchase agreements with RE generators, promoting rooftop solar under various schemes, promoting off grid solar pump sets to agricultural consumers, investments in infrastructure & capacity augmentation to provide RE generators point for grid injections, etc. Nigam finds this objection of the intervener more focused on monetary benefits to an individual suppressing the above efforts of the Nigam to promote RE generation in the state of Haryana.</p> <p>Further, regarding exemption of charges under Solar Policy 2016 and Bio-energy Policy, it is submitted that the Discom being a revenue neutral entity, in case such exemption is allowed to RE generator then the burden of same is either to be passed on to the consumers in form of tariff or is to be neutralized by the State Government in form subsidy under Section 65 of the Electricity Act 2003, reproduced here as under:</p>							

	Objections	Replies
	<p><i>Distribution charges, surcharges and reactive power charges will be totally waived off for any biomass projects set up in the State.</i></p> <p>However, Hon'ble Commission has not so far given these benefits to these RE Generators. Due to this prevailing condition, the growth of power generation from Solar and Bio-mass sources is one of the lowest in Haryana compared to other States in the country. Recently Hon'ble Chief Minister had taken a serious note of this situation and suitable directions would be forthcoming from the Govt. in this regard. There is need for taking a comprehensive view so that these RE sources of power could be harnessed for benefit in the State.</p>	<p><i>"If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the license or any other person concerned to implement the subsidy provided for by the State Government:</i></p> <p><i>Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard."</i></p>
	<p>Need for revisiting the concept of Advance Consumption Deposit:</p> <p>Although S.47 of the EA-2003 and Reg. 5 of HERC/34/2016 Regulations permit the Licensee to recover Reasonable Security from the consumers but this has to be commensurate the purpose for which this is charged. At present this Regulations allows</p>	<p>It is submitted that the demand of additional Advance Consumption Deposit (ACD) based on consumption pattern in accordance with the Regulation 5.9 (1) of Commission Regulation No. HERC/34/2016 dated 11th July, 2016 of Haryana Electricity Regulatory Commission (Duty to</p>

	Objections	Replies
	<p>recovery of 1.5 times the Average Monthly Bill from HT Industrial consumers. Such an amount of Security amounts to a huge amount for the industrial consumers who are already working under adverse financial scenario. Moreover, it needs to be appreciated that the industrial consumers are required to pay their monthly electricity bills within 7 days of issue of bill, other categories are allowed 15 days.</p> <p>Moreover, the Licensee is allowed Working Capital which includes revenue recoverable equivalent to 2 months billing. Therefore, there is need to reduce the Security being charged from HT Industry from existing 1.5 times of average bill to maximum 1 time.</p>	<p>supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2016, the relevant excerpt of the aforesaid regulation is reproduced here as under:</p> <p><i>“At the beginning of the financial year, the licensee shall review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year. A consumer, except the HT industrial supply consumer, is required to maintain a sum equivalent to his average payment for the period of two billing cycles. An HT industrial supply consumer, is required to maintain a sum equivalent to his average payment for the period of one and half billing cycles.”</i></p>
	<p>Need to merge the Fuel Surcharge Adjustment at the time of ARR:</p> <p>In fact the concept of Fuel Surcharge Adjustment was introduced under the Electricity Act, 2003 to avoid need for frequent amendment in the tariff. But it has become a necessary evil and is continuing since the initiation.</p> <p>S.62(4) of the Electricity Act, 2003 reads as under,</p> <p><i>62(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect</i></p>	<p>It is submitted that the Dakshin Haryana Bijli Vitran Nigam (DHBVN) levied Fuel Surcharge Adjustment as a pass-through cost to its consumers in accordance with HERC (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012 on a quarterly basis. The relevant regulation is as under:-</p> <p><i>“66.1 The distribution licensees shall</i></p>

	Objections	Replies
	<p>of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</p> <p>Therefore, the Fuel Surcharge Adjustment is to be allowed for mid-year tariff adjustment and not as a perpetual levy. Thus, the prevailing FSA should be reduced to zero while determining the Distribution Retail tariff for each Financial Year.</p>	<p>recover FSA amount on account of increase in fuel and power purchase costs from the consumers on a quarterly basis so as to ensure that FSA accrued in a quarter is recovered in the following quarter without going through the regulatory process i.e. FSA for the quarter "July to September" is recovered in the following quarter "October to December".</p> <p>That Power generation companies, on account of increase in variable cost due to uncontrollable parameters, charge the primary fuel price adjustment to the Discoms. The fuel price adjustment is calculated as per the methodology defined in the section 33 of the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012.</p> <p>Hence, per unit fuel cost pass-through has been calculated based on the norms and guidelines laid down by Hon'ble Haryana Electricity Regulatory Commission and is being imposed in accordance with the regulations of the Hon'ble Commission.</p>
	Assets taken over from consumers/ colonizers/ developers against self-	Nigam submits that the Gross Fixed Assets of DHBVN has already

Objections	Replies
<p>execution schemes/ deposit estimates: Large sums are recovered from consumers/ colonizers/ developers against Deposit Estimates or Self-Execution Works. There is no such fact mentioned in the ARR filing. The assets as taken over by the Licensee should appear in the total Assets created during the year through consumer contribution /taken over from third party free of cost.</p>	<p>includes the assets created out of consumer contribution and grants, however, the depreciation claimed under petition has already deducted the value of assets created from consumer contribution & grants. In continuation to above, assets created out of consumer contribution and grant is already shown separately under Reserves & Surplus head in audited accounts of the Discom.</p>

Commission's View: The Commission has taken note of the objections of the Intervener as well as the reply filed by the Nigam and shall keep the same in mind while dealing with the ARR / Tariff Petition under consideration.

2.3.3 Comments by Cold Chain Supply.

The objections filed by the Cold Chain Supply are briefly stated below: -

It has been submitted that the Haryana Government has decided to encourage small Agro-based Industry including Cold Supply Chain by making electricity available to them @ 2.50 / Unit with an objective to generate employment, income and earnings in the sector. So far, for such activities, under HT and LT Supply the existing tariff ranges from Rs. 8.00 to Rs. 8.35 / Unit. This, as per the State Govt., has been reduced to 2.50 / Unit and 4.50 / Unit. The Agriculture / Horticulture Department has been mandated to provide the requisite grant by means of Direct Benefit Transfer (DBT). A list of beneficiaries (provided by the Intervener) to be supplied electricity at Rs. 2.50 / Unit and Rs. 4.50 / Unit is as under: -

1. पैक हाऊस व इसके अन्तर्गत की जाने वाली गतिविधियां जैसे की राईपनिंग, प्रिकूलिंग, कोल्डरूम, ग्रेडिंग लाइन इत्यादि।
2. मशरूम हाईटेंक एवं मशरूम कम्पोस्ट इकाई।
3. शहद प्रसंस्करण इकाई
4. टिशू कल्चर लैंब
5. दुग्ध से संबंधित बल्क मिल्क चैंबर

बागवानी संबंधित इकाईयां जिन पर बिजली दर 4.50 रुपये प्रति यूनिट की गई

1. कोल्ड स्टोर
2. सी.ए. स्टोर

ये दर जिस क्षेत्र में लागू होगी

1. ग्रामीण क्षेत्र
2. शहरी क्षेत्र

लाभार्थी जो इस योजना के पात्र होंगे

1. किसान
2. कृषक उत्पादक संघ जो एस.एफ.ए.सी.एच (लघु कृषक व्यापार संघ हरियाणा) से सूचीबद्ध
3. को-ऑपरेटिव समितियां
4. व अन्य बागवानी संबंधित एम.एस.एम.ई. इकाईयां

Commission's View:

The small Agro-Industries in Haryana viz. Pisciculture, floriculture, sericulture, animal husbandry, poultry, mushroom, dairy, cold storage, FPO, pack house, grading, packaging, pre-cooling & ripening chamber, honey – bee keeping, tissue culture, pig farms etc. are, so far, considered under General Purpose category / NDS Supply. The tariff issue of such electricity consumers was deliberated at length in the Public Hearing on the ARR / Tariff Petition filed by the Haryana Power Utilities as well as in the State Advisory Committee (SAC).

The Commission agrees with the stakeholders that such Industries have very strong backward and forward linkage with the State Agrarian Economy in terms of employment, income and earnings. Additionally, such consumers have very limited ability to pass – on the 'input cost' including cost of electricity to their ultimate consumers unlike the established Industrial Consumers of electricity. Hence, the Commission is inclined to accept the contention of the stakeholders that some cushion ought to be provided to such consumers without disturbing the revenue balance of the Distribution Licensee(s) in Haryana. The Commission, while determining consumer category wise tariff shall reckon with the same.

2.3.4 Comments of Bharti Infratel Ltd

(Plot No -1, Anantraj Tech Park, 8th Floor South Side Sector 22, IT Park Panchkula - 134109, Haryana)

1. That the Applicant M/s Bharti Infratel Limited, a Limited Company incorporated under the provisions of the Companies Act, 1956, having its Registered office at Bharti Infratel Ltd, 901, Park Centra, Sec-30, NH-80, Gurugram, Haryana-122001 and Circle Office at 8th Floor, Anant Raj Technology Park, Plot no-L, Sec-22, Panchkula, Haryana- 134109. The Applicant Company is registered as infrastructure provider category-I i.e. (IP-I), by the government of India Ministry of Communication and IT, Department of Telecommunication, New Delhi.
2. That we have obtained around 777 electricity connections in various circle of DHBVN for our cell sites/Towers and are paying approximately Rs.3 Cr./month towards the electricity charges/bills. It is pertinent to mention here that around 95% of our bills are being paid within the due date fixed by your department and the balance 5% are those cases where we encounter or face any issues like (Non-Metered, High average, received after due date or bills issued before 2-3 days from due date). Therefore, in a way we have been paying 100% Electricity bills well within the due date.
3. That we would like to bring in to the notice of this Hon'ble Commission that state like Bihar have two power distribution company (NBPDCCL/SBPDCCL) and both companies have been providing monthly rebate to all the consumers (As per tariff ordered FY 19-20) in below two categories.
 - i) Rebate for payment within Due date: - The due date for making payment of energy bills or other charges shall be 15 days from the date of issue of the bill. Rebate of 1.5% on the billed amount for payment of the bills within the due date.
 - ii) Rebate for online payment :- To motivate the consumers to make online payment of the bills through online web portal a rebate of 1 % of the billed amount in addition to rebate @ 1.5% shall be allowed. However, online payment rebate shall be applicable if the consumer makes full payment of the bill within due date Copy of Tariff order attached for reference (Page no.439 and point no.2, Bihar Electricity Regulatory Commission, Tariff Ordered, Truing up for FY 2017- 18, Annual Performance Review for FY

2018-19, Business Plan and Annual Revenue Requirement (ARR) for the Control Period of FY 2019-20 to FY 2021-22 and Determination of Retail Tariff for FY 2019-20)

4. Similarly, in Odisha state, there are four power distribution company (NESCO, WESCO, SOUTH and CESU) and all company have been providing monthly rebate to consumers (As per tariff ordered FY 19-20) in below categories.

Incentive for making payment within due date:- The Commission examined the existing method of incentive and its financial implications. The Commission has decided to grant incentive for making payment within due date as below:

- a) A rebate of 1 paise/unit shall be allowed on energy charges if the payment of the bill (excluding all arrears) is made by the date indicated in the bill in respect of the following categories of consumers.

LT: Domestic, General purpose < 110 KVA, Irrigation Pumping and Agriculture, Allied Agricultural Activities and LT Industrial (S), Public Water Works and Sewerage Pumping.

HT: Bulk supply Domestic, Irrigation Pumping and Agriculture, Allied Agricultural activities, General purpose >70< 110 KVA, Public water work and sewerage pumping.

Copy of Tariff order attached for reference. (Page no. 134 and point no.440, Odisha Electricity Regulatory Commission, date of ordered 29-03-2019, in the matter of: Applications under Section 42 of the Electricity Act, 2003 read with Regulations 4 (1) (xiv), 2 (vii) and 3 (vi) of the OERC (Determination of Open Access Charges) Regulations, 2006 and other enabling provisions of the OERC (Terms and Conditions of Open Access) Regulations, 2005 of DISCOM Utilities namely NESCO, WESCO, SOUTHCO and CESU for approval of wheeling charge, surcharges and additional surcharges for FY 2019- 20).

Therefore, in view of the detailed submissions made above, we submit our suggestions / request to the Commission for considering our request for providing some rebate for making payments within due date and Online payments similarly in line with the tariff cases elaborated above for the State of Bihar & Odisha.

Commission's View – The Commission has taken note of the relief sought by the Intervener.

2.3.5 Comments of Delhi Metro Rail Corporation Ltd.

1. That this Hon'ble Commission vide public notice has invited objections/suggestions on the petition(s) filed by HPGCL, HVPNL, UHBVNL and DHBVNL for approval of true-up for the FY 2018-19, Annual (Mid-year) performance review for the FY 2019-20, Multiyear Tariff for the control period FY 2020-21 to FY 2024-25.
2. That the instant objections have been filed inter-alia praying for determination of special tariff in respect of Objector namely Delhi Metro Rail Corporation Ltd and inclusion of directions regarding differential payment to DHBVNL & UHBVNL inter-alia on the following grounds: -
 - (i) That the Applicant/objector is engaged in the activity of providing Mass Rapid Transit System for National Capital Region of Delhi including Gurugram and Faridabad and is performing a public utility function having social benefits. In connection with the above activities, DMRC requires electricity to run metro trains, for ancillary activities, for operational requirements, for supply to commercial, domestic and other establishments inside the metro stations and for real estate development outside the metro stations.
 - (ii) In order to ensure safety to its passengers, providing subsidized fares, reduction in financial burden upon the commuters, the applicant/objector/DMRC has established various metro stations having commercial establishments, which is being used by various entities including companies, individuals etc. In order to assist them, in running the establishments, DMRC is providing electricity to such establishments situated within the premises of Metro Stations from its own network of 33 KV/415 KV from sub-station situated at each metro station.
 - (iii) That the applicant/objector takes power supply from DHBVN and UHBVN at 66 KV & 132 KV voltage level for running of metro trains and supporting auxiliary services of the stations, air conditioning, Lift & escalators and lightening etc, to run the amenities of the stations. Further, a part of its power supply infrastructure is used to extend power supply to DMRC's commercial consumers.

- (iv) That the applicant has set up sub-stations and cable network to meet the station auxiliary power requirements. In case DISCOMs (DHBVNL & UHBVNL) have to extend the supply of power to commercial consumers of DMRC within the stations footprints, then, DISCOMs (DHBVNL & UHBVNL) would have to build additional infrastructure and incur capital cost for transformation of power from 66/132 KV voltage level to 415 KV voltage level for supplying the same to the commercial establishments of DMRC. Presently, DMRC has provided the entire requisite infrastructure for the purposes of transformation and supply of power from 66/132 KV voltage level to 415 KV incurred for its commercial establishments within the station footprints. The DISCOMs (DHBVNL & UHBVNL) would further require the space for installation and erection of substations and ancillary equipments, if connected separately.
- (v) That the applicant receives the power supply at higher voltage from DISCOMs and further step down the same at the receiving substation of DMRC in two parts which is as under:-
 - (a) Power supply at 25 KV:-
This power is directly taken to overhead traction lines of DMRC at 25 KV for running of Metro trains
 - (b) Auxiliary Power Supply: -
The power supply is stepped down to 33 KV and taken to different Metro Stations in loop in and loop out configuration. 33 KV power supply is further stepped down to 415 V for auxiliary requirements of stations such as signaling equipment, telecommunication, lift, light, fan and escalator etc. in the station premises.

Power is also given to commercial establishments at the stations. Separate billing is being done by DMRC to these commercial units. Differential amount (between commercial tariff and DMRC's tariff) is calculated and deposited to DISCOMs.

For better understanding of this arrangement, a brief Schematic of above-mentioned arrangement is attached as Annexure-A.

- (vi) That the applicant/objector operates and maintains the above mentioned network and bears the transformation & distribution losses below 66/132 KV level. DISCOMs do not incur any additional expenses beyond the metering point which is provided at 66 KV/132 KV level.
- (vii) That the applicant raises electricity bills & collects the electricity charges from commercial consumers as per applicable tariff issued by Hon'ble commission, which further relieves the DISCOMs (DHBVNL & UHBVNL) from metering, billing & collection.
- (viii) That the applicant, attempted to deposit the differential amount to DHBVNL which was not accepted by them during the year 2016. Later on, DMRC had started making payments through online bank transfer of the differential amount.
- (ix) That the applicant/DMRC, in the part of Delhi Region, was allowed to raise the bills for commercial establishments at Metro station premises on behalf of the distribution licensee of Delhi and is allowed to retain a part of the total amount collected from the commercial establishments against the supply of energy. A copy of the relevant extracts of the Order on ARR and Tariff Petition of North Delhi Power Ltd. for FY 2004 -05 is attached hereto and marked as Annexure B.
- (x) That the same order was further made applicable to the other distribution companies in Delhi i.e. BSES Yamuna Power Ltd and BSES Rajdhani Power Ltd. vide Tariff Order for FY 2011-12 passed by the Hon'ble DERC. The same is attached hereto and marked as ANNEXURE 'C'.
- (xi) That the applicant/DMRC was allowed by DERC to retain 5% of tariff along with an additional retention amount of 4% (for source connected at 66 KV) or 5% (for source connected at 220KV) vide order dated 29.02.2012 passed by DERC & read with Tariff order for FY 2018-19, w.e.f 01.04.2018. A copy of the order dated 29.02.2012 passed by the Hon'ble DERC & relevant pages of Tariff order for FY 2018-19, w.e.f 01.04.2018 passed by DERC is attached hereto and marked as ANNEXURE 'D'.
- (xii) That the applicant/DMRC is thereafter collecting, calculating differential amount and depositing the same with the distribution licensees after retaining a portion of amount so collected, against the services rendered by DMRC.

- (xiii) The arrangement as approved by Delhi Electricity Regulatory Commission is based on sound commercial principle as well as in line of object of Electricity Act, 2003 for promotion of efficient policies and economic use of resources by optimizing investments.
- (xiv) That the applicant/DMRC herein requests the Hon'ble Commission to allow similar rebate in case of Haryana i.e. 9 % for taking power supply at 66 KV and 10 % for taking power supply at 132 KV/220 KV.
- (xv) That the applicant herein submits a draft proposal of procedure for differential payment to be done to DISCOMs. The same is attached hereto and marked as Annexure 'E' for better appreciation of the Hon'ble commission.

3. That it is submitted that the DISCOMs (DHBVNL & UHBVNL) in its prayers has asked the Hon'ble commission to allow recovery of additional surcharge of Rs. 1.15 per unit from Open Access consumer.
4. That the applicant/DMRC and Govt. Of Haryana had executed an agreement dated 17.11.2006 and Clause 3 of Agreement states that:

“.....Government of Haryana shall also arrange to provide electricity on cost price to Transco under open access system.....”

A copy of relevant pages of said agreement is attached hereto and marked as ANNEXURE 'F'.
5. That from the above clause it is clear that DMRC may be exempted from payment of additional surcharge and any other charges for open access.
6. In view of above points, it is clear that provision of power supply to commercial establishments directly from stations is in the benefit of the DISCOMs as well.
7. That no prejudice shall be caused to the DISCOMs in case the instant objection is allowed by this Hon'ble Commission.
8. That the instant objections has been filed bona fide and in the interest of justice.
9. The following prayer is made:
 - (i) To allow/regularise DMRC for carrying out metering, billing & charging of its commercial consumers within the premises of the DMRC for electricity consumption at the rates prescribed by this Hon'ble commission in Tariff

Order in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).

- (ii) To allow DMRC to retain the rebate of 9% for supply on 66 KV and 10 % for supply on 132 KV on account of the transformation of energy & line losses etc. in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).
- (iii) To allow to deposit the calculated differential amount to DISCOMs in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).
- (iv) To exempt DMRC from payment of any charges or Surcharges for open access on account of agreement executed between Govt. Of Haryana and DMRC dated 17.11.2006.
- (v) Any such other order(s) be passed, in the interest of justice, as this Hon'ble Court deems fit under the facts and circumstances of the case.

DHBVN reply on Delhi Metro Rail Corporation objections

The following reply is submitted by DHBVNL:

Delhi Metro Rail Corporation (DMRC) vide its objections has proposed the Hon'ble Commission as per details given below:

- A. Allow/regularise DMRC for carrying out metering, billing and charging its commercial consumers within the premises of the DMRC for electricity consumption at the rates prescribed by the Hon'ble Commission in Tariff Order
- B. Allow DMRC to retain rebate of 9% for supply on 66KV and 10% for supply on 132 KV on account of the transformation of energy & line losses etc.
- C. Allow to deposit the calculated differential amount to DISCOM in line with Delhi Electricity Regulatory Commission (DERC) for DMRC.
- D. Allow the exemption of payment of additional surcharge and any other charges for open access on account of agreement executed between Govt. of Haryana and DMRC dated 17.11.2006.

Nigam submits that the Hon'ble Commission while determining tariff for DMRC in its Tariff Order dated 13.09.2010 for FY 2010-11, gave specific directions that all other

terms and conditions applicable to Railway (Traction) are applicable to DMRC, same is reproduced here, as under:

“All other terms and conditions applicable to Railway (Traction) shall be applicable to DMRC as well.”

DMRC has existing 8 Nos of connections with DHBVN at 66 KV and 132 KV voltage level based on the load and the prevailing HERC Supply Code Regulations for the traction purpose of DMRC in the distribution licensee area of Nigam which do not cover the commercial establishments of DMRC. Moreover, the Hon'ble Commission in the above said Tariff Order also gave the direction that power supplied to various commercial establishments shall be charged at the rates applicable for respective categories determined by the Commission, same is reproduced here as under:

“However, the power supplied to various commercial establishments, hoardings, lighting etc. shall be charged at the rates determined by the Commission for those purposes i.e. in the tariff category that they fall.”

Pertinently, DMRC is not authorized to intermix two categories of consumer against connection under one category. It is submitted that Nigam has provided above said connections to DMRC for traction purpose only and electricity consumption against operations of DMRC Stations (excluding traction) does not fall under the said category. Hence, the DMRC station (excluding traction) is a commercial establishment and under prevailing regulations DMRC is required to take separate connection for operations of DMRC station (excluding traction), similar to the procedures being adopted in case of Railways and in line with the Hon'ble Commission's direction in its Tariff Order for FY 2010-11 dated 13.09.2010.

In regard to the prayer for allowing DMRC to carry out metering, billing and charging activities, it is submitted that Nigam is vested with the power to recover charges from its consumers against supply of electricity falling under its licensed area of supply under Electricity Act 2003, the responsibility of metering, billing and collection in its licensed area of supply falls within the purview of the Nigam only. Therefore, DMRC cannot be allowed for carrying out metering, billing and charging its commercial consumers within the premises of the DMRC for electricity consumption as proposed.

In regard to the prayer for allowing DMRC to submit the calculated differential amount to DISCOM (as the procedure proposed under Annexure-E), it is submitted that DMRC cannot intermix two categories and thereby provide differential amount.

As explained above DMRC station (excluding traction) is a commercial establishment and similar tariff is applicable for commercial consumers of DMRC, requirement of differential payment mechanism does not arise.

In regard to the prayer for allowing DMRC to retain rebate of 9% for supply on 66KV and 10% for supply on 132 KV on account of the transformation of energy& line losses etc., it is submitted that Nigam has issued electricity connection at such voltage level based on the load and prevailing Supply Code Regulations. And as per the definition of point of supply, the Nigam is liable to provide electricity along with necessary infrastructure up to the point of supply while incurring all such losses till the point of supply. It is implicit that any loss beyond such point of supply is to be borne by respective consumer only and allowing any rebate on such ground may prove to be inconsistent with the regulations. Same is being followed for all types of consumer categories within the license area of supply of Nigam. Furthermore, determination of tariff for a consumer or a class of consumers is the sole prerogative of the Hon'ble Commission under Electricity Act, 2003 and as per the section 62 (3) of the Electricity Act 2003, the Hon'ble Commission should not provide undue preference to any consumer while determining tariff, same is reproduced here, as under:

“(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”

Moreover, Nigam being a revenue neutral entity, allowing such rebate to DMRC will result in passing that rebate onto other consumers by the way of increasing the tariff of those consumers inter-alia burdening them with the proposed rebate of DMRC. Therefore, DMRC cannot be allowed to retain rebate of 9% for supply on 66KV and 10% for supply on 132 KV on account of the transformation of energy & line losses etc.

Further in the context of DERCC orders for DMRC, it is submitted that the Hon'ble Commission has issued sufficient regulations under the Electricity Act 2003 to allow distribution licensees to disburse their duties in the licensee area of supply and does not require additional efforts from consumers to perform the duties of Nigam.

With reference to objection regarding exemption from levy of open access charges in line with the agreement signed between DMRC and Govt. of Haryana dated 17.11.2006, which is reproduced here as under:

“Govt. of Haryana shall also arrange to provide electricity on cost price from Transco, under open access system. DMRC shall pay billing charges as decided by Haryana state Electricity Regulatory Authority as applicable from time to time”

Nigam submits that the power tariff applicable including various other charges like (Open Access Charges, FSA, ED, Municipal tax, etc.) on various categories of consumers is determined by the Haryana Electricity Regulatory Commission under the Electricity Act, 2003. The orders passed by the regulator are final and binding. The distribution companies cannot charge tariff lower or higher than determined by the regulator and cannot give any kind of exemptions to any consumer.

If an assurance is to be made by the State Government for granting rebate or granting exemption from surcharge to any specific category of consumer, the Government will have to provide subsidy to that extent in its budget.

Further, section 65 of the Electricity Act 2003 mandates upfront payment of subsidy in case state government wishes to grant a rebate to a consumer/category of consumers. The relevant extract of the Electricity Act has been given herewith for the ready reference.

“If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, within in advance in the manner as may be specified, by the State Commission the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.”

Furthermore, it is quite pertinent to mention here that the Hon'ble Commission vide Tariff Order for FY 2018-19 dated 15.11.2018 (ref-i) (page 146) has already

dismissed the Review Petition No. HERC/RA-4 of 2017 filed by M/s Delhi Metro Railway Corporation, the relevant excerpt of the aforesaid Tariff Order is reproduced as under:

"It is observed that the Commission has already deliberated the issues in detail in its Order dated 29.05.2014 in case no. HERC/PRO-41 of 2013, HERC/PRO-42 of 2013 & HERC/PRO-43 of 2013. Additionally, It is evident from the grounds of appeal and the language used thereto, that the review petition rather than justifying the review sought on the basis of any new / important matter of evidence or any other sufficient reasons is more in the nature of assertion that certain facts and figures were not considered or not taken up by the Commission in the right perspective. Consequently, in the considered view of the Commission such plea i.e. issues on which the Commission has already deliberated and passed Order and the same being re-submitted for favour of consideration cannot also fall under the purview of section 78(2)(c) of HERC (Conduct of Business) Regulations, 2004.

Commission's View: The Commission has perused the submissions of DMRC as well as the issue wise reply filed by the Nigam. Given the peculiar and commercially win-win situation for both DHBVNL and DMRC, the Commission considers it appropriate to relax anything to the contrary contained in the Single Point Supply Regulations and directs that DMRC shall carry out metering, billing and revenue collection for the commercial consumers within its premises subject to installation of correct meters as per CEA norms duly tested and jointly sealed with Discoms. The difference between DMRC (Traction) Tariff and NDS Tariff as determined by the Commission shall be credited by the DMRC into the accounts of the Discom concerned as per the billing cycle.

2.3.6 Objections filed by Faridabad Industries Association

Supply Voltage wise and Consumer category wise distribution and AT & C Losses.

1. DHBVN has again flouted the directions of the Commission by its failure to submit information on supply voltage wise and Consumer category wise distribution and AT & C losses. This issue is pending for over 6 years. We request the Commission once again to take a serious view of the matter including invoking Section 142 of the EA.

1 (a) Tariff philosophy

As per National tariff policy, cross subsidy should be reduced every year.