

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT
RANCHI**

CaseNo.18 of 2023

Jharkhand Bijli Vitran Nigam Limited (JBVNL)..... Petitioner

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)**

For the Petitioner : Ms. Anushree Bardhan-Advocate, JBVNL

Date: 27th February, 2024

1. The petitioner-Jharkhand Bijli Vitran Nigam Limited (hereinafter referred to as 'JBVNL' or the 'Petitioner') has filed the petition i.e. under Section 94 of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation A41 of the JSERC (Conduct of Business) Regulations 2016 for review of the Order dated 31.05.2023 passed in Case(T) no. 04 of 2020 for ***True-up for FY 2019-20, Annual Performance Review for FY 2020-21 and Business Plan & MYT for Control Period from FY 2021-22 to FY 2025-26 and Tariff for FY 2021-22 for Jharkhand Bijli Vitran Nigam Limited (JBVNL)***”.

Submission of the Petitioner

2. Learned Counsel for the petitioner has submitted that the petition has been filed to review and modify the JBVNL True-up for FY 2019-20, Annual revenue Requirement for FY 2020-21 and Business Plan & Multi Year Tariff for the Control Period FY 2021-22 to FY 2025-26 and Tariff for FY 2021-22 Order dated 31.05.2023, on the issues enumerated below:
 - I. Consideration of loss taken over under UDAY scheme as revenue in FY 2019-20, FY 2020- 21 and FY 2021-22.
 - II. Consideration of Meter Rent in Non-Tariff Income for the MYT period from FY 2021- 22 to FY 2025-26.
 - III. Non allowing of metering of unmetered consumers from January 01, 2021.
 - IV. To allow billing of the few remaining unmetered consumers in streetlight and agriculture category on the basis of fixed charge.
 - V. Clarification on the point no 11.6 of tariff Order regarding Delayed Payment Surcharges applicability.
 - VI. Imposition of penalty of 2% on the approved ARR in True up for FY 2019-20.

- VII. Disallowance of loss due to Distribution and Collection efficiency.
- VIII. Treatment of accumulated Gap till FY 2021-22.
- IX. To approve Power Purchase quantum and cost for the FY 2021-22 to FY 2023-24 of the Control Period from FY 2021-22 to FY 2025-26.
- X. To approve Power Purchase quantum and cost from DVC as per PPA agreed between JBVNL and DVC for the FY 2021-22 to FY 2023-24 for the control period from FY 2021-22 to FY 2025-26.
- XI. Seeking direction/clarifications on implementation of “reduction in fixed charges” in case of smart prepaid meters.
- XII. To rectify the inadvertent error in schedule of charges specified for commercial consumers.
- XIII. To remove voltage rebate applicable to consumer taking connection at a higher voltage level other than its rightful voltage category as specified by the Commission.

Considering the submission of the petition and the materials facts available on record, the above issues raised by the petitioner is being dealt separately as, hereunder: -

ISSUE: Consideration of loss take over under UDAY scheme as revenue in FY 2019-20, FY 2020- 21 and FY 2021-22.

Submission of the Petitioner

3. The Learned Counsel for the petitioner has submitted that the Commission, in Tariff Order dated 31st May 2023 has determined the revenue gap for the respective years. While calculating the aforementioned gap, the Commission has considered a revenue of Rs 38.90 Crore in FY 2018-19, Rs 399.16 Crore in FY 2019-20 and Rs 1,532.52 Crore in FY 2020-21 from takeover of financial losses of DISCOMs by the Government of Jharkhand as provided under the UDAY Scheme. The Loss under the UDAY scheme has been calculated as 10% of the revenue gap of FY 2018-19, 25% of revenue gap of FY 2019-20 and 50% of Losses of revenue gap of FY 2020-21 (i.e.) 10% of Rs 389.04 Crore, 25% of Rs 1,596.64 Crore and 50% of Rs 3,065.04 Crore.
4. It was submitted that the loan to be provided by the Government of Jharkhand under the UDAY Scheme as “Revenue” while determining the Revenue Gap of Petitioner for FY 2018-19, FY 2019-20 and FY 2020-21 as the loan to be provided by the Government of Jharkhand would be provided in lieu of the financial losses of the Petitioner.
5. Further, it was submitted that the Commission has arrived at the revenue gap by reducing the actual/approved revenue from the approved Annual

Revenue Requirement. Thus, disallowance made by the Commission in the Annual Revenue Requirement will reflect as losses in the Income Statement/accounts of the DISCOMs. As per the tripartite agreement signed under the UDAY scheme, these losses in the accounts of the Petitioner were to be taken over by Government of Jharkhand in a staggered way. As such, the Commission is requested to pass a suitable Order revising the revenue gap of FY 2018-19, FY 2019-20 in the overall revenue gap of FY 2020-21 of the DISCOM along with the respective holding cost. As such, the Commission is requested to pass a suitable Order revising the revenue gap of FY 2018-19, FY 2019-20 in overall revenue gap of FY 2020-21 of the DISCOM along with the respective holding cost.

Commission's Observation and Finding

6. The Commission has observed that it has adopted a similar approach in the previous Orders dated February 28, 2019 and October 01, 2020. The relevant extract of the orders has been reproduced below: -

Order for True-up for FY 2016-17 & FY 2017-18, APR for FY 2018-19 and ARR & Tariff for FY 2019-20

"8.11 The Commission has observed that the Petitioner has not considered the aid received in FY 2016-17 under UDAY Scheme for Rs. 6136.37 Crore for calculation of Revenue Gap. The Commission in its previous Order dated April 27, 2018 had directed the Petitioner to expedite the conversion of State Government loan into grant/ equity as per the agreed UDAY MoU. However, the Petitioner has failed to submit the details before the Commission. Hence, the Commission has considered the amount as Grant. In addition, as per Clause 1.2 i) of the MoU Signed under UDAY Scheme, the GoJ shall take over 5% of the Loss of FY 2016-17 in FY 2017-18 and 10% of the Loss of FY 2017-18 in FY 2018-19. The same has been considered by the Commission for calculation of Revenue Gap till FY 2018-19 as tabulated below:

....."

"8.22 The Commission has computed total revenue gap till FY 2018-19 after factoring in the financial assistance under UDAY Scheme. The Commission has considered that 25% of the overall loss in FY 2018-19 shall be taken over by GoJ in FY 2019-20 as per the MoU signed under UDAY Scheme. The Commission has considered the Gap/Surplus approved till FY 2018-19 as part of FY 2019-20. The Revenue Gap approved till FY 2019-20 is summarised below:

.....”

Order for True-up for FY 2018-19, APR for FY 2019-20 and ARR & Tariff for FY 2020-21

“8.9 The Commission has calculated the effect of the Review Order dated September 30, 2020 in this Section. The Commission has calculated the cumulative effect of change in the methodology for calculation of Depreciation for FY 2016-17 and FY 2017-18 and the approval of Delayed Payment Surcharge paid by JBVNL to DVC for FY 2017-18 as Rs. 389.04 Crore till FY 2017-18 along with carrying cost. Hence, the Commission has considered the same amount as the opening Gap for FY 2018-19. The Commission has considered the cumulative gap as the opening gap for FY 2018-19 and has considered 10% of the opening losses for FY 2018-19 to be taken over by the State Government as per Clause 1.2 (i) of the MoU signed under UDAY Scheme.

8.10 The Commission has also observed that the Petitioner has claimed carrying cost for the whole year on the gap created during FY 2018-19 and directed the Petitioner to provide justification for the same. The Petitioner submitted the revised calculation considering the carrying cost for 6 months. Hence, the Commission has considered the gap created during FY 2018-19 and has provided carrying cost on the same for 6 months.

8.11 The Commission has considered the cumulative gap as the opening gap for FY 2019-20 and has considered 25% of the opening losses for FY 2019-20 to be taken over by the State Government as per Clause 1.2 (i) of the MoU signed under UDAY Scheme. The Commission has provided carrying cost on the Opening gap for the complete year and the resultant gap approved for 6 months. The Cumulative Gap approved by the Commission at the end of FY 2019-20 is summarised below

.....”

7. From the aforementioned excerpt of previous tariff orders, it is apparent that the Commission has maintained its stance in its current order dated May 31, 2023. Moreover, the Commission has consistently instructed the petitioner in both current and past orders to accelerate the conversion of the State Government loan into grant/equity in accordance with the agreed terms of the UDAY MoU. However, the petitioner has so far failed to comply with this directive.
8. In view of the above, **Issue No- I**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE II: -Consideration of Meter Rent in Non-Tariff Income for the MYT period from FY 2021- 22 to FY 2025-26.

Submission of the Petitioner

9. The Learned Counsel for the petitioner has submitted that the Commission in its Tariff Order dated October 01, 2020 for the FY 2020-21 has specifically mentioned that the **meter rent** has been abolished. However, while calculating the Non-Tariff Income for the FY 2021-22, the Commission has considered the amount of Rs 20.34 Crore as revenue from meter rent for the MYT period from FY 2021-22 to FY 2025-26. Therefore, the consideration of meter rent in the Annual Revenue Requirement of the Petitioner for FY 2021-22 and subsequent years is not correct and should have been removed from the MYT Order. The Commission is requested to remove the meter rent from the control period from FY 2021-22 to FY 2025-26 in Non-Tariff Income.

Commission's Observation and findings

10. The Commission has noted an inadvertent error in Table 83 and Table 84 of Section A 8 of the Order dated May 31, 2023. The term "**Meter Rent**", as mentioned in these tables is hereby replaced with "**Transformer Rent**." Furthermore, in paragraph 8.65, the Commission has indicated that Non-Tariff Income has been provisionally approved for the Control Period, subject to truing up based on actuals
11. In light of the aforementioned rectification, there will be no repercussions or effect on the Annual Revenue Requirement (ARR) of the Control Period. Consequently, **Issue No-II**, as raised by the petitioner, is acknowledged and rectified accordingly

ISSUE III: Non allowing of metering of unmetered consumers from January 01, 2021

Submission of the Petitioner

12. The Learned Counsel for the petitioner has submitted that the Order of the Commission pertains to FY 2021-22 based on the previous petition filed in 2020 by the petitioner. On that basis, the Commission Ordered not to bill any unmetered consumers from January 01, 2021. The Commission in its tariff Order states that:

"11.2 The Commission has observed that the Petitioner still has ~1.32 lakh

consumers, to be metered. The Commission disagrees with the submissions made by the Petitioner. The Petitioner during the previous tariff proceedings on several occasions including the Public Hearing as well as during SAC meeting committed to meter every consumer by March 2019. Further, in earlier Order dated 01st October, 2020 the Commission, considering the pandemic situation prevailing since March 2020, provided the last opportunity to the Petitioner to get all its unmetered consumers metered by December 31, 2020. Therefore, the excuse put forward by the Petitioner does not hold any merit. In view of the above, the Petitioner shall not be allowed to bill any unmetered consumers from January 01, 2021 as directed in tariff Order dated 01st October, 2020.”

13. However, the petitioner had earlier filed a miscellaneous petition no 02 of 2020 requesting extension of time for completion of all unmetered consumers to metered consumers. On hearing the matter, the Commission in its Order dated 10.01.2023 taking cognizance of the affidavit filed for completion of unmetered to metered consumers in December 2022, disposed off the petition with observation:

“This case has been brought by the Petitioner for extension of the timeline i.e. till 31st December, 2022 for complete metering of unmetered consumers. Since the petition was filed for extension of time for completing the metering of unmetered consumers and the same has been done, accordingly the petition stands disposed off”

14. Hence, the Commission is requested to allow to bill the unbilled consumers up to December 2022 and reference to the unmetered billing may be removed from the Order.

Commission’s Observation and findings

15. The Commission has duly acknowledged that in its Order dated January 10, 2023, an extension of the timeline until December 31, 2022, was granted to the petitioner for the completion of unmetered consumers. Consequently, in accordance with the directives outlined in its Order dated January 10, 2023, the Commission permits the billing of unmetered consumers until December 31, 2022.
16. Furthermore, the Commission explicitly clarifies that billing of unmetered consumers will not be authorized for the Petitioners starting from January 01, 2023, onwards.
17. Accordingly, **Issue No-III**, as raised by the petitioner, is accepted and rectified accordingly.

ISSUE IV: To allow billing of few remaining unmetered consumers in streetlight and agriculture category on the basis of fixed charge

Submission of the Petitioner

18. The Learned Counsel for the petitioner has submitted that they were not able to meter a few of the consumers under streetlight and agriculture category due to operational and infrastructural constraints. Due to the existing structure in streetlight placement by the municipalities/panchayats, it is difficult to put meter on it for energy accounting. Also, at several instances, it is not practical to install meters at streetlight poles due to unavailability of space. For agricultural activities, farmers take the water pumps where water resource is available and make arrangements for watering their lands, hence it is difficult to put meters in these cases.
19. It was requested to Commission to allow the petitioner to bill the unmetered streetlight and agricultural consumers on fixed charge basis and allow to levy the same rate as that in Bihar.

Commission's Observation and findings

20. The Commission has noted that in its Order dated January 10, 2023, it extended the timeline until December 31, 2022, for the petitioner to complete the metering of unmetered consumers. However, the petitioner stated in the review petition that they encountered difficulties in metering certain consumers categorized under Streetlights and Agriculture due to operational and infrastructural constraints
21. The Commission maintains the standpoint that it has provided the Petitioners with ample opportunity and extended timelines to meter all unmetered consumers by December 31, 2022. It is crucial to emphasize that the Commission consistently issued directives through previous tariff orders to ensure the metering of the remaining unmetered consumers. However, the Petitioner has failed to adhere to these directives. Consequently, the excuse provided by the Petitioner lacks merit. Furthermore, it is imperative to acknowledge that the Petitioner's inability to achieve compliance rests solely with them. Therefore, the resulting inefficiency on the part of the Petitioner should not impose a burden on the consumers.
22. In view of the above, **Issue No- IV**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE V: Clarification on the point no 11.6 of tariff Order regarding Delayed Payment Surcharges applicability.

Submission of the Petitioner

23. The Petitioner has submitted that in the tariff Order issued by the Commission on 31st May 2023, it was directed under 11.6 of simplification and rationalization of tariff:

"In the tariff Order, under 11.6 The Commission has approved Delayed Payment Surcharges as specified in Clauses 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020."

24. However, 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 states the following:

"In case the payment of any bill for charges payable under these Regulations is delayed by a Consumer beyond a period of 21 days from the date of billing, a late payment surcharge shall be levied by the Distribution Licensee at the Bank Rate as on April 01 of the respective year plus 500 basis points shall be applicable for the first month, and for every month or part thereof delay, the rate of late payment surcharge shall increase by 50 basis points, subject to a maximum of Bank Rate as on April 01 of the respective year plus 700 basis points".

25. The Petitioner has submitted that it is clearly mentioned in the above paragraph that LPS/ DPS is applicable beyond a period of 21 days from the date of billing. However, the definition of applicability of DPS under "Supply Code Regulation 2015 states that:

"10.1.5 The due date for payment for the L.T Domestic, Commercial and Agricultural consumers shall be minimum 15 days after the issue date of the bill and in case of all other categories of consumers, minimum 21 days after the issue date. The Distribution Licensee shall ensure distribution of bill within 5 days of the issuance of bill. The Distribution Licensee shall obtain acknowledgement of the receipt of bill by the consumer. The bill will be delivered to the consumer immediately in case of spot billing under acknowledgment by the consumer."

"10.13 Late Payment Surcharge

10.13.1 In case the consumers do not pay the bill by the due date mentioned in the bills, delay payment surcharge for delayed payment of bills shall apply as per tariff Orders issued from time to time."

26. The issue arises from the said Order of the Commission where the Commission has linked the DPS as specified in clause no 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 wherein it is clearly stated that the LPS will be charged after 21 days from the date of billing. However, the due date after which the DPS will be charged is different for different set of consumers:
- L.T Domestic, Commercial and Agricultural consumers shall be a minimum of 15 days after the issuance of the bill.
 - For all other categories of consumers, minimum 21 days
27. The question arises that, if the applicability of DPS will be as per the tariff Order, then it undermines the law of equality and equity and discriminates between two different types of consumers. The Petitioner requests the JSERC to bring in the following changes in the JSERC (Distribution tariff regulations) 2020, clause no 10.75 so that the DPS could be applied uniformly to all the consumers without any bias.
28. The said clause can be modified as following:
- 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 states the following:
- "In case the payment of any bill for charges payable under these Regulations is delayed by a Consumer beyond the due date from the date of billing, a late payment surcharge shall be levied by the Distribution Licensee at the Bank Rate as on April 01 of the respective year plus 500 basis points shall be applicable for the first month, and for every month or part thereof delay, the rate of late payment surcharge shall increase by 50 basis points, subject to a maximum of Bank Rate as on April 01 of the respective year plus 700 basis points".*
29. Also, the progressive addition of the basis points to the billing software is a tedious and complex task that is prone to calculation error and treatment of the overall bill for the consumers. Hence, the petitioner requests the Commission to simplify the calculation of DPS and remove the progressive addition of interest rate subject to maximum bank rate.

Commission's Observation and findings

30. The Commission has observed that Regulations 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 states that for any delay by a Consumer beyond a period of 21 days from the date of billing, a Delayed payment surcharge shall be levied by the Distribution Licensee whereas Regulation 10.1.5 of

Supply Code Regulation, 2015 states that the due date for payment for the LT Domestic, Commercial and Agricultural consumers shall be minimum 15 days after the issue of the bill and in case of all other categories of consumers, minimum 21 days after the issue date. Further, Regulation 10.13 of Supply Code Regulation, 2015 states that in case the consumers do not pay the bill by the due date mentioned in the bills, delay payment surcharge for delayed payment of bills shall apply as per tariff Orders issued from time to time.

31. From the Regulations 10.1.5 of the Supply Code Regulation it can be clearly interpreted that DPS applicability does not have any fixed timeline for the LT Domestic, Commercial and Agricultural consumers as the Regulations only state that DPS shall be made applicable after a minimum of 15 days after the issue date of the bill. Therefore, the petitioner, at its own discretion, can charge DPS after 15 days or after 21 days for the LT Domestic, Commercial and Agricultural consumers.
32. Further, the Petitioner in the review petition, stated that it undermines the law of equality and equity and discriminates between two different types of consumers. The Commission is of the view that if the petitioner considered 10.75 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 discriminates, then Regulations 10.1.5 of the supply Code Regulations also discriminates between different sets of consumers as for the LT Domestic, Commercial and Agricultural consumers. DPS was applicable after minimum 15 days and for all other categories of consumers after minimum 21 days of the issue of bill. Moreover, DPS was applicable 21 days after the issue of bill in pervious tariff orders and same is stated in the Regulation 10.75 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations,2020. Therefore, the Commission has not made any changes in the applicability of DPS timeline. Therefore, the Petitionerscontention holds no meritor undermines the law of equality and equity and discriminates between two different types of consumers.
33. However, if the Petitioner deemed that DPS timeline mentioned in the tariff order undermines the law of equality and equity and discriminates between different types of consumers then the petitioner can charge DPS from Consumer beyond a period of 21 days from the date of billing as per the Regulations 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020.
34. Regarding the petitioner's submission that the progressive addition of basis points to the billing software is a cumbersome and complex task prone to calculation errors and affecting the overall billing process for

consumers, the Commission holds the view that the applicability of Regulations 10.75 of the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020 has been successfully implemented by other distribution licensees without any reported issues. Additionally, the Commission has not received any implementation issues regarding this regulation from other distribution licensees within the state. Furthermore, citing reasons such as the progressive addition of basis points to the billing software being a tedious and complex task as grounds for non-implementation reflects inefficiency on the part of the petitioner. Therefore, the excuse provided by the petitioner lacks merit.

35. In view of the above, **Issue No- V**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE VI: Imposition of penalty on 2% on the approved ARR in True up for FY 2019-20.

Submission of the Petitioner

36. The Learned Counsel for the petitioner has submitted that the Commission has also proceeded to impose the penalty equivalent to 2% of the ARR approved by the Commission for FY 2019-20 without following the due process of law as per the provisions of Electricity Act, 2003 and the JSERC Distribution Tariff Regulations, 2015. The Commission, while imposing the penalty, has ignored that the Petitioner materially complied with the directions of the State Commission.
37. However, in the tariff Order, the Commission has categorically expressed its dissatisfaction over non-compliance especially in the context of safety of personnel and quality of supply. In its Order, it states the following:

“5.91 and 5.92 of the Order states that the Commission observed that Petitioner in FY 2019-20 has not complied with the directions of the Commission. Further, the Petitioner has filed an appeal before Hon’ble APTEL on same matter in previous Order dated April 27, 2018. The Appeal in this case no 228 of 2018 and 223 of 2018 is pending before Hon’ble APTEL and the case is sub-judice. Hence, the Commission is continuing with its approach for levying Penalty for Non-Compliance of Directives of the Commission at 2% of the Aggregate Revenue Requirement (ARR) of the Petitioner for FY 2019-20. The Penalty levied is submitted below:

Table 44: Penalty Imposed for Non Compliance of Directives by the

Commission (Rs. Crores)

| Particulars | FY 2019-20 |
|------------------------|-------------------|
| <i>ARR Approved</i> | 6,759.89 |
| <i>Penalty Imposed</i> | 2% |
| <i>Total Penalty</i> | 135.20 |

38. This is far from the logic of penalty imposition by the Commission. The Commission may have erred in analyzing the impact of non-compliance in details. Also, the Commission has categorically not expressed under which provision of law it has imposed the penalty on the Petitioner. Further, the penalty has been imposed on the true up Order for FY 2019-20 to reduce the overall gap for the applicant and not on the ARR for FY 2021-22.
39. It was prayed to the Commission to revisit the penalty imposed on it and remove the said penalty as it has a severe impact on the financial and operational performance of the utility and the State as a whole.

Commission's Observation and findings

40. Ongoing through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated May 31, 2023 in para 5.91 to para 5.92 which reads as under:

"5.91 The Commission observed that Petitioner in FY 2019-20 has not complied with the directions of the Commission. Further, the Petitioner has filed an appeal before Hon'ble APTEL on same matter in previous Order dated April 27, 2018. The Appeal in this case no 228 of 2018 and 223 of 2018 is pending before Hon'ble APTEL and the case is sub-judice.

5.92 Hence, the Commission is continuing with its approach for levying Penalty for Non-Compliance of Directives of the Commission at 2% of the Aggregate Revenue Requirement (ARR) of the Petitioner for FY 2019-20. The Penalty levied is summarised below:

....."

41. The Commission has adopted the same methodology as followed in the previous tariff orders. Therefore, **Issue No- VI**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE VII: Disallowance of loss due to Distribution and Collection efficiency

Submission of the Petitioner

42. The Learned Counsel for the petitioner has submitted that the Commission, while disallowing AT & C losses, did not consider that the target of 100% of collection efficiency set by the Commission vide its Order

dated 21.06.2017, is highly impracticable and even the most efficient utilities in the Country are not able to achieve the same. The Commission has disallowed the collection efficiency of the petitioner and did not pass the deficiency target to be recovered from the Resource Gap Funding allowed by the State Government of Jharkhand. On the distribution loss also, the Commission did not consider the request of approving the UDAY target for the said period, as filed in the petition. The petitioner has requested the Commission to consider the targets set by the Ministry of Power under the RDSS scheme for the State of Jharkhand, considering the ground reality and recalculate the distribution loss accordingly for the consideration of disallowance.

43. It was prayed to the Commission that the amount of revenue which it was not able to collect, may be allowed to be considered against the RGF received during FY 2019-20. The Petitioner has further submitted that the calculation for disallowance is done by considering the difference between the Commissions' approved collection efficiency i.e. 100% and the actual collection efficiency of 86.42% in FY 2019-20. The Petitioner has submitted that the disallowance on account of Lower Collection efficiency shall be considered while adjusting RGF from ARR.
44. However, the Commission has disallowed an overall Rs 319.09 Crores on account of AT&C loss and did not pass through the same on account of RGF consideration by the State government. The petitioner has requested the Commission to revisit the same considering the overall scenario of the Petitioner where in it is very difficult to reach the collection figure of 100% due to high LT to HT ratio.

Commission's Observation and findings

45. Ongoing through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated May 31, 2023 in para 5.82 to para 5.84 which reads as under:

"5.82 The Commission, however is of the view that it had already set the targets for the Collection efficiency in Section "Targets for Distribution Losses and Collection Efficiency" of the Tariff Regulations, 2015 and as such the submission of the Petitioner regarding sudden change seems to be out of order. The Commission thus directs the Petitioner to abide by the targets set by the Commission and any provision for lower collection efficiency will not be allowed.

5.83 Further, with respect to the Distribution Loss Targets, the Commission in its earlier Order dated June 21, 2017 had already

set targets for the second control period based on the GoI, UDAY scheme.

5.84 Accordingly, the additional power purchase cost incurred due to higher Distribution losses, beyond the targeted level, has been disallowed and is treated as 'Disincentive for non-achievement of Distribution loss targets' for FY 2019-20. The Commission has adopted similar approach as adopted by it in the previous Order dated February 28, 2019 and 01st October, 2020 in the computation of non-achievement of T&D loss reduction targets. The non-achievement of Distribution loss reduction targets for the FY 2019-20 as approved by the Commission is summarized below:

.....”

46. The Commission has adopted the same methodology as followed in previous tariff orders. Moreover, the consideration of RDSS (Revenue Decoupling and Sustainability Surcharge) loss trajectory is not relevant to the True-up of FY 2019-20.
47. In view of the above, **Issue No- VII**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE VIII: Treatment of accumulated Gap till FY 2021-22

Submission of the Petitioner

48. The Learned Counsel for the petitioner has submitted that the Commission in its Order dated May 31, 2023, approved a gap after subsidy of Rs 1,592.31 Crores after adjusting all the parameters. However, it is completely silent on the treatment of the gap in the ARR and tariff for FY 2021-22. It has not considered any gap for the recovery of the same through the tariff.
49. It was submitted that the Hon'ble Commission has approved the total gap with carrying cost at the end of the FY 2021-22 to be Rs 6,335.68 Crores, However, there is no direction as to how the revenue gap will be recovered by the petitioner. In the absence of such a direction, the petitioner is clueless about the recovery of the gap which will be reflected as losses in the account of the Petitioner.
50. It was pointed out that the tariff for FY 2021-22, that is applicable from June 01, 2023 in FY 2023-24 has little relevance for the petitioner. It is pertinent to mention that True up for FY 2020-21, FY 2021-22 and ARR for FY 2023-24 and tariff is pending before the Commission. Also, for FY

2019-20 and FY 2020-21, the Commission has considered an amount of Rs 399.16 Crore and Rs 1532.52 Crore under UDAY grant, which is factually wrong.

51. Further, it was submitted that with such huge gap piling on the petitioner, it would be very difficult to sustain the financial and operational stability of the organization. Hence, the petitioner requested the Hon'ble Commission to consider the mounting revenue gap on its operation and provides necessary directions or Orders so that the revenue gap can be recovered from the consumers within a specific period with the carrying cost.

Commission's Observation and findings

52. At present, the Commission is engaged in reviewing the True-up Petitions for FY 2020-21 and FY 2021-22, alongside conducting the Annual Performance Review (APR) of FY 2022-23 and evaluating the Annual Revenue Requirement (ARR) Petition of FY 2023-24. Upon comprehensive assessment of these petitions, the Commission will proceed to issue the requisite orders. Furthermore, in approving the ARR of FY 2023-24, the Commission will also furnish suitable directives to the petitioner concerning the recovery of any extant gap.
53. In view of the above, **Issue No- VIII**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE IX: To approve Power Purchase quantum and cost for the FY 2021-22 to FY 2023-24 of the Control Period from FY 2021-22 to FY 2025-26

Submission of the Petitioner

54. The Learned Counsel for the petitioner has submitted that while considering the MOD principle, the Commission approved the quantum of power purchase and considered zero purchase from several stations and allowed fixed cost against the generating stations. However, the petitioner requests to allow the power purchase cost of FY 2021-22 to FY 2023-24 for which the petitioner had already filed the petition that is under consideration of the Commission. The petitioner understands that the power purchase quantum, as approved by the Commission, is as per ideal conditions. However, the ground reality is different. The petitioner has to consider many things such as sudden backing out of generating stations, shutdowns, demand supply mismatch, urgency etc. while taking a decision of power purchase following merit Order dispatch and availability of power

from various sources.

55. As the time for consideration under power purchase has already lapsed, the petitioner has requested the Commission to consider the power purchase quantum and related cost incurred and include it in the business plan and MYT accordingly.

Commission's Observation and findings

56. The Commission projected and approved the Power Purchase Quantum and Cost for each year of the Control Period in the Business Plan and Multi-Year Tariff (MYT) based on a thorough assessment of actual figures from previous years and the petitioner's filed Business Plan and MYT petition. After carefully considering the petitioner's submissions and addressing data gaps through their replies, the Commission approved the Power Purchase Quantum and related Costs, providing rationale for their consideration in the order.
57. Additionally, the Power Purchase Quantum and Cost approved in the Business Plan and Multi-Year Tariff (MYT) for each year of the Control Period are subject to a prudent examination during the Annual Performance Review (APR) and True-up processes. Furthermore, the Commission is currently in the process of reviewing the True-up Petitions for FY 2020-21 and FY 2021-22, along with the APR for FY 2022-23 and the ARR Petition for FY 2023-24.
58. Considering the aforementioned circumstances, the petitioner's request for the consideration of power purchase quantum and related costs incurred during FY 2021-22 to FY 2023-24 lacks merit.
59. In view of the above, **Issue No-IX**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE X: To approve Power Purchase quantum and cost from DVC as per PPA agreed between JBVNL and DVC for the FY 2021-22 to FY 2023-24 for the control period from FY 2021-22 to FY 2025-26.

Submission of the Petitioner

60. The Learned Counsel for the petitioner has submitted that the Commission in its Order, under Para 7.31 page no 85 mentioned that:

“7.31 Regarding power purchased from DVC Koderma, the Commission is of the view that as separate proceedings are underway for the PPA approval is yet to be approved as prima facie, it is observed that the power purchase cost from DVC Koderma is higher than the DVC's

Distribution tariff. Hence for projecting cost of power the Commission has estimated the normative power purchase cost for power procured from DVC Licensee”.

61. It was submitted that they would like to clarify that the discussions are underway with DVC regarding the anomalies in PPA but the power purchase continues with the rate agreed under the PPA mode. The petitioner understands that PPA approval is still pending before the Commission. However, the bills are raised by DVC as per the existing PPA. In case the PPA rates are not approved by the Commission, the financial implications to the Petitioner would be very high as the cost cannot be passed through in the ARR.
62. It was prayed to the Commission to consider the issue and approve the rates as decided by the agreement between the Petitioner and DVC till the issues get resolved mutually.

Commission’s Observation and findings

63. The Commission has observed that in its order dated January 09,2021 in Case No.11 of 2019. The Commission has ruled as follows: -

*“27. The Commission has observed that the Petitioner-JBVNL **has not acted upon the PPA in the interest of the consumers as the Tariff for the power procured in scheduled mode (post PPA) should not be in any way more than that of power procured in consumer mode (before the PPA).** It is hereby also clarified that the power should always be procured through the competitive bidding process only as specified under Section 63 of the Electricity Act, 2003. **However, if required as per necessity and urgency, power may be procured under Section 62 of the said act after making cost benefit analysis among the powers available for procurement.***

*28. **The petitioner is directed to revisit the ambiguities as pointed out and file a fresh revised PPA for approval removing the ambiguities**and reconsider the long term PPA in view of the PPA executed with PUVNL/proposal of Adani Power Jharkhand Limited for 400MW to keep the power purchase cost optimum.”*

64. In view of the above order, the Commission, in previous tariff order dated October 01, 2020 and present order dated May 31, 2023, has estimated the normative power purchase cost for power procured from DVC licensees. The relevant extract of the order has been reproduced below: -

“7.31 Regarding power purchased from DVC Koderma, the Commission is of the view that as separate proceedings are underway for the PPA approval is yet to be approved as prima facie, it is observed that the

power purchase cost from DVC Koderma is higher than the DVC's Distribution tariff. Hence for projecting cost of power the Commission has estimated the normative power purchase cost for power procured from DVC Licensee."

65. Therefore, the petitioner's contention that PPA approval is still pending before the Commission is factually inaccurate, as the petitioner has not submitted a revised PPA for approval after addressing the ambiguities as directed by the Commission.
66. Furthermore, the Commission clarifies that any costs related to DVC Koderma will be considered after prudent examination during the true-up process, based on the estimated normative power purchase cost for power procured from the DVC Licensee. This normative cost will be determined according to the Tariff Schedule approved by the Commission for DVC until the petitioner submits a revised PPA for approval.
67. In view of the above, **Issue No-X**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE XI: Seeking direction/clarifications on implementation of "reduction in fixed charges" in case of smart prepaid meters

Submission of the Petitioner

68. The Learned Counsel for the petitioner has submitted that the Commission in clause XI: other terms and conditions (Page 160) has stated the followings:

"Recovery of Complete Fixed/Demand Charges from consumers shall be based on the availability of hours of supply recorded by meters installed in the consumer's premises. JBVNL would include the same in the consumer's bill and recover the Fixed Charges only in proportion to the hours of supply as per the meter. The cut off hours for complete recovery from Fixed/Demand Charges shall be 21 hours per day for LT consumers and 23 hours per day for HT Consumers.

Provided that the planned outages/Rostering in the network are uploaded on its website seven days in advance with a copy to the Commission and an intimation to the respective consumers shall be excluded while computing scheduled supply hours.

Provided that any reduction in recovery of Fixed/Demand Charges on account of lower than stipulated hours of supply shall not be claimed as a part of the ARR. Any reduction in the Fixed/Demand Charges shall be considered as a compensation to be paid to the Consumer by

the Licensee.”

69. It was prayed to the Hon’ble Commission to exclude interruption in supply due to grid failures (both inter and intra-state) as well as electricity supply cut to avoid accidents due to sudden change in weather conditions such as hail storm or intense rainfall for computing scheduled supply hours and not consider these for reduction in fixed charges as these conditions are uncontrollable factors for the Petitioner.
70. It was further submitted that it is important to mention that smart prepaid work is in progress for implementation throughout the State by the petitioner and the electricity dues will be automatically deducted from the advanced recharge amount. Operationally, it would be difficult to implement the planned outages/rostering the network in the software module for fixed hours calculation and the corresponding charges. Further, it is to mention that there is no manual intervention in the prepaid smart meters billing system, as such the scheduled hours/rostering hours cannot be manually uploaded in the software.
71. It was prayed to the Commission to consider the challenges faced by the petitioner and provide necessary directions for implementing the same.

Commission’s Observation and findings

72. The Commission has duly noted the petitioner's request for exemption from the reduction in fixed charges attributable to interruptions in electricity supply caused by grid failures in the Inter and Intra-State Transmission Systems, as well as interruptions aimed at preventing accidents due to sudden changes in weather conditions such as hailstorms or intense rainfall.
73. After comprehensive deliberation, the Commission has concluded that interruptions stemming from grid failures and those intended to forestall accidents due to abrupt weather changes are classified as uncontrollable factors and lie beyond the control of the petitioner.
74. In light of the above, the Commission has granted the petitioner's request, and Clause XI: Reduction in Fixed Charges has been accordingly amended as depicted below:

“Clause XI: Other Terms and Conditions

Reduction in Fixed Charges

Recovery of Complete Fixed/Demand Charges from consumers shall be based on the availability of hours of supply recorded by meters installed in the consumer's premises. JBVNL would include the same in the consumer’s bill and recover the Fixed Charges only in proportion to the

hours of supply as per the meter. The cut off hours for complete recovery from Fixed/Demand Charges shall be 21 hours per day for LT consumers and 23 hours per day for HT Consumers.

Provided that interruption due to grid failure in Inter-State and Intra-State Transmission System, interruption due to prevention of accidents due to sudden changes in weather conditions such as hail storm or intensive rainfall as declared by India Meteorological Department (IMD) or by State Government and planned outages/Rostering in the network to be uploaded on its website seven days in advance with a copy to the Commission and an intimation to the respective consumers shall be excluded while computing scheduled supply hours.

Provided that any reduction in recovery of Fixed/Demand Charges on account of lower than stipulated hours of supply shall not be claimed as a part of the ARR. Any reduction in the Fixed/Demand Charges shall be considered as a compensation to be paid to the Consumer by the Licensee.”

75. Concerning the operational challenges encountered in implementing the reduction in fixed charges within the prepaid smart meters billing system, the Petitioners are directed to reconfigure their billing software and prepaid smart meters program accordingly. This reconfiguration should facilitate the incorporation of the reduction in fixed charges based on the duration of supply.

ISSUE XII: To rectify the inadvertent error in schedule of charges specified for commercial consumers.

Submission of the Petitioner

76. The learned Counsel for the petitioner has observed that there might be an error in drafting the Schedule of Charges specified for Commercial Consumers on Pg. no 147 as there are many commercial consumers where the meters installed do not record the maximum demand. In that case, the billing demand cannot be recorded page no 147 of the Order for commercial consumers reads as follows:

“Billing Demand: The Billing Demand shall be the Maximum Demand recorded during the month or 50% of Contract Demand whichever is higher. The penalty on exceeding Contract Demand will be applicable in accordance with Clause I: Penalty for exceeding Billing/ Contract Demand of Terms & Conditions of Supply as provided in Section A 15 of this Tariff Order.”

77. It was submitted that the Commission, in its Order dated October 19, 2020, issued a corrigendum clarifying the above matter in detail pertaining to Order on Truing up for FY 2018-19, APR for FY 2019-20 and ARR & Tariff for FY 2020-21 for the Petitioner issued by the Commission on October 01, 2020 in Case (Tariff) no. 13 of 2019.
78. It was prayed to the Hon'ble Commission to issue a similar Order for the commercial consumers where demand-based meter is not available. However, for those commercial consumers, where demand-based meter is available, the petitioner is fine with the existing clause as specified by the commission in its Order.

Commission's Observation and findings

79. The Commission observes that there has been an inadvertent error in the Schedule of Charges specified for Commercial Consumers on Pg. 147 of the Tariff Order. The provision with regard to Billing Demand as mentioned in Pg. 147 of Tariff Order dated May 31, 2023, reproduced below: -

“Billing Demand: The Billing Demand shall be the Maximum Demand recorded during the month or 50% of Contract Demand whichever is higher. The penalty on exceeding Contract Demand will be applicable in accordance with Clause I: Penalty for exceeding Billing/ Contract Demand of Terms & Conditions of Supply as provided in Section A 15 of this Tariff Order. In case Recorded Demand is more than 100 kVA/85 kW for any month for more than three instances within a Financial Year, the average of the Maximum Demand recorded during such instances shall be treated as the new Contract Demand for the purpose of billing of future months and the consumer will have to get into a new Agreement under the HTS category.”

80. The above para mentioned in Pg. 147 of Tariff Order dated May 31, 2023 stands deleted.
81. Accordingly, **Issue No-XII**, as raised by the petitioner, is accepted and rectified accordingly.

ISSUE XIII: To remove voltage rebate applicable to consumer taking connection at a higher voltage level other than its rightful voltage category as specified by the Commission.

Submission of the Petitioner

82. The Petitioner has submitted that the Commission, in its Order dated May 31, 2023 had provided direction regarding implementing voltage rebate to the petitioner. The Commission stated in its Order, page no 149 under HT services applicability as follows:

“Voltage Rebate: In accordance with Clause IV: Voltage Rebate of Terms & Conditions of Supply as provided in Section A 15 of this Tariff Order.

Section A15 states under Clause IV: Voltage Rebate

Voltage rebate* will be applicable on Energy Charges as per the JSERC (Electricity Supply Code) Regulations, 2015 as amended from time to time at the rate given below:

| Consumer Category | Voltage Rebate* |
|-------------------------------|------------------------|
| HTS/HT Institutional -33 kV | 3.00% |
| HTS/ HT Institutional -132 kV | 5.00% |

* Note:

1) It is clarified that, if a consumer who is eligible to get supply at 11kV as per classification as mentioned in Clause 4.3 of JSERC (Electricity Supply Code) Regulations, 2015 and then the consumer opts for connection at 33kV then consumer shall be eligible for voltage rebate of 3%. Similarly, if a consumer who is eligible to get supply at 33kV as per Clause 4.3 of JSERC (Electricity Supply Code) Regulations, 2015 and opts for connection at 132kV then consumer shall be eligible for voltage rebate of 5%. Further, no voltage rebate shall be applicable above voltage level of 132 kV. **It is further clarified that the existing consumers at 11kV and 33kV opts for higher voltage, rebate shall be applicable for such consumers.**

2) The above rebate will be available only on monthly basis and consumer with arrears shall not be eligible for the above rebate. However, the applicable rebate shall be allowed to consumers with outstanding dues, wherein such dues have been stayed by the appropriate Courts

According to JSERC (Electricity Supply Code) Regulations 2015,

4.3 Supply shall generally be given at the following voltages on the basis of contracted load:

| Category | System of Supply |
|--|-----------------------------------|
| Low Tension | |
| All installations (other than irrigation pumping and agricultural services) with a contracted load upto 5 kW | Single phase at 230 V |
| Irrigation pumping and agricultural services and all installations with a contracted load of more than 5 kW and up to 85 kW/ 100 kVA | 3 Phase, 4 wire at 400 V |
| High Tension | |
| Contracted load exceeding 100 kVA ¹ and up to 1500 kVA | 3 Phase at 6.6 kV / 11 kV / 22 kV |
| Contracted load exceeding 1500 kVA ² and up to 10000 kVA | 3 Phase at 22 kV/ 33 kV |
| Contracted load exceeding 10000 kVA and up to | 3 Phase at 33 kV |

| Category | System of Supply |
|-------------------------------------|---|
| 20000 kVA | |
| Extra High Tension | |
| Contracted load exceeding 20000 kVA | 3 Phase at 66 kV/ 110 kV/ 132 kV/ 220 kV |

4.7 The Distribution Licensee may, depending upon the technical conditions of the distribution system, give supply at a voltage and phase other than the classification of supply in clauses 4.3 and 4.3 of these Regulations, subject to the Commission's approval."

83. Due to the voltage rebate provisions, the existing and new consumers at 11kV and above may apply for connection at a higher voltage as mentioned under clause 4.3 of supply code regulations 2015. Also, it is observed that the consumer directly files petition to the Commission for getting a connection at higher voltage level to get the voltage rebate. The Commission generally allows them to apply for connection at a higher voltage and directs the Petitioner to facilitate the same (Case no 09 of 2022 Green valley Seas and resorts vs JBVNL). However, it is not possible to provide connection through independent feeders to such consumers and the Petitioner is forced to accommodate 11kV consumers in 33kV feeders by tapping. The chances of power interruptions /break downs will increase and that will impact a larger area in terms of power availability and reliability. This will also have a cascading effect on the penalty imposed due to less supply hours to consumers on the fixed charge. These arrangements create unnecessary operational constraints to the Petitioner, and it creates unnecessary pressure to the existing distribution infrastructure.
84. Hence, it was prayed to the Commission to remove the voltage rebate applicable to consumers taking connection at a higher voltage other than its rightful voltage category, as specified by the Commission.

Commission's Observation and findings

85. The Commission asserts that it is the petitioner's responsibility to accommodate higher voltage supply to consumers. Providing power at higher voltage levels is expected to reduce losses, consequently lowering power purchase costs and leading to an overall reduction in the cost of supply.
86. Furthermore, the Commission has consistently approved voltage rebates in previous and current tariff orders to incentivize consumers to opt for higher voltage levels.

87. It is worth noting that the Commission has continuously issued directives through previous tariff orders to the petitioner regarding the upgrading and improvement of their distribution system. However, the petitioner has failed to comply. Therefore, the excuse provided by the petitioner lacks merit. Additionally, it is essential to acknowledge that the petitioner's failure to achieve compliance rests solely with them. Consequently, the resulting inefficiency on the part of the petitioner should not burden the consumers.
88. In view of the above, **Issue No-XIII**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ORDER

89. In view of the above observation and finding, this review petition is disposed off accordingly.

Sd/-
(Atul Kumar)
MEMBER (Technical)

Sd/-
(Mahendra Prasad)
MEMBER (Legal)

Sd/-
(Justice Amitav K. Gupta)
Chairperson