

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

**Case No. 03 of 2024**

Tata Steel Limited (TSL)..... Petitioner

Versus

Damodar Valley Corporation (DVC) & Anr..... Respondents

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

For the Petitioner : - Mr. MS Mittal, Sr. Advocate and Mr. Manish Mishra, Advocate

For the Respondent: - Mr. Sanjoy Piprawall, Advocate

**ORDER**

**Date – 9<sup>th</sup> May, 2025**

1. The Petitioner-Tata Steel Limited (TSL) has filed the instant petition under Section 94 of the Electricity Act 2003 read with Regulation A41.1 of the Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2016 for review of Order dated 31.10.2023 passed in Case No. 30 of 2020.
2. The Petitioner in its petition has prayed for the following relief:-
  - A. For Review of the order dated 31<sup>st</sup> October, 2023 passed by this Commission in Case No: 30 of 2020.**
  - B. For amendment/modification/alteration in the order dated 31<sup>st</sup> October, 2023 with consequential impact on various components of tariff including but not limited to paragraphs 27 and 29 of the said Order dated 31<sup>st</sup> of October 2023, passed in case no 30 of 2020; and**
  - C. For Passing of any such Order(s) as this Commission may deem fit and proper in the facts and circumstances of the case.**

**Submissions of the Petitioner**

3. Learned Counsel for the petitioner has submitted that Petitioner Company acts as a Distribution Licensee and for supplying power to the city of Jamshedpur and to meet power requirements through number of sources, the Petitioner has long term power procurement arrangements with Respondent Damodar Valley Corporation since several decades. The Power contract demand at 132 kV of the Petitioner as per Power Purchase Agreement dated 25.07.2002 is for 90,000 MW and the Petitioner and the Respondent entered into a supplementary power purchase agreement dated 31.07.2018 increasing the contract demand from 90,000 MW to 120,000 MW.
4. It was submitted that the review Petitioner had filed Case No: 30 of 2020 seeking the grant of the following reliefs: -
  - a. *To set aside the impugned bills raised on the petitioner by the Respondent Corporation for the month of June 2019, July 2019, August 2019, September 2019, October 2019, November 2019, December 2019, January 2020, May 2020, June 2020, July 2020, August 2020, September 2020, October 2020, November 2020 to the extent the said bills and the future bills contain an*

*unexplained outstanding amount of Rs. 10,64,68,097/- for the period May 2010 onwards and first reflected in the bill of June 2019.*

- b. Upon setting aside the aforesaid bills, direct the Respondent Corporation to grant "Voltage Rebate" to the Petitioner in terms of provisions of Clause III of the heading "A13: TERMS AND CONDITIONS OF SUPPLY" of the tariff order of D.V.C. dated 28th May, 2019.*
  - c. Direct the Respondent D.V.C. to refund amount of voltage rebate which has been unlawfully denied since the period June 2019 till date together with interest @ 18% per annum, the excess amount which the Petitioner has been forced to pay on account of the denial of "Voltage Rebate" to the Petitioner by the Respondent Corporation;*
  - d. Pass such other Orders as this the Commission may deem fit and proper in the facts of the instant case.*
5. It was also submitted that the Respondents in the aforesaid case, appeared and contested the claim of the Petitioner by filing their reply and notes of submission. However, the Commission denied to grant the relief on the sole ground of similar issues pending before the APTEL, which is the subject matter of instant review.
6. Learned Counsel pointed out that the order dated 31st October, 2023, in Case No: 30 of 2020, suffers from few errors which could be considered to be errors apparent on the face of the record and few findings contained in the order under review appear to have been made without consideration of the materials available on the case records. He further submitted that such errors, which are apparent on the face of the record have a significant bearing on the outcome of the said case and prejudices the Petitioner of financial losses.
7. Learned Counsel submitted that as per the Tariff Order dated 28.05.2019 of Damodar Valley Corporation (DVC) for:
- a. True Up for the financial years 2016-17;
  - b. Annual Performance Review for the financial years 2017-18 and 2018-19 and;
  - c. ARR and tariff for the financial year 2019-2020.

The Commission approved the grant of rebate to consumers, subject to the fulfillment of certain conditions outlined in the Tariff Order detailed as under:

S. No.	Rebate	Conditions
1.	Voltage Rebate	Voltage rebate was allowed for all HT consumers from 1st June 2019. The voltage rebate would be applicable on energy charges depending upon the category of HT consumers and would be available only on monthly basis. However, consumers having arrears shall not be eligible for this voltage rebate but would be allowed to such consumers with outstanding dues, wherein such dues have been stayed by appropriate authority/Court

2.	Load Factor Rebate	This rebate would be applicable on Energy charge as follows:	
		<b>Load Factor</b>	<b>Load Factor Rebate</b>
		Below 65%	Nil
		65%-80%	5%
		80%-100%	10%
		This rebate is available only on monthly basis and consumers with arrears shall not be eligible for this rebate, however, it would be allowed to those consumers with arrears where such dues have been stayed by appropriate /Court	
3.	Prompt Online Payment	This rebate is for timely payment of the full amount of bills only through online web portal or digital methods and is applicable to all categories of consumers as under:	
		<b>Days</b>	<b>Rebate</b>
		Within 2 days	1.50%
		3 to 5 days	1.00%
		6 days to 12 days	0.50%

8. It was submitted that “A13: TERMS AND CONDITIONS OF SUPPLY” contained a provision for providing the above listed ‘voltage rebate’ as per the Tariff Order on True-up for FY 2016-17, Annual Performance Review for FY 2017-18& FY 2018-19 and ARR & Tariff for FY 2019-20 dated 28.05.2019 is illustrated as follows:

Clause III: Voltage Rebate

*“Voltage rebate will be applicable on energy charges as given below:*

<b>Consumer Category</b>	<b>Voltage Rebate</b>
HT 33 kV	2.00%
HT 132 kV	3.00%
HT 220 kV and above	4.00%

*Note: 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 authority/Courts.”*

9. Learned Counsel submitted that in Tariff Order dated 30.09.2020 issued for True-up for FY 2018-19, Annual Performance Review for FY 2019-20 and ARR & Tariff for FY 2020-21 of the Respondent- Damodar Valley Corporation (DVC), this Commission has updated the voltage rebate conditions as follows:

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

<b>Consumer Category</b>	<b>Voltage Rebate</b>
<i>HTS/HT Institutional 33 kV</i>	<i>2.00%</i>
<i>HTS/HT Institutional 132 kV</i>	<i>5.00%</i>
<i>HTS/HT Institutional 220 kV</i>	<i>5.50%</i>
<i>HTS/HT Institutional 400 kV</i>	<i>6.00%</i>

*\* Note: 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.*

*It is further clarified that the voltage rebate will not be applicable to all consumers who are connected to the voltages specified above. The Commission in order to have uniform approach across all distribution utilities has now linked voltage rebate to be allowable to only those consumers who opt for higher voltages and meets the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.”*

It was clarified that the voltage rebate shall not be applicable to all the consumers connected to voltage specified above. Only such consumers who opt for **higher voltages** and meet the conditions specified in the JSERC Supply Code Regulations, 2015 shall be entitled. **However, the said provisions were removed as per Corrigendum issued by Commission on Order dated 04.12.2020 and it no longer remained necessary to opt for higher voltage connection to avail the voltage rebate as follows:**

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

<b>Consumer Category</b>	<b>Voltage Rebate</b>
<i>HTS/HT Institutional 33 kV</i>	<i>2.00%</i>
<i>HTS/HT Institutional 132 kV</i>	<i>5.00%</i>
<i>HTS/HT Institutional 220 kV</i>	<i>5.50%</i>
<i>HTS/HT Institutional 400 kV</i>	<i>6.00%</i>

*\* Note: 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.”*

10. Learned Counsel submitted that thereafter, the Commission in its Tariff Order dated 30th September 2020 carried out truing up of FY 2018-19, APR for FY 2019-20 and ARR and Tariff for FY 2020-21. In the aforesaid order the Commission has maintained uniformity in the principles of Tariff Determination and its structure including rebates. In the said tariff order, it was clarified that the voltage rebate will not be applicable to all consumers who are connected to the voltages specified above. Only such consumers who opt for higher voltages and meet the conditions specified in the JSERC Supply Code Regulations, 2015 shall be entitled. However, such provisions were removed and it no longer remained necessary to opt for higher voltage connection to avail the voltage rebate vide a corrigendum issued by the Commission on 4th December 2020.
11. Learned Counsel pointed out following three grounds fit for invoking the review jurisdiction of the Commission
  - a. Prayer I (Case No. 30 of 2020) ought to have been allowed in light of a

finding that there remained no dues outstanding on TSL with respect to dues of Delayed Payment Surcharge on fuel cost surcharge.

- b. Voltage Rebate Conditions under Tariff Order dated 30.09.2020 are modified vide Corrigendum dated 04.12.2020
  - c. Issues under adjudication in case No. 30 of 2020 are different and unlike the issues adjudication in the appeal pending before Learned APTEL (Appeal No. 179 of 2021)
12. Learned Counsel for the above ground “a” submitted that the main prayer was to set aside the impugned bill raised during the period commencing June 2019 till November 2020 to the extent that the said bill and the future bills contained an unexplained outstanding amount of Rs. 10,64,68,097/- for the period May 2010 onwards and for the very first time it had been reflected in the bill of June 2019. He further stated that in the Order under Review, this Commission has hold that the said amount has already been recovered by the Respondent and hence, there does not remain any outstanding amount of whatsoever nature which is to be recovered from the Petitioner and in view of the said finding recorded by this Commission, the prayer (a) sought by the petitioner in Case No. 30 of 2020 could have been granted as a natural and consequential relief.
  13. Learned Counsel submitted that prior to June 2019, the Respondent DVC had not shown any arrears due to be paid by the Petitioner to the Respondent and since there was no description to the outstanding amount, the Review Petitioner Company duly examined all such bills and more specifically the bills pertaining to the period May 2018 to May 2019 for the purposes of evaluating its entitlement for availing voltage rebate. None of the bills raised by the Respondent Corporation on the petitioner for the period May 2018 till May 2019 disclosed any amount as arrear which would disentitle it for grant of voltage rebate. The said bills do not indicate any arrears which has remained unpaid by the petitioner company to the Respondent Corporation.
  14. It was submitted that subsequent to the DVC tariff order dated the 28th of May 2019, the Respondent D.V.C. raised Bill No. MFN/201907/501128 dated 02.07.2019, which bill showed unpaid arrears of Rs. 10,64,68,097/- (Rupees Ten Crores Sixty-Eight Lakhs and Ninety-Seven only) for the period May 2010 till April 2020 as dues and payable by the Petitioner to the Respondent DVC. This amount was shown to be due from the month of May, 2010, although it was not reflected in any bill which was served by the Respondent DVC on the Review Petitioner during the said period from May 2010 till July, 2019. The said amount was not reflected in any bills of the past period and its inclusion in the bills remains a complete mystery for the petitioner company. The Respondent DVC was liable to provide Voltage Rebate to the Review Petitioner in terms of the Tariff Order dated the 28th of May, 2019. The Respondent started to reflect the aforesaid alleged dues only for the purposes of denial of voltage rebate to the Petitioner by taking undue advantage of the condition attached to availing voltage rebate.
  15. It was also submitted that the Respondent DVC admitted to have recovered the amounts claimed by it from the Review Petitioner on account of DPS on AMG charges and DPS on account FCS at several instances and such reiteration clearly established the fact that the Respondent was already in receipt of the demanded amount against DPS with respect to FCS issued by the BSEB and the case pending before APTEL is not with regard to payment of the DPS on FCS but in actual refund of the alleged dues already recovered by Respondent.
  16. Learned Counsel pointed out that this Commission in the order dated

31.10.2023 observed that the alleged outstanding were admittedly realized by the Respondents which formed the sole excuse taken by the Respondents to deny Voltage Rebate. He further stated that this Commission has not stated any reasons for not having considered the principal prayer of the petitioner after duly noting at para 26 of the impugned Order that the Respondent DVC has admittedly realized / adjusted dues of DPS on FCS as per circulars of BSEB and AMG charges, total amounting to Rs. 10.65 crores in the year August 2004 against the monthly advances paid by Petitioner.

17. It was reiterated that the Commission has not taken into note the corrigendum dated 04.12.2020 issued by the Commission itself and has only limited itself to the order dated 30.09.2020 in the matter of DVC's Order on True-up for FY 2018-19, Annual Performance Review for FY 2019-20 and ARR & Tariff for FY 2020-21. In terms of tariff order dated 28.05.2019 passed for DVC, the voltage rebate could be given to the petitioner if there remained no outstanding in the pending bills. In the tariff order dated 30.09.2020, the provisions of the voltage rebate were altered to be given for only such cases where the category of the consumer was also changing to upward category. However, such conditions were relaxed by a corrigendum dated 04.12.2020 issued by the Commission which was in vogue till March 2023, till the time the corrigendum remained expressly and binding on the parties. Due to the operation of the said corrigendum, the petitioner was well and truly entitled for the grant of voltage rebate for the period July 2019 to March 2023.
18. Learned Counsel again submitted that the Petitioner Company is well and truly entitled for the grant of voltage rebate from July 2019 to March 2023 as according to the corrigendum dated 04.12.2020, the criteria to grant voltage rebate was that all consumers who are connected to higher voltages (33 KV and above) shall be eligible to avail high voltage rebate at the rates specified in the tariff order and the said rebates would be available only on monthly basis and consumers with arrears shall not be eligible for the rebates. However, the applicable rebate shall be allowed to consumers with outstanding dues wherein such dues have been stayed by appropriate Courts.
19. Learned Counsel stated that Appeal No. 179 of 2021 originates from a case filed by the Petitioner being Case No. 5 of 2005-2006 by the Review Petition before the Commission for refund of the amount of DPS recovered by the Respondent Corporation. The said Case No.: 06 of 2005-2006 was finally disposed off by the Commission vide its Order dated 24.07.2019. In the said order, the Commission was pleased to grant refund of the amount of DPS recovered for the Annual Minimum Guaranteed Charges, while the refund of the DPS on FCS was kept in abeyance till the decision of the Hon'ble High Court in connected FCS matters.
20. Learned Counsel submitted that the Review Petitioner challenged the Order dated 24.07.2009 of the Commission passed in Case No.: 5 of 2005-2006 before the Hon'ble APTEL by filing an Appeal, being Appeal No. 179 / 2021 (Tata Steel Ltd. versus Jharkhand State Electricity Regulatory Commission & Ors.) for keeping the issues of DPS on FCS in abeyance till the disposal of the proceedings related to FCS before the Hon'ble High Court, and prayed for its decision on the FCS issues without waiting for the decision of the Hon'ble High Court.
21. It was submitted that the issues for adjudication are very different and the Petitioner may be favorably considered for grant of voltage rebate without any further delay also the finding given in paragraph 29 of the Order dated 31.10.2023 passed in Case No 30 of 2020 that:

*"29. In the surrounding facts and circumstances of the case and principle of Judicial discipline laid down by the Hon'ble Supreme Court, this Commission is not inclined to pass any orders regarding the DPS on FCS at this juncture considering the fact that the matter / issue is already pending before the Hon'ble APTEL as such passing any order will be in teeth of the laid down principle"*

is an error apparent on the face of the record, and the said finding requires modification. In fact, the Commission may be pleased to hold that the said

legal principles are necessary for being applied in deciding the cases, however, the same may not be found applicable in the present case as in the present proceedings there was no precedent which required the case to be deferred to determination till the aforesaid Appeal is decided by the Hon'ble Appellate Tribunal for Electricity.

22. Learned Counsel stated that even if the petitioner was to lose the case before APTEL, being Appeal No. 179 / 2005-2006, then there will be no amounts due and payable to the Petitioner to the Respondent DVC, as the said Appeal deals with refund of dues to the review Petitioner.

**Submission of the Respondent**

23. Learned Counsel for the Respondent submitted that the instant application is not maintainable and present case related to billing dispute, grant of voltage rebate and for refund of the amount of voltage rebate for distribution activity of Damodar Valley Corporation (DVC) as per tariff order dated 28.05.2019 of DVC for FY 2020-21 and these grievances of the petitioner are to be dealt by the Consumer Grievance Redressal Forum constituted under JSERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2020.
24. Learned Counsel stated that the petitioner is not eligible for availing the voltage rebate in terms of "Clause III of A13:TERMS AND CONDITIONS OF SUPPLY".

In the said clause this Commission has provided the applicability of voltage rebate as under:

*“Voltage rebate will be applicable on energy charges as given below:*

<b>Consumer Category</b>	<b>Voltage Rebate</b>
HT 33 kV	2.00%
HT 132 kV	3.00%
HT 220 kV and above	4.00%

*Note: 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 authority/Courts.”*

25. It was submitted that the petitioner has not yet liquidated the outstanding dues against the DPS for fuel surcharge and since the Case No. 06 of 2005-06 (TSL Vs DVC & anr) was under adjudication before this Commission, the outstanding amount was not reflected in the bill as this outstanding dues was sub-judice but not stayed and was also not co-related with passing of voltage rebate during part period. This amount has been shown as outstanding in the power supply bills since the consumption month of May 2019 and the voltage rebate has not been allowed on the same ground.
26. It was submitted that in compliance of the Judgment dated 20.6.2000 of the Division Bench of Patna High Court delivered in M/s Pulak Enterprises and analogous cases, the Bihar State Electricity Board (BSEB) issued circular No.345 dated 11.7.2000 fixing the fuel surcharge for the financial years 1996-97, 1997-98 and 1998-99 and the said circular as well as the bills issued on the basis of the aforesaid circular were challenged before the Hon'ble High Court of Jharkhand at Ranchi and the Hon'ble Jharkhand High Court by its judgement dated 03.05.2015 passed in the case Tata Yodogawa Ltd. Vs BSEB and others reported on 2015(3) JLJR 223 (Jhr.) held that the bills issued on the basis of aforesaid circular are valid and legal, as such the bills raised by the answering respondent DVC are in accordance with circulars and notifications issued by BSEB

27. It was submitted that the petitioner has filed a petition, on affidavit, before this Commission on 26.9.2005 which was registered as Case No. 06 of 2005-06 and in paragraph 58 of the said petition the petitioner has stated as under:  
*"That thereafter the Respondent Corporation continued raising the bills from August 2004 till date in which they have been showing shortfall on advance payments made by the petitioner on account of adjustment of Rs. 10.65 Cr.\*\*"*
28. Learned Counsel submitted that the Respondent-DVC is continuing to show the outstanding amount as due in the bills of the petitioner and the petitioner has not liquidated the same amount, as such DVC is not passing the voltage rebate to the petitioner. However, the outstanding dues were not reflected in three bills dated 01.03.2020, 01.04.2020 and 01.05.2020 inadvertently and the extra amount i.e around Rs.2.03 Cr shown as outstanding in the bill of May 2020 has been passed on to the petitioner in the power supply bill for the consumption month of January 2021.
29. It was also submitted that since Case No. 06 of 2005-06 TSL Vs DVC & anr) was under adjudication before this Commission, as such the outstanding amount was not taken into consideration while raising the power supply bills prior to June 2019 as passing of voltage rebate was not related to outstanding dues but this amount has been shown as outstanding in the power supply bills since month of May 2019 and the voltage rebate has not been allowed.
30. Learned Counsel for the respondent submitted that the petitioner by way of the Petition no. 30 of 2020 cannot question whether or not the DPS claimed by DVC on account of FCS bills is correct or not, as the same has been duly decided by this Commission in the order dated 24.07.2019 in favor of DVC and the said order dated 24.07.2019 has not been stayed by the Hon'ble APTEL in the Appeal no. 179 of 2021 filed by the petitioner-TSL and in the absence of any stay of the order dated 24.07.2019, the DPS is payable and the DPS raised by DVC in the bills from TSL is legal and payable.
31. Learned Counsel for the respondent clarified on the issue raised by the petitioner that the outstanding was not reflected in the bills raised by DVC that since the Case No. 06 of 2005-06 was under adjudication before this Commission, the outstanding amount was not reflected in the bills raised by DVC as the said due amount was sub-judice and further, the bills raised by DVC on the DPS of FCS bills have not been stayed by any court, therefore in line with the tariff order dated 28.05.2019 which provides that no voltage rebate will be allowed in case of arrears, DVC has included the same in the bill of 02.07.2019 onwards.
32. It was further submitted that inadvertently the outstanding dues were not reflected in the three bills dated 01.03.2020, 01.04.2020 and 8.05.2020 and at no point of time DVC waived these dues on account of DPS as it is evident that from 2001 up to 2005, when the Case No. 06 of 2005-06 was filed by TSL, DVC has been writing to TSL for payment of the amount due towards DPS and as the litigation with regard to DPS on FCS Bills and AMG Charges in Case no. 06 of 2005-06 took substantial time, the amount was not included in the bills raised by DVC, however, the same was not given up by DVC and TSL had full knowledge of the same on account of the ongoing litigation and in light of the tariff order dated 28.05.2019 and the order dated 24.07.2019 passed in Case no. 06 of 2005 06, DVC included the said dues in the bill dated 02.07.2019. Further, on 06.06.2019 DVC wrote an email to TSL wherein DVC had invited officials of TSL for reconciliation of bills. On 30.07.2019, DVC sent an email to TSL with the reconciliation sheet on the points raised by the TSL for the period from April 2000 to May 2019.
33. It was also submitted that in terms of the above provision of the Tariff Order dated 28.05.2019, the contentions raised by TSL is erroneous as it is based upon the assumption that TSL is eligible for the Voltage Rebate as they do not have any past arrears/ outstanding dues against the DPS, however, DVC through its repeated communications submitted to TSL upto July 2005, sought for payments to be made by TSL on account of arrears towards Fuel Surcharge in accordance the notification issued by BSEB and thereafter the

parties have been in litigation from the year 2005 onwards starting from Case no. 06 of 2005/06 upto the order dated 24.07.2019 passed by this Commission and now before the Hon'ble Tribunal in Appeal no 179 of 2021.

34. Learned Counsel in its conclusion submitted that TSL is not eligible for availing the voltage rebates in terms of the Tariff order dated 28.05.2019 as on account of the adjustment done by DVC in the August 2004 bill vis-a-vis the amount of Rs. 10.64 crores, there is shortfall of payment of Rs. 9.87 crores even as on date (after adjusting an amount of approx. Rs. 77 lakhs towards DPS on AMG Bills) and it is patently erroneous on the part of TSL to contend that they were not aware what the nature of the arrears showed in the bill of 02.07.2019 which was for an amount of Rs. 10.64 crores, hence petitioner-TSL cannot be granted voltage rebate in terms of tariff order dated 28.05.2019 as the arrears has not been stayed and DVC is strictly complying with the tariff order and is right in denying the voltage rebate to TSL till such time the amount which is due to DVC is not fully cleared.

**Commission's Observations and findings**

35. The Commission has considered the submissions made by the parties and perused the materials available on records.
36. The Commission has observed that the "Voltage rebate" on energy charges, as per the Tariff Order on True-up for FY 2016-17, Annual Performance Review for FY 2017-18 & FY 2018-19 and ARR & Tariff for FY 2019-20 dated 28.05.2019, relies on two facts: -

- a. *Must be connected to a specific consumer category and voltage level, as detailed below*

Consumer Category	Voltage Rebate
HT 33 kV	2.00%
HT 132 kV	3.00%
HT 220 kV and above	4.00%

- b. *Should not have any outstanding dues. However, the applicable rebate shall be allowed to consumers with arrears, wherein such dues have been stayed by the appropriate authority/ Courts.*

37. It is further observed that the Commission vide Order dated 30<sup>th</sup> September, 2020 issued DVC's Order on True-up for FY 2018-19, Annual Performance Review for FY 2019-20 and ARR & Tariff for FY 2020-21, wherein the Commission in order to have uniform approach across all distribution utilities had linked voltage rebate to be allowable to only those consumers who opt for higher voltages and meets the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.

*Clause IV: Voltage Rebate of the Order dated 30th September, 2020 states as under:*

*"Voltage rebate\* will be applicable on Demand and 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	2.00%
HTS/HT Institutional 132 kV	5.00%
HTS/HT Institutional 220 kV	5.50%
HTS/HT Institutional 400 kV	6.00%

*\* Note: 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.*

*It is further clarified that the voltage rebate will not be applicable to all consumers who are connected to the voltages specified above. The Commission in order to have uniform approach across all distribution utilities has now linked voltage rebate to be allowable to only those consumers who opt for higher voltages and meets the conditions specified in JSERC (Electricity Supply Code) Regulations, 2015, as amended from time to time.”*

However such condition has been relaxed by a corrigendum dated 04.12.2020 for settlement of voltage rebate be similar all over the State.

38. It is observed that the Petitioner being connected to 132 KV fulfills one of the conditions for 'voltage rebate'. However, another requisite, that there should not be any outstanding dues can't be considered to be satisfied by the Petitioner on the following grounds: -
- A. It is observed by the Commission that although the Petitioner discharged the principal liability towards Fuel Surcharge (FCS) in six equal installments after reconciliation, the Delayed Payment Surcharge (DPS) levied by the Respondent on the FCS amount remained unpaid. Consequently, the Respondent adjusted the said outstanding DPS against the advance monthly payments made by the Petitioner, commencing from July 2004.
  - B. Moreover, in the Order dated 24.07.2019 in Case No. 06 of 2005-06 also, the Commission was of the opinion that the DPS on FCS will be leviable as at no instant of time DVC renounced its claim on the said DPS.
  - C. At this juncture, the Commission considers that the respondent would have shown the deficit/dues of the advance payment in the future bills to the TSL from the month of September, 2004 till July, 2019.
  - D. Further, the petitioner TSL has preferred an appeal before the Hon'ble APTEL being appeal no. 179 of 2021 against the order dated 24.07.2019 issued by this Commission in case no. 06 of 2005/06 wherein it has been held that the DPS will be levied as at no time did the respondent-DVC waived its right towards the same and DPS may be recalculated after the final outcome of the case before the Hon'ble High Court of Jharkhand. Accordingly, the appeal is pending before the Hon'ble APTEL and the issues involved are the same.
  - E. In light of the foregoing, it is evident that the question of DPS liability on FCS remains unresolved and pending adjudication. Therefore, it cannot be held that the Petitioner is free from outstanding dues vis-à-vis the Respondent—an essential condition for the grant of *voltage rebate*.
  - F. Accordingly, the claim for *voltage rebate* made by the Petitioner cannot be entertained at this stage and shall remain subject to the final outcome of Appeal No. 179 of 2021 pending before the Hon'ble APTEL.
39. The Commission hereby deems it fit to uphold its impugned order as it is. In the result, it is ordered as;

### **CONCLUSION**

40. In view of the aforesaid observation and findings, the impugned order requires no interference by way of Review and hence prayer to Review is hereby rejected.

Sd/-  
Member(Tech)

Sd/-  
Member(Law)