IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Miscellaneous Petition No. 03 of 2026

Damodar Valley Corporation (DVC) ..... Petitioner

Versus

Association of DVC HT Consumers of Jharkhand. ..... Respondent

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)

For the Petitioner : Mr. Shri Venkatesh and Mr. Nihal Bhardwaj, Advocate
For the Respondent : Mr. Saket Upadhyay, Advocate

ORDER

Date – 17th November, 2026

1. The Petitioner – Damodar Valley Corporation (DVC) (hereinafter referred to as "Petitioner") has filed the instant petition under sections 62, 64 and 86 of the Electricity Act, 2003 read with Regulation 15 of the Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2024, seeking implementation of the order dated 18.05.2026 passed by the Hon'ble Appellate Tribunal for Electricity ("Hon'ble APTEL") in Appeal No. 163 of 2017.

2. Petitioner submitted that Appeal No. 163 of 2017 had been preferred against the Order dated 19.04.2017 passed by the Commission in Case (T) No. 02 of 2016 concerning True-up for FY 2006-07 to FY 2013-14 and Annual Performance Review for FY 2014-15.

3. Petitioner submitted that under Section 79 (1) (a) of the Act, the tariff

for generation of electricity is to be decided by the Central Electricity Regulatory Commission ("Hon'ble CERC"). Similarly, with regards to the inter-state transmission, Petitioner is regulated by Hon'ble CERC and tariff for composite (inter-state) generation & transmission is to be determined by the Hon'ble CERC in terms of Section 79 (1) (c) and (d) of the Act.

4. Petitioner submitted that the retail sale and supply of electricity, it covers the entire Damodar Valley area which falls in two contiguous states, namely, the State of West Bengal and the State of Jharkhand. Thus, tariff for retail sale and supply of electricity in the Damodar Valley area is governed by the provisions of Section 62 (1) (d) read with Section 86 (1) (a) of the Electricity Act and has to be determined by the respective State Electricity Regulatory Commissions of West Bengal and Jharkhand. Accordingly, the generation and transmission tariff of Petitioner as may be determined by Hon'ble CERC will be an input cost based on which the retail supply tariff is prepared.

5. Petitioner submitted that the Hon'ble APTEL vide Judgment dated 18.05.2026 in Appeal No. 163 of 2017 adjudicated the issues relating to (i) Non-consideration of expenditure on account of pay revision allowed by CERC for FY 2006-09; (ii) Erroneous linkage of contributions towards the Pension and Gratuity ("P&G") Fund and Sinking Fund with the availability of thermal power stations for the period FY 2009-14; and (iii) Non-consideration of aggregate Transmission and Distribution ("T&D") losses at actuals for FY 2012-13 to FY 2014-15.

6. Petitioner submitted that by the aforesaid judgment, two issues have been decided in favour of DVC, inter alia with different consequential directions as stated below:

   (a) First, the issue relating to non-consideration of expenditure on account of pay revision for FY 2006-07 to FY 2008-09 has been decided in favour of DVC, with a specific direction to consider Rs. 210 Crores of arrears for pay revision, as allowed by the Hon'ble CERC, as additional O&M expenditure in the true-up for

the said period.

(b) Secondly, the issue relating to non-consideration of aggregate T&D losses at actuals for FY 2012-13 to FY 2014-15 has also been decided in favour of DVC to the extent that the findings of this Hon'ble Commission on the said issue have been set aside and the matter has been remanded for undertaking prudence check of the T&D losses claimed by DVC and for passing consequential orders.

7. Accordingly, on the basis of pleadings advanced in the miscellaneous petition and the materials available on record, following issues are being framed for passing of order:

Issue 1: Additional O&M Expenditure on Account of Pay Revision.

Issue 2: Transmission and Distribution Losses for FY 2012-13 to FY 2014-15.

8. The Respondent - Association of DVC HT Consumers of Jharkhand, has not filed any counter-affidavit in the present Petition. During the course of the hearing, the learned counsel appearing on behalf of the Respondent submitted that the Respondent will be filing written submissions within one week from the date of order i.e. from 08.09.2026, but no such submissions has been made. Accordingly, Commission is taking into consideration the facts and submissions available on record for passing of the order.

9. The issues framed above is being dealt separately as under:

DIRECTIONS OF THE TRIBUNAL, PETITIONER'S SUBMISSION AND COMMISSION FINDINGS

Issue 1: Additional O&M Expenditure on Account of Pay Revision

APTEL's Order:

10. Direction of the Tribunal (Paras 25-26): *We are therefore of the considered view that the exclusion of Rs 210 Crore by the State Commission is unsustainable. The Central Commission's order dated 08.05.2013, when read harmoniously, clearly allows the said amount, and the State Commission was bound to give effect to it. Accordingly,*

the impugned order is set aside to the extent of exclusion of Rs 210 Crore, and the said amount shall stand included in the tariff as determined by the Central Commission.

11. Issue is decided in favour of Appellant. The matter is remanded to State Commission to consider Rs. 210 Crore of arrears for pay revision as allowed by CERC in its order dated 08.05.2013, as additional O&M expenditure for various projects in the True up for FY 2006-07 to FY 2008-09.

Petitioner's Submission

12. Petitioner submitted that the first issue pertains to FY 2006-07 to FY 2008-09 and concerns additional O&M expenses on account of pay revision. In respect of this issue, the Hon'ble Tribunal has held that Rs. 210 Crores towards pay revision, as allowed by the Hon'ble CERC, is required to be considered as additional O&M expenditure in the true-up for FY 2006-07 to FY 2008-09. Accordingly, the said issue requires direct consequential implementation by this Hon'ble Commission.

13. Petitioner submitted that prior to the Judgment dated 18.05.2026, this Commission had already passed the Order dated 15.05.2026 in Case (Tariff) No. 01 of 2026 pertaining to True-up for FY 2006-07 to FY 2011-12. In the said Order, this Commission disallowed the claim towards additional O&M expenses on account of pay revision for FY 2006-07 to FY 2008-09. Since the Judgment dated 18.05.2026 was passed subsequently, the findings rendered by the Hon'ble APTEL on the said issue could not have been considered while passing the Order dated 15.05.2026.

14. Petitioner further submitted that the Hon'ble Tribunal has categorically held that the arrears towards pay revision, as allowed by the Hon'ble CERC, constitute a legitimate component of O&M expenses and are liable to be considered in the true-up exercise for the relevant years. The exclusion of such expenditure from the ARR determination is therefore contrary to the findings subsequently rendered by the Hon'ble Tribunal.

15. The total pay revision expenditure allowed by the Hon'ble CERC for the relevant period amounts to Rs. 55 Crores for FY 2006-07, Rs. 55 Crores for FY 2007-08 and Rs. 100 Crores for FY 2008-09. Accordingly, the proportionate impact attributable to the distribution business of DVC in the State of Jharkhand works out to Rs. 34.52 Crores for FY 2006-07; Rs. 32.84 Crores for FY 2007-08 and Rs. 60 Crores for FY 2008-09 as per the sales ratio for these above corresponding years. The said amount along with carrying cost is therefore required to be allowed as additional O&M expenditure and consequentially reflected in the ARR, revenue gap/surplus and all related computations for the relevant years.

16. Petitioner submitted that the Order dated 15.05.2026 requires consequential modification to the extent of incorporating the proportionate impact of pay revision attributable to DVC's distribution and retail supply business in the State of Jharkhand, along with applicable carrying cost, in the ARR/revenue gap/surplus computation for FY 2006-07 to FY 2011-12.

Commission's Observation and findings

17. The Commission has carefully examined the submissions made by the Petitioner, the records placed before it, the Order dated 15.05.2026 passed by the Commission in Case (Tariff) No. 01 of 2026, and the Judgment dated 18.05.2026 passed by the Hon'ble APTEL in Appeal No. 163 of 2017.

18. The Commission observes that the Hon'ble APTEL in its judgment dated 18.05.2026 in Appeal No. 163 of 2017 has held that the additional expenditure of Rs. 210.00 Crores arising from pay revision for FY 2006-07 to FY 2008-09 had been substantially examined and allowed by the Central Electricity Regulatory Commission in its Order dated 08.05.2013. The Hon'ble APTEL further held that the omission of the said amount from the summary table of Annual Fixed Charges could not override the findings recorded in the body of the CERC Order. The relevant extract of the order is reproduced as below:

"26. We are therefore of the considered view that the exclusion of Rs 210 Crore by the State Commission is unsustainable. The Central Commission's order dated 08.05.2013, when read harmoniously, clearly allows the said amount, and the State Commission was bound to give effect to it. Accordingly, the impugned order is set aside to the extent of exclusion of Rs 210 Crore, and the said amount shall stand included in the tariff as determined by the Central Commission."

19. The Commission further notes that the Order in Case (Tariff) No. 01 of 2026 was issued on 15.05.2026, whereas the Judgment of the Hon'ble APTEL in Appeal No. 163 of 2017 was rendered subsequently on 18.05.2026. Accordingly, the findings and directions contained in the said Judgment were not available for consideration at the time of issuance of the aforesaid Tariff Order. The relevant observations of the Hon'ble APTEL in its Judgment dated 18.05.2026 are reproduced below:

"Issue is decided in favour of Appellant. The matter is remanded to State Commission to consider Rs. 210 Crore of arrears for pay revision as allowed by CERC in its order dated 08.05.2013, as additional O&M expenditure for various projects in the True up for FY 2006-07 to FY 2008-09."

20. In view of the aforesaid development arising in the light of the Hon'ble APTEL's order subsequently. This Commission finds it reasonable to revise the earlier order in the line of the order of the Hon'ble APTEL. Accordingly, based on the above observations the Commission finds it appropriate to allow the proportionate additional O&M expenditure on account of pay revision attributable to the Petitioner's distribution and retail supply business in Jharkhand for FY 2006-07 to FY 2008-09. Accordingly, the Commission has revised the ARR.

Table 1: Impact of Pay Revision as approved by the Commission (in Rs. Crore)

Sr. No.	Particulars	FY 2006-07	FY 2007-08	FY 2008-09
1	ARR for Jharkhand Area Approved by the Commission in Order dated 15.05.2026	1,913.69	1,902.73	2,125.18
2	Additional O&M expenses for pay revision as allowed by Hon'ble APTEL vide judgement dated 18.05.2026 in Appeal No. 163 of 2017	55.00	55.00	100.00
3	Ratio of sales in Jharkhand area to total DVC area	62.77%	59.71%	60.00%
4	**Additional O&M expenses in Jharkhand area**	**34.52**	**32.84**	**60.00**
5	**Revised ARR for Jharkhand**	**1,948.21**	**1,935.57**	**2,185.18**

21. The re-computation sheet for standalone Revenue Surplus is shown in the table below:

Table 2: Re-computation of Standalone Revenue Surplus for FY 2006-07, FY 2007-08 and FY 2008-09 (in Rs. Crore)

Sr. No.	Particulars	FY 2006-07	FY 2007-08	FY 2008-09
1	**Revised ARR for Jharkhand**	**1,948.21**	**1,935.57**	**2,185.18**
2	Net Receipts/Sale of Power	2,216.69	2,181.46	2,438.02
3	(Surplus) (1-2)	**(268.48)**	**(245.89)**	**(252.84)**

Issue No.2: Transmission and Distribution Losses for FY 2012-13 to FY 2014-15

APTEL's Order:

22. Direction of the Tribunal (Paras 47-49): *we set aside the findings in the Impugned Order on the issue and it is remanded to the State Commission to undertake prudence check of T&D losses claimed by DVC for FY 2012-13 to FY 2014-15 and pass consequential orders accordingly.*

23. Findings in the Impugned Order on the issue is set aside and it is remanded to the State Commission to undertake prudence check of T&D losses claimed by DVC for FY 2012-13 to FY 2014-15.

Petitioner's Submission:

24. Petitioner submitted that the second issue pertains to FY 2012-13 to

FY 2014-15 and concerns consideration of actual T&D losses. In respect of this issue, the Hon'ble APTEL has set aside the findings contained in the Order dated 19.04.2017 and has remanded the matter to this Commission for undertaking prudence check of the T&D losses claimed by DVC for FY 2012-13 to FY 2014-15 and for passing consequential orders.

25. Petitioner submitted that the Hon'ble Tribunal has expressly directed this Commission to pass consequential orders on the remanded issue expeditiously. The findings recorded by the Hon'ble Tribunal are binding and require implementation by this Commission.

26. Petitioner further submitted that the consideration of actual T&D losses has a direct bearing on power purchase requirement, Aggregate Revenue Requirement, revenue gap/surplus and consequential tariff determination for the relevant years. Accordingly, consequential orders are required to be passed after undertaking the prudence check directed by the Hon'ble Tribunal.

27. Petitioner submitted that in the facts and circumstances stated hereinabove, it is respectfully submitted that this Commission may be pleased to give effect to the Judgment dated 18.05.2026 by allowing the additional O&M expenditure on account of pay revision for FY 2006-07 to FY 2008-09, to the extent attributable to DVC's distribution and retail supply business in the State of Jharkhand, along with applicable carrying cost, and by undertaking prudence check of the actual T&D losses claimed by DVC for FY 2012-13 to FY 2014-15 and passing consequential orders thereon along with applicable carrying cost.

28. Accordingly, the present Petition has been filed for implementation of the Hon'ble APTEL's Judgment dated 18.05.2026 in Appeal No. 163 of 2017.

Commission's Observation and findings:

29. The Commission notes that the Hon'ble APTEL has set aside the findings contained in the Order dated 19.04.2017 with respect to the

T&D losses for FY 2012-13 to FY 2014-15 and has remanded the issue to the Commission for undertaking a prudence check and passing consequential orders. The relevant para of said order is reproduced as below:

"Findings in the Impugned Order on the issue is set aside and it is remanded to the State Commission to undertake prudence check of T&D losses claimed by DVC for FY 2012-13 to FY 2014-15."

30. The Commission observes that the Petitioner has reported T&D losses of 4.82%, 4.86%, and 3.58% for FY 2012-13, FY 2013-14, and FY 2014-15, respectively, against the T&D loss level of 3.00% approved by the Commission in the MYT Order dated 04.09.2014. The Commission further notes that, while undertaking the true-up exercise vide Order dated 19.04.2017, it had allowed T&D losses at 3.00%.

31. The Commission has carefully examined the submissions of the Petitioner, the approved loss trajectory, the provisions of the applicable Tariff Regulations, and the observations of the Hon'ble APTEL in its Judgment dated 18.05.2026 in the matter of DVC. The Commission notes that the Hon'ble APTEL has not held that the actual T&D losses claimed by the Petitioner are to be automatically allowed. Rather, the matter was remanded to the State Commission for undertaking a prudence check of the actual losses and for passing consequential orders based on such prudence assessment.

32. In compliance with the principles laid down by the Hon'ble APTEL, the Commission has undertaken a detailed prudence check of the T&D losses claimed by the Petitioner for FY 2012-13, FY 2013-14 and FY 2014-15. The Commission observes that the Petitioner reported T&D losses of 4.82%, 4.86% and 3.58%, respectively, as against the normative level of 3.00% approved by the Commission in the MYT Order dated 04.09.2014. However, despite being given an opportunity, the Petitioner has not furnished any convincing evidence, technical study, or material establishing that the excess losses over and above

the approved level arose due to uncontrollable factors beyond its reasonable control. The Petitioner has also failed to demonstrate any extraordinary system constraints, force majeure events, network conditions, or regulatory impediments that prevented achievement of the approved loss target.

33. The Commission notes that DVC predominantly supplies electricity to bulk and HT consumers at higher voltage levels, where the scope for distribution losses is inherently lower than that of ordinary distribution licensees having an extensive LT consumer base. In view of the network configuration and consumer mix of the Petitioner, the loss level of 3.00% approved in the MYT Order was considered achievable and was based on the operational characteristics of the Petitioner's system.

34. The Commission further observes that the Hon'ble APTEL, in its Judgment dated 18.05.2026, reaffirmed the settled regulatory principle that a Commission is entitled to prescribe efficiency benchmarks in the interest of consumers and is not bound to allow actual losses merely because they have been incurred. The Hon'ble APTEL specifically held that while prudence check of the actual losses is necessary, recovery of losses beyond the approved trajectory cannot be permitted unless justified by objective evidence and operational realities. Accordingly, the requirement of prudence check does not imply acceptance of actual losses as a matter of course.

35. The Commission has also taken note of the tariff determination undertaken by the West Bengal Electricity Regulatory Commission (WBERC) vide Tariff Order dated 24.04.2015 for DVC for FY 2012-13, FY 2013-14 and FY 2014-15. The said Order, after examining the operational performance and system characteristics of DVC, considered T&D loss levels below 3% for the relevant years. The Commission is conscious that the approach adopted by another regulatory commission is not binding; however, the same provides a useful benchmark and indicates that T&D losses at or below 3% were considered achievable for DVC's network during the relevant period.

36. The Commission further notes that while higher T&D losses had been allowed in certain earlier years, such approvals were made considering the facts and circumstances prevailing during those years and cannot automatically justify continuation of higher losses in subsequent periods. Tariff regulation contemplates continuous improvement in operational efficiency and reduction in technical and commercial losses. Acceptance of losses substantially above the approved trajectory without adequate justification would dilute the efficiency incentives embedded in the regulatory framework and impose avoidable burden upon consumers.

37. The Commission further notes that upon completion of the prudence check and considering the network characteristics of the Petitioner, the approved MYT trajectory, the absence of substantiated uncontrollable factors, the regulatory objective of promoting efficiency, and the benchmark available, the Commission is satisfied that the T&D loss level of 3.00% for FY 2012-13, FY 2013-14 and FY 2014-15 is reasonable, rational and achievable. Therefore, the Commission approves T&D losses at 3.00% for the purpose of truing up and disallows the consequential power purchase quantum and costs attributable to losses exceeding the approved level. The claim of the Petitioner for recognition of higher T&D losses of 4.82%, 4.86% and 3.58% for FY 2012-13, FY 2013-14 and FY 2014-15, respectively, is therefore not admissible. The Commission is of the considered view that allowing T&D losses beyond the approved and prudently determined level, in the absence of adequate justification, would result in avoidable power purchase costs being passed on to consumers and would impose an unwarranted financial burden on consumers.

38. Accordingly, the contentions raised in the above issue is not tenable.

Conclusion

39. In view of the foregoing observations & discussion and in due compliance with the Order dated 18.05.2026 passed by the Hon'ble APTEL in Appeal No. 163 of 2026, the Commission has come to the

following conclusion:

A. Allow the pay revision cost of Rs. 210 Crore for FY 2006-07 to FY 2008-09 in accordance with the findings and directions contained therein. Consequently, the standalone ARR and Revenue Gap has been re-computed and re-determined for FY 2006-07, FY 2007-08 and FY 2008-09.
B. T&D losses have been carefully examined, and a detailed prudence check has been undertaken in accordance with the findings and directions of the Hon'ble APTEL in Case (T) No. 02 of 2016. Consequently, the T&D loss approved by the Commission is reasonable, rational and achievable for FY 2012-13, FY 2013-14 and FY 2014-15.

Accordingly, with the aforesaid observations, directions and findings the instant Petition hereby **stands disposed off**.

Sd/-
Member (L)

Sd/-
Chairperson